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~~text~~ shows text that was in SB0190 but was deleted in SB0190S01.

text shows text that was not in SB0190 but was inserted into SB0190S01.

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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: _____

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;

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- ▶ identifies an unlawful act of distributing, selling, or marketing an industrial hemp product that contains a certain amount of THC or a THC analog;
- ▶ ~~{requires certain retailers marketing a hemp or cannabinoid product to include a statement that the product is not cannabis or medical cannabis}~~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;
- ▶ provides that certain licenses are non-transferable, and new owners of a licensed business are subject to a modified application process for a new license;
- ▶ prohibits the introduction of industrial hemp waste from outside the state into the medical cannabis production stream;
- ~~{~~▶ ~~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;~~
- ~~▶~~▶ ~~provides that certain licenses are non-transferable, and new owners of a licensed business are subject to a modified application process for a new license;~~
- ~~}~~▶ provides rulemaking authority to UDAF to further define standards regarding labels, packaging, and product forms that may appeal to children;
- ▶ amends product labeling requirements;
- ▶ clarifies that a sugar coating on certain cannabis product is not prohibited under certain circumstances;
- ~~{~~▶ ~~requires the identification of any cannabinoids above a certain quantity in a cannabis product;~~
- ~~}~~▶ clarifies provisions related to the liquid suspension medicinal dosage form;
- ▶ includes ~~{suppositories and certain internal creams as}~~an aerosol as an approved medicinal dosage ~~{forms}~~form;
- ▶ expands medical cannabis pharmacy employee access to the electronic verification system;
- ~~{~~▶ ~~allows a certified nurse midwife to register as a qualified medical provider;~~

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- ‡ ▶ amends an exception for public employee protections;
- ▶ removes a requirement for medical provider approval of a patient's caregiver designation;
- ▶ allows the Utah Department of Health (UDOH) to issue conditional medical cannabis caregiver cards in relation to designating patients with a terminal illness;
- ▶ amends provisions regarding designated caregivers to contemplate a caregiver being designated by more than one medical cannabis cardholder;
- ▶ allows ~~{the Utah Department of Health (UDOH)}~~ to issue a conditional medical cannabis ~~{caregiver cards in relation to designating patients with a terminal illness}~~ pharmacy license when a license renewal process is not complete before the pharmacy's license expires;
- ▶ requires medical cannabis pharmacy agents to complete certain continuing education in federal health privacy laws;
- ▶ removes a prohibition on medical cannabis pharmacies employing an individual with a felony;
- ~~{ → allows UDOH to issue a conditional medical cannabis pharmacy license when a license renewal process is not complete before the pharmacy's license expires;~~
- ‡ ▶ allows for the Cannabis Production Establishment Licensing Advisory Board to review certain information in a closed meeting;
- ▶ aligns the concept of unprofessional conduct between the various types of recommending medical providers;
- ▶ removes certain outdated dates; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~† — **26-61a-106**, as last amended by Laws of Utah 2021, Chapters 337 and 350~~

~~— **26-61a-107**, as last amended by Laws of Utah 2021, Chapter 337~~

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

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

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

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

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

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

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

26-61a-401, as last amended by Laws of Utah 2021, Chapter 337

26-61a-501, as last amended by Laws of Utah 2021, Chapters 337 and 350

26-61a-502, as last amended by Laws of Utah 2021, Chapters 337, 350 and last
amended by Coordination Clause, Laws of Utah 2021, Chapter 350

26-61a-604, as last amended by Laws of Utah 2020, Chapter 354

26-61a-606, as last amended by Laws of Utah 2021, Chapter 350

52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231

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58-5a-102, as last amended by Laws of Utah 2021, Chapter 337

58-31b-502, as last amended by Laws of Utah 2021, Chapters 263 and 337

~~{ 58-44a-102, as last amended by Laws of Utah 2012, Chapter 285~~

~~— 58-44a-502, as last amended by Laws of Utah 2020, Chapter 25~~

‡ 58-70a-503, as last amended by Laws of Utah 2021, Chapters 312 and 337

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

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

4-41-102. Definitions.

As used in this chapter:

- (1) "Cannabinoid product" means a ~~[chemical compound extracted from a hemp]~~ product that:
- ~~[(a) is processed into a medicinal dosage form; and]~~
 - ~~(a) contains one or more cannabinoids;~~
 - (b) contains less than ~~[0.3% tetrahydrocannabinol]~~ the cannabinoid product THC level, by dry weight~~[-]; and~~
 - (c) contains a combined amount of total THC and any THC analog that does not exceed ~~{5%}; 10%~~ of the total cannabinoid content.
- (2) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.
- (3) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.
- ~~[(2)]~~ (4) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.
- ~~[(3)]~~ (5) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).
- ~~[(4)]~~ (6) "Industrial hemp certificate holder" means a person possessing an industrial hemp certificate that the department issues under this chapter.
- ~~[(5)]~~ (7) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

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

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

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

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

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

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

- (a) a tablet;
- (b) a capsule;
- (c) a concentrated oil;
- (d) a liquid suspension that does not exceed 30ml;
- (e) a sublingual preparation;
- (f) a topical preparation;
- (g) a transdermal preparation;
- (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or
- (i) other preparations that the department approves.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

(22) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tetrahydrocannabinolic acid, calculated as "total THC = delta-9 THC

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+ (THCA x 0.877)."

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

4-41-103.3. Industrial hemp retailer permit.

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

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

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

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

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

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

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

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

4-41-103.4. Industrial hemp laboratory permit.

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

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

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

(a) demonstrate to the department that:

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

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

(iii) the laboratory has the ability to meet the department's minimum standards of

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performance for detecting [~~delta-9 tetrahydrocannabinol (THC) concentration levels~~]
concentration levels of THC and any cannabinoid known to be present; and

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

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

(i) conducting a physical inspection; or

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

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

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

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

4-41-105. Unlawful acts.

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

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

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

or

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

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

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

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

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

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

(a) except as provided in this chapter; or

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

(2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.

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

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

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

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

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

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

4-41a-102. Definitions.

As used in this chapter:

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

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

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

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

(4) "Cannabis concentrate" means:

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

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

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) "Cannabis production establishment agent registration card" means a registration

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card that the department issues that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(24)]~~ (23) "Industrial hemp waste" means:

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

(b) ~~[verified]~~ industrial hemp biomass ~~[with a total THC concentration of less than~~

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0.3% by dry weight].

~~[(25)]~~ (24) "Inventory control system" means a system described in Section 4-41a-103.

~~[(26)]~~ (25) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

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

~~[(28)]~~ (27) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

~~[(29)]~~ (28) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

~~[(30)]~~ (29) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

~~[(31)]~~ (30) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

~~[(32)]~~ (31) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

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

~~[(34)]~~ (33) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

~~[(35)]~~ (34) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

~~[(36)]~~ (35) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

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

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

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

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(b) grants doctoral degrees; and

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

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

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

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

(b) is not a derivative cannabinoid.

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

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

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

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

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

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

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

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

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

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

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

(C) timely and objectively evaluate applications;

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

(E) select applicants to receive a license.

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

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

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

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

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

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

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

(iii) an operating plan that:

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

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

(C) the department or licensing board approves;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the applicant shall pay the department:

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

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

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

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

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis

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processing facility license to a person to operate at the same physical location or at separate physical locations.

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

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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

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

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

(ii) may give consideration to the applicant based on the applicant's status as a holder

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of a medical cannabis pharmacy license if:

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

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

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

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

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

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

(i) a felony; or

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

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

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

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

or

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

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment

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will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(f)]~~ (iv) after ceasing department or research university operations under Subsection ~~[(14)(d)(ii)]~~ (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any

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time if:

~~[(i)]~~ (A) fewer than two licensed independent cannabis testing laboratories are operating; or

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

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

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

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

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

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

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

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

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

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

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

4-41a-203. Renewal.

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

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

(2) the board does not identify:

(a) a significant failure of compliance with this chapter or department rules in the

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

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

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

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

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

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

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

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

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

(b) each unique harvest of cannabis plants;

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

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

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

(4) A cannabis cultivation facility shall either:

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

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

(5) ~~[(a)-(i)]~~ A cannabis cultivation facility may not purchase or otherwise receive industrial hemp waste ~~[unless the waste meets department cannabis testing standards, as determined by an independent cannabis testing laboratory, before the transfer of the waste to~~

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~~the cannabis cultivation facility], except under limited circumstances in which the department determines there is a minimal risk of safety or security concern, as the department specifies in rules that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) has a unique identification number that:

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

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

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

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

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

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

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

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

(v) includes a warning label that states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A cannabis processing facility:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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inspection of a facility.

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

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

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

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

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

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

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

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

26-61a-102. Definitions.

As used in this chapter:

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

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

(3) "Cannabis" means marijuana.

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

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

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(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

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

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

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

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

(11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

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

~~[(13) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:]~~

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

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

~~[(14) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic cannabinoid in cannabis.]~~

~~[(15)]~~ (13) "Department" means the Department of Health.

~~[(16)]~~ (14) "Designated caregiver" means:

(a) an individual:

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

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

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

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

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

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

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

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

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

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

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

(b) may not exceed:

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

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

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

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

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

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

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

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

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

~~[(27)]~~ (25) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

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

- (a) a holder of a medical cannabis card; or
- (b) a facility or assigned employee, described in Subsection ~~[(16)]~~(14)(b), only:
 - (i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and
 - (ii) while in possession of documentation that establishes:
 - (A) a caregiver designation described in Subsection 26-61a-202(1)(b);
 - (B) the identity of the individual presenting the documentation; and
 - (C) the relation of the individual presenting the documentation to the caregiver designation.

~~[(29)]~~ (27) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

- (a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and
- (b) is connected to the electronic verification system.

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

- (a) the department licenses in accordance with Section 26-61a-604; and
- (b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

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

- (a) is an employee of a medical cannabis courier; and
- (b) who holds a valid medical cannabis courier agent registration card.

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

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dosage form.

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

- (i) facilitates cannabis combustion; or
- (ii) an individual uses to ingest substances other than cannabis.

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

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

(b) is connected to the electronic verification system.

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

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

(b) is connected to the electronic verification system.

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

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

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

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

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

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

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

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

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

~~[(39)]~~ (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a

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cannabis product in a medicinal dosage form, or a medical cannabis device.

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

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

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

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

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

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

(I) a resin or wax; or

~~(J) †a suppository; or~~

~~(K) an internal cream for rectal or vaginal use; an aerosol; or~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and

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

(b) is connected to the electronic verification system.

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

(a) who meets the recommending qualifications; and

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

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

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

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

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

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

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

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

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

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

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

(b) is licensed as:

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

~~{ (ii) a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act;~~

~~{ (ii)-(iii)}~~ an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

~~{(iii)-(iv)}~~ a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

~~{(iv)-(v)}~~ a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

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

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

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

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

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

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

- (a) a valid state-issued driver license or identification card;
- (b) a valid United States federal-issued photo identification, including:
 - (i) a United States passport;
 - (ii) a United States passport card;
 - (iii) a United States military identification card; or
 - (iv) a permanent resident card or alien registration receipt card; or
- (c) a passport that another country issued.

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

26-61a-103. Electronic verification system.

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

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

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

(c) select a third-party provider who:

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

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

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

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a

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medical cannabis guardian card, provided that the card may not become active until:

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

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

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

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

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

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

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

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

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

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

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

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

(d) beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording, allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 26-61a-501~~[(11)]~~[(10)](a), to ~~[record]~~:

(i) access the electronic verification system to review the history within the system of a

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patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

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

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

(e) connects with:

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

(A) the time and date of each purchase;

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

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

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

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

(f) provides access to:

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

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

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

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

~~{ (B) a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act;~~

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

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

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

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

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

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

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

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

(ii) after obtaining a warrant; and

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

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

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

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provider;

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

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

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

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

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

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

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

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

~~{ (ii) a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act;~~

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

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

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

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

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

(a) conducting medical and other department approved research;

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

(c) other official department purposes.

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

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

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

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

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

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

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

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

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

(i) a third degree felony; and

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

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

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

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

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

(ii) providing the information to a person in accordance with the requirements of the

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Health Insurance Portability and Accountability Act of 1996; or

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

Section 16. Section ~~{26-61a-106}~~; 26-61a-111 is amended to read:

~~{~~ ~~**26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.**~~

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

~~_____ (ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.~~

~~_____ (b) Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:~~

~~_____ (i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:~~

~~_____ (A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or~~

~~_____ (B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and~~

~~_____ (ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.~~

~~_____ (c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:~~

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~~—— (i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or~~

~~—— (B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and~~

~~—— (ii) may include:~~

~~—— (A) directions of use or dosing guidelines; and~~

~~—— (B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).~~

~~—— (d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:~~

~~—— (i) the date of issuance;~~

~~—— (ii) the provider's name, address and contact information, controlled substance license information, and signature; and~~

~~—— (iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.~~

~~—— (e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.~~

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

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

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

~~—— (iii) provides to the department evidence that the individual meets the recommending qualifications;~~

~~—— (iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and~~

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

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- ~~—— (A) the department sets, in accordance with Section 63J-1-504, and~~
- ~~—— (B) does not exceed \$300 for an initial registration.~~
- ~~—— (b) The department may not register an individual as a qualified medical provider if the individual is:~~
 - ~~—— (i) a pharmacy medical provider, or~~
 - ~~—— (ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.~~
- ~~—— (3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:~~
 - ~~—— (i) for an individual as a condition precedent to registration, four hours; and~~
 - ~~—— (ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years:~~
 - ~~—— (b) In accordance with Subsection (3)(a), a qualified medical provider shall:~~
 - ~~—— (i) complete continuing education:~~
 - ~~—— (A) regarding the topics described in Subsection (3)(d); and~~
 - ~~—— (B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and~~
 - ~~—— (ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:~~
 - ~~—— (A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;~~
 - ~~—— (B) for a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act, the Certified Nurse Midwife Board;~~
 - ~~—— [(B)] (C) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;~~
 - ~~—— [(C)] (D) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;~~
 - ~~—— [(D)] (E) for a qualified medical provider licensed under Title 58, Chapter 68, Utah~~

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~~Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and~~

~~——— [(E)] (F) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.~~

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

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

~~——— (i) the provisions of this chapter;~~

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

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

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

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

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

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

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

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

~~——— (5) A recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a provider-patient relationship after the~~

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~~recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.~~

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

~~—— (b) For purposes of Subsection (6)(a), the communication of the following, through a website, by a qualified medical provider, does not constitute advertising:~~

~~—— (i) a green cross;~~

~~—— (ii) a qualifying condition that the individual treats;~~

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

~~—— (iv) a scientific study regarding medical cannabis use.~~

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

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

~~—— (i) applies for renewal;~~

~~—— (ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;~~

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

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

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

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

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

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

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

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

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

~~—— (c) a recommending medical provider or pharmacy medical provider.~~

~~—— (10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:~~

~~—— (i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and~~

~~—— (ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.~~

~~—— (b) The department shall:~~

~~—— (i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):~~

~~—— (A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;~~

~~—— (B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and~~

~~—— (C) the fee amount described in Subsection (10)(a)(ii); and~~

~~—— (ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.~~

~~—— Section 17. Section ~~26-61a-107~~ is amended to read:~~

~~—— **26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.**~~

~~—— (1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:~~

~~—— (a) civil or criminal liability; or~~

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~~—— (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.~~

~~—— (2) The limitations of liability described in Subsection (1) apply to:~~

~~—— (a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act, an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:~~

~~—— (i) (A) whom the department has registered as a qualified medical provider; or~~

~~—— (B) who makes a recommendation as a limited medical provider; and~~

~~—— (ii) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; and~~

~~—— (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:~~

~~—— (i) whom the department has registered as a pharmacy medical provider; and~~

~~—— (ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.~~

~~—— (3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:~~

~~—— (a) who may have a qualifying condition; and~~

~~—— (b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or~~

~~—— (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.~~

~~—— (4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term is defined in Section 26-21-2.~~

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~~— (b) A healthcare facility may adopt restrictions on the possession, use, and storage of medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder who resides at or is actively receiving treatment or care at the healthcare facility.~~

~~— (c) An employee or agent of a healthcare facility described in this Subsection (4) is not subject to civil or criminal liability for carrying out employment duties, including:~~

~~— (i) providing or supervising care to a medical cannabis cardholder; or~~

~~— (ii) in accordance with a caregiver designation under Section 26-61a-202 for a medical cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing medical cannabis for the relevant patient and in accordance with the designation.~~

~~— (d) Nothing in this section requires a healthcare facility to adopt a restriction under Subsection (4)(b).~~

~~— Section 18. Section 26-61a-111 is amended to read:~~

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

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

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

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

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

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

(c) Subsections (2)(a) and (b) do not apply;

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

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

(iii) ~~{except as}~~ if an employee described in ~~{Subsection (2)(c)(ii), for a first responder, as that term is defined in Section 34A-2-102, who}~~ Subsections 34A-2-102(1)(h)(ii) through (vi) uses medical cannabis during the 12 hours immediately preceding the employee's shift or during the employee's shift.

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

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

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

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

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

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

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

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

(i) claim in good faith that the employee's actions violate or potentially violate the laws

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of the United States with respect to the manufacture, sale, or distribution of cannabis; or

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

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

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

Section ~~(19)~~17. Section **26-61a-201** is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

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

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

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

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

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

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501~~(11)~~(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

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

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(A) 60 days; or

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

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

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

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

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

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

(ii) the individual is a Utah resident;

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

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection [~~(8)~~](9); and

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

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

(A) is at least 18 years old;

(B) is a Utah resident;

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

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

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

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

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

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

(A) the minor has a qualifying condition;

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

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

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

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

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

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

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

(ii) with the recommending medical provider; and

(iii) with information including:

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

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

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

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

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

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

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

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

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

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

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the cardholder in administering the recommended medical cannabis treatment.

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

(A) ingest or inhale medical cannabis;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) for a renewal, one year if, after at least one year following the issuance of the

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original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card,

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cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

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

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

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

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

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

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

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

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

~~and]~~

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

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

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

(a) violates this chapter; or

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

(i) a felony; or

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

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

(a) risks associated with medical cannabis treatment;

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

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

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

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

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

(i) to a nonresident patient; and

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

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

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

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

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

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

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

(d) An applicant may, through the medical cannabis card application, and a medical

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cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

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

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

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

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

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

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

Section ~~{20}~~18. Section **26-61a-202** is amended to read:

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

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

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

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

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

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

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

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

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

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

(d) (i) Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26-61a-104, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

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

(A) 60 days; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) (a) The department shall:

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

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

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

(C) complies with this section; and

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

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

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

(i) shall report to the department the information required of applicants under

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Subsection (5)(b) regarding the new designation;

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

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

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

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

(a) is at least 21 years old;

(b) is a Utah resident;

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

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

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

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

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

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

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

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; ~~and~~

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

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

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

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

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

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

(i) renews the cardholder's card; and

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

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

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

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

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

(a) violates this chapter; or

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

(i) a felony drug distribution offense; or

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

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

Section ~~{21}~~19. Section **26-61a-204** is amended to read:

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

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

(i) shall carry:

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

(B) [~~after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy;~~] with the medical cannabis, a label

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that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system; and

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

(A) unprocessed cannabis in medicinal dosage form; and

(B) a cannabis product in medicinal dosage form;

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

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

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

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

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

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

(i) for a first offense:

(A) guilty of an infraction; and

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

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

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

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

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

(i) for a first offense:

(A) guilty of an infraction; and

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

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

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

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

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

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

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

(i) for a first offense:

(A) guilty of an infraction; and

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

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

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

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

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

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

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a

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medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

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

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

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

Section ~~{22}~~20. Section **26-61a-301** is amended to read:

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

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

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

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

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

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

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

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

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

(C) has the power to direct or cause the management or control of a proposed medical

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cannabis pharmacy;

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

(iv) an operating plan that:

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

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

(C) the department approves;

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

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

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

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

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

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

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

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

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance

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

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

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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

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

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

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

(A) the applicant demonstrates that a decrease in costs to patients is more likely to

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result from the applicant's vertical integration than from a more competitive marketplace; and

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

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

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

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

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

(A) a felony; or

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

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

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter[~~;~~]; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the

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department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Patient Enterprise Fund.

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

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

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

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

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

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c):

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

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application

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review.

Section ~~{23}~~21. Section **26-61a-303** is amended to read:

26-61a-303. Renewal.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section ~~{24}~~22. Section **26-61a-305** is amended to read:

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

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

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(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

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

(ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the department shall:

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

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

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

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

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

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

~~[(C)]~~ (B) report to the Executive Appropriations Committee of the Legislature before

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each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) [~~to the intended licensee~~].

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

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

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

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

(C) positive connections to the local community;

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

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

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

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

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

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

(ii) accept payments through:

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

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

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

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

(i) safely conduct transactions for medical cannabis shipments;

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

(iii) accept payments through:

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

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

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

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

Section ~~{25}~~23. Section **26-61a-401** is amended to read:

26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis

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pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

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

(i) provides to the department:

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

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

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

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card

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of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
 - (i) a felony within the preceding 10 years; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

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

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

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

(9) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

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

(b) The department may, in consultation with the Division of Occupational and

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Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

Section ~~{26}~~24. Section **26-61a-501** is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, Section 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection [~~(5)~~] (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

~~[(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.]~~

~~[(5)]~~ (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

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~~[(6)]~~ (5) A medical cannabis pharmacy shall operate in a facility that has:

- (a) a single, secure public entrance;
- (b) a security system with a backup power source that:
 - (i) detects and records entry into the medical cannabis pharmacy; and
 - (ii) provides notice of an unauthorized entry to law enforcement when the medical

cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

~~[(7)]~~ (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

~~[(8)]~~ (7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

~~[(9)]~~ (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

~~[(10)]~~ (9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

- (i) the recommending medical provider's name, address, and telephone number;
- (ii) the patient's name and address;
- (iii) the date of issuance;
- (iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and
- (v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection ~~[(10)]~~ (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

- (A) the name, address, and telephone number of the medical cannabis pharmacy;
- (B) the unique identification number that the medical cannabis pharmacy assigns;

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- (C) the date of the sale;
- (D) the name of the patient;
- (E) the name of the recommending medical provider who recommended the medical cannabis treatment;
- (F) directions for use and cautionary statements, if any;
- (G) the amount dispensed and the cannabinoid content;
- (H) the suggested use date;
- (I) for unprocessed cannabis flower, the legal use termination date; and
- (J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the ~~[following labeling requirements]~~ requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

- (A) ~~[Subsection (10)(b)(i)(B) regarding]~~ a unique identification number;
- (B) ~~[Subsection (10)(b)(i)(F) regarding]~~ directions for use and cautionary statements;
- (C) ~~[Subsection (10)(b)(i)(G) regarding]~~ amount and cannabinoid content; and
- (D) ~~[Subsection (10)(b)(i)(H) regarding]~~ a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

- (A) the cannabinoid content;
- (B) the suggested use date; and
- (C) any other requirements that the department determines.

~~[(iii)]~~ (iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection ~~[(10)]~~ (9)(b)(i).

~~[(11)]~~ (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) ~~[and (c)]~~ through (d):

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(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for [~~a written~~] an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection [~~(11)~~] (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

[~~(12)~~] (11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection [~~(12)~~] (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

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(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

- (A) federal and state law, rules, and regulations related to hazardous waste;
- (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
- (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
- (D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(13)]~~ (12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section ~~{27}~~25. Section **26-61a-502** is amended to read:

26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card;

(B) a department registration described in Section 26-61a-201(10); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a

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medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

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(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

- (i) information regarding the qualifying condition underlying the recommendation;
- (ii) information regarding prior treatment attempts with medical cannabis; and
- (iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

- (B) indications for available treatments;
- (C) directions of use and dosing guidelines; and
- (D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,

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where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection [~~4-41a-602(2)~~] 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a) (i), (ii), or (iii).

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(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section ~~{28}~~26. Section **26-61a-604** is amended to read:

26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

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

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

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

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

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

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department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

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

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

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

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

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

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times;
[or]

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution[-]; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

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(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

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

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

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal

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Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

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

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

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

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with

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Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section ~~{29}~~27. Section **26-61a-606** is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

- (a) the individual is an employee of a licensed medical cannabis courier; and
- (b) the department registers the individual as a medical cannabis courier agent.

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

(i) provides to the department:

- (A) the prospective agent's name and address;
- (B) the name and address of the medical cannabis courier;
- (C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and
- (D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

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

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

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

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

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next

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Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional

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Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

- (i) Utah medical cannabis law;
- (ii) the medical cannabis shipment process; and
- (iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

- (i) is eligible for a medical cannabis courier agent registration card under this section;
- (ii) certifies to the department in a renewal application that the information in

Subsection (2)(a) is accurate or updates the information; and

- (iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
 - (i) a felony within the preceding 10 years; or
 - (ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

- (a) the agent is on the premises of the medical cannabis courier, a medical cannabis

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pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section ~~30~~28. Section **52-4-205** is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water

right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

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(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary [~~in order~~] to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the

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procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information [~~in order~~] to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; [~~or~~]

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments; or

~~(r)~~ (r) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is

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protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; and

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section ~~31~~29. Section **58-5a-102** is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by

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rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(vii) gross incompetency in the practice of podiatry;

(viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

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(ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(x) willfully using false or fraudulent advertising;

(xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; ~~or~~

(xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

(A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection 58-1-501(1)~~[-]~~; or

(xiii) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis within the scope of a practice of podiatry.

Section ~~32~~30. Section **58-31b-502** is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter

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and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [or]

(q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1)[-];

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or

~~(r) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section ~~{33}~~31. Section ~~{58-44a-102}~~58-70a-503 is amended to read:

~~{~~ ~~58-44a-102.~~ **Definitions:**

~~————~~ In addition to the definitions in Section 58-1-102, as used in this chapter:

~~————~~ (1) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct in accordance with a fine schedule established by rule and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

~~————~~ (2) "Board" means the Certified Nurse Midwife Board created in Section 58-44a-201.

~~————~~ (3) "Consultation and Referral Plan" means a written plan jointly developed by a certified nurse midwife, as defined in Subsection (7), and a consulting physician that permits the certified nurse midwife to prescribe schedule II-III controlled substances in consultation with the consulting physician:

~~————~~ (4) "Consulting physician" means a physician and surgeon or osteopathic physician:

~~————~~ (a) with an unrestricted license as a physician;

~~————~~ (b) qualified by education, training, and current practice in obstetrics, gynecology, or both to act as a consulting physician to a nurse midwife practicing under this chapter and providing intrapartum care or prescribing Schedule II-III controlled substances; and

~~————~~ (c) who is available to consult with a nurse midwife, which does not include the consulting physician being present at the time or place the nurse midwife is engaged in practice:

~~————~~ (5) "Individual" means a natural person.

~~————~~ (6) "Intrapartum referral plan":

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~~—— (a) means a written plan prepared by a nurse midwife describing the guidelines under which the nurse midwife will consult with a consulting physician, collaborate with a consulting physician, and refer patients to a consulting physician; and~~

~~—— (b) does not require the nurse midwife to obtain the signature of a physician on the intrapartum referral plan.~~

~~—— (7) "Nurse midwife" means a person licensed under this chapter to engage in practice as a certified nurse midwife.~~

~~—— (8) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.~~

~~—— (9) "Practice as a certified nurse midwife" means:~~

~~—— (a) practice as a registered nurse as defined in Section 58-31b-102, and as consistent with the education, training, experience, and current competency of the licensee;~~

~~—— (b) practice of nursing within the generally recognized scope and standards of nurse midwifery as defined by rule and consistent with professionally recognized preparations and educational standards of a certified nurse midwife by a person licensed under this chapter, which practice includes:~~

~~—— (i) having a safe mechanism for obtaining medical consultation, collaboration, and referral with one or more consulting physicians who have agreed to consult, collaborate, and receive referrals, but who are not required to sign a written document regarding the agreement;~~

~~—— (ii) providing a patient with information regarding other health care providers and health care services and referral to other health care providers and health care services when requested or when care is not within the scope of practice of a certified nurse midwife; and~~

~~—— (iii) maintaining written documentation of the parameters of service for independent and collaborative midwifery management and transfer of care when needed; and~~

~~—— (c) the authority to:~~

~~—— (i) elicit and record a patient's complete health information, including physical examination, history, and laboratory findings commonly used in providing obstetrical, gynecological, and well infant services to a patient;~~

~~—— (ii) assess findings and upon abnormal findings from the history, physical examination, or laboratory findings, manage the treatment of the patient, collaborate with the consulting physician or another qualified physician, or refer the patient to the consulting physician or to~~

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~~another qualified physician as appropriate;~~

~~—— (iii) diagnose, plan, and implement appropriate patient care, including the administration and prescribing of:~~

~~—— (A) prescription drugs;~~

~~—— (B) schedule IV-V controlled substances; and~~

~~—— (C) schedule II-III controlled substances in accordance with a consultation and referral plan;~~

~~—— (iv) evaluate the results of patient care;~~

~~—— (v) consult as is appropriate regarding patient care and the results of patient care;~~

~~—— (vi) manage the intrapartum period according to accepted standards of nurse midwifery practice and a written intrapartum referral plan, including performance of routine episiotomy and repairs, and administration of anesthesia, including local, pudendal, or paracervical block anesthesia, but not including general anesthesia and major conduction anesthesia;~~

~~—— (vii) manage the postpartum period;~~

~~—— (viii) provide gynecological services;~~

~~—— (ix) provide noncomplicated newborn and infant care to the age of one year; and~~

~~—— (x) represent or hold oneself out as a certified nurse midwife, or nurse midwife, or use the title certified nurse midwife, nurse midwife, or the initials C.N.M., N.M., or R.N.~~

~~—— (10) "Unlawful conduct" is defined in Sections 58-1-501 and 58-44a-501.~~

~~—— (11) "Unlicensed assistive personnel" means any unlicensed person, regardless of title, to whom tasks are delegated by a licensed certified nurse midwife in accordance with the standards of the profession as defined by rule.~~

~~—— (12) (a) "Unprofessional conduct" is defined in Sections 58-1-501 and 58-44a-502 and as may be further defined by rule:~~

~~—— (b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.~~

~~—— Section 34. Section 58-44a-502 is amended to read:~~

~~—— **58-44a-502. Unprofessional conduct.**~~

~~—— "Unprofessional conduct" includes:~~

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- ~~—— (1) disregard for a patient's dignity or right to privacy as to the patient's person, condition, possessions, or medical record;~~
 - ~~—— (2) engaging in an act, practice, or omission which when considered with the duties and responsibilities of a certified nurse midwife does or could jeopardize the health, safety, or welfare of a patient or the public;~~
 - ~~—— (3) failure to confine one's practice as a certified nurse midwife to those acts or practices permitted by law;~~
 - ~~—— (4) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;~~
 - ~~—— (5) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by the court;~~
 - ~~—— (6) failure to pay a penalty imposed by the division;~~
 - ~~—— (7) prescribing a schedule II-III controlled substance without a consulting physician;~~
 - ~~—— (8) (a) failure to have and maintain a safe mechanism for obtaining medical consultation, collaboration, and referral with a consulting physician, including failure to identify one or more consulting physicians in the written documents required by Subsection 58-44a-102(9)(b)(iii); or~~
 - ~~—— (b) representing that the certified nurse midwife is in compliance with Subsection (8)(a) when the certified nurse midwife is not in compliance with Subsection (8)(a); [or]~~
 - ~~—— (9) falsely making an entry in, or altering, a medical record with the intent to conceal:~~
 - ~~—— (a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or~~
 - ~~—— (b) conduct described in Subsections (1) through (8) or Subsection 58-1-501(1)[.]; or~~
 - ~~—— (10) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.~~
- ~~—— Section 35. Section **58-70a-503** is amended to read:~~

‡ **58-70a-503. Unprofessional conduct.**

- (1) "Unprofessional conduct" includes:
 - (a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;
 - (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,

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or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

(e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; ~~and~~

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1)[-];

and

(g) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section ~~36~~32. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.