

SB0195S01 compared with SB0195

~~deleted text~~ shows text that was in SB0195 but was deleted in SB0195S01.

inserted text shows text that was not in SB0195 but was inserted into SB0195S01.

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Senator Luz Escamilla proposes the following substitute bill:

MEDICAL CANNABIS ACCESS AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions regarding patient access and medical professionals in relation to medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a hospice program to provide at least one qualified medical provider;
- ▶ renames the Cannabinoid Product Board as the Cannabis Research Review Board (board);
- ▶ requires physician members of the board to be qualified medical providers;
- ▶ adds acute pain for which a medical professional may generally prescribe opioids as a qualifying condition for a limited supply of medical cannabis;

SB0195S01 compared with SB0195

- ▶ amends provisions related to advertising regarding medical cannabis;
- ▶ requires a recommending medical provider to consider a patient's history of substance use or opioid use disorder before recommending medical cannabis;
- ▶ amends provisions regarding the process to renew a medical cannabis card;
- ▶ allows a designated caregiver facility to receive medical cannabis shipments on behalf of a resident patient;
- ▶ allows a student's lawful dosage of medical cannabis on school grounds;
- ▶ codifies a rule regarding the names and logos of medical cannabis pharmacies;
- ▶ clarifies the enforcement authority of the Department of Health in relation to licensed medical cannabis couriers;
- ▶ requires certain individuals overseeing certain higher education medical training to be qualified medical providers; 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:

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

26-21-2.1, as last amended by Laws of Utah 1997, Chapter 209

26-61-102, as enacted by Laws of Utah 2017, Chapter 398

26-61-201, as last amended by Laws of Utah 2018, Chapter 110

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

26-61a-104, as last amended by Laws of Utah 2020, Chapter 12

26-61a-105, as last amended by Laws of Utah 2021, Chapter 350

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

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

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

26-61a-403, as last amended by Laws of Utah 2021, Chapters 337 and 350

SB0195S01 compared with SB0195

26-61a-505, as last amended by Laws of Utah 2021, Chapter 350

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

26-61a-607, as last amended by Laws of Utah 2021, Chapter 350

26-61a-702, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

26-61a-116, Utah Code Annotated 1953

53B-17-903, Utah Code Annotated 1953

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

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

4-41a-102. Definitions.

As used in this chapter:

(1) "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"]~~ "Cannabis Research Review Board" means the ~~["Cannabinoid Product"]~~ Cannabis Research Review 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

(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:

SB0195S01 compared with SB0195

- (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 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,

SB0195S01 compared with SB0195

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) "Department" means the Department of Agriculture and Food.

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

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

(22) (a) "Independent cannabis testing laboratory" means a person that:

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

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

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

(23) "Independent cannabis testing laboratory agent" means an individual who:

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

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

(24) "Industrial hemp waste" means:

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

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

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

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

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

SB0195S01 compared with SB0195

- (28) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.
- (29) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.
- (30) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.
- (31) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.
- (32) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.
- (33) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.
- (34) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.
- (35) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.
- (36) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.
- (37) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.
- (38) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:
- (a) is accredited by the Northwest Commission on Colleges and Universities;
 - (b) grants doctoral degrees; and
 - (c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.
- (39) "State electronic verification system" means the system described in Section 26-61a-103.
- (40) "Synthetic cannabinoid" means any cannabinoid that:

SB0195S01 compared with SB0195

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

(b) is not a derivative cannabinoid.

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

(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)."

Section ~~11~~2. Section **26-21-2.1** is amended to read:

26-21-2.1. Services.

(1) General acute hospitals and specialty hospitals shall remain open and be continuously ready to receive patients 24 hours of every day in a year and have an attending medical staff consisting of one or more physicians licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) A specialty hospital shall provide on-site all basic services required of a general acute hospital that are needed for the diagnosis, therapy, or rehabilitation offered to or required by patients admitted to or cared for in the facility.

(3) (a) A home health agency shall provide at least licensed nursing services or therapeutic services directly through the agency employees.

(b) A home health agency may provide additional services itself or under arrangements with another agency, organization, facility, or individual.

(4) Beginning January 1, 2023, a hospice program shall provide at least one qualified medical provider, as that term is defined in Section 26-61a-102, for the treatment of hospice patients.

Section ~~2~~3. Section **26-61-102** is amended to read:

26-61-102. Definitions.

As used in this chapter:

(1) "Approved study" means a medical research study:

SB0195S01 compared with SB0195

(a) the purpose of which is to investigate the medical benefits and risks of cannabinoid products; and

(b) that is approved by an IRB.

(2) "Board" means the [~~Cannabinoid Product~~] Cannabis Research Review Board created in Section 26-61-201.

(3) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(4) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

(5) "Expanded cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(6) "Institutional review board" or "IRB" means an institutional review board that is registered for human subject research by the United States Department of Health and Human Services.

Section ~~3~~4. Section **26-61-201** is amended to read:

26-61-201. Cannabis Research Review Board.

(1) There is created the [~~Cannabinoid Product~~] Cannabis Research Review Board within the department.

(2) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the [~~Cannabinoid Product~~] Cannabis Research Review Board as follows:

(a) three individuals who are medical research professionals; and

(b) four physicians who are qualified medical providers.

(3) The department shall ensure that at least one of the board members appointed under Subsection (2) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

(4) (a) Four of the board members appointed under Subsection (2) shall serve an initial term of two years and three of the board members appointed under Subsection (2) shall serve an initial term of four years.

(b) Successor board members shall each serve a term of four years.

(c) A board member appointed to fill a vacancy on the board shall serve the remainder of the term of the board member whose departure created the vacancy.

(5) The department may remove a board member without cause.

SB0195S01 compared with SB0195

(6) The board shall:

(a) nominate a board member to serve as chairperson of the board by a majority vote of the board members[-]; and

~~[(7) The board shall]~~ (b) meet as often as necessary to accomplish the duties assigned to the board under this chapter.

~~[(8)]~~ (7) Each board member, including the chair, has one vote.

~~[(9)]~~ (8) (a) A majority of board members constitutes a quorum.

(b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.

~~[(10)]~~ (9) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(10) If a board member appointed under Subsection (2)(b) does not meet the qualifications of Subsection (2)(b) before July 1, 2022:

(a) the board member's seat is vacant; and

(b) the department shall fill the vacancy in accordance with this section.

Section ~~{4}~~5. Section **26-61a-102** is amended to read:

26-61a-102. Definitions.

As used in this chapter:

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

(2) "~~[Cannabinoid Product]~~ Cannabis Research Review Board" means the ~~[Cannabinoid Product]~~ Cannabis Research Review 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.

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

SB0195S01 compared with SB0195

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

(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) "Department" means the Department of Health.

(16) "Designated caregiver" means:

(a) an individual:

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

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

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

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

(17) "Directions of use" means recommended routes of administration for a medical

SB0195S01 compared with SB0195

cannabis treatment and suggested usage guidelines.

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

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

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

(22) "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) "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) "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).

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

(26) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

SB0195S01 compared with SB0195

(27) "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) "Medical cannabis cardholder" means:

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

(b) a facility or assigned employee, described in Subsection (16)(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) "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) "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) "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) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

(i) facilitates cannabis combustion; or

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

SB0195S01 compared with SB0195

(33) "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) "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) "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) "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) "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) "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) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(40) (a) "Medicinal dosage form" means:

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

SB0195S01 compared with SB0195

- (A) a tablet;
- (B) a capsule;
- (C) a concentrated liquid or viscous oil;
- (D) a liquid suspension;
- (E) a topical preparation;
- (F) a transdermal preparation;
- (G) a sublingual preparation;
- (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or
- (I) a resin or wax;
- (ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:
 - (A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;
 - (B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque 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)(a)(ii) for use; and
 - (ii) does not exceed the quantity described in Subsection (40)(a)(ii).
- (c) "Medicinal dosage form" does not include:
 - (i) any unprocessed cannabis flower outside of the container described in Subsection (40)(a)(ii), except as provided in Subsection (40)(b);
 - (ii) any unprocessed cannabis flower in a container described in Subsection (40)(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.

SB0195S01 compared with SB0195

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

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

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

(48) "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) "Recommending medical provider" means a qualified medical provider or a

SB0195S01 compared with SB0195

limited medical provider.

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

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

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

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

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

(55) "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

SB0195S01 compared with SB0195

- (iv) a permanent resident card or alien registration receipt card; or
- (c) a passport that another country issued.

Section ~~5~~6. Section **26-61a-104** is amended to read:

26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

SB0195S01 compared with SB0195

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

- (A) a licensed board-eligible or board-certified psychiatrist;
- (B) a licensed psychologist with a master's-level degree;
- (C) a licensed clinical social worker with a master's-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing [~~speciality~~] specialty and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions; [~~and~~]

(p) pain that is expected to last for two weeks or longer for an acute condition, including a surgical procedure, for which a medical professional may generally prescribe opioids for a limited duration, subject to Subsection 26-61a-201(5)(c); and

[~~(p)~~] (q) a condition that the Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

Section ~~67~~7. Section **26-61a-105** is amended to read:

26-61a-105. Compassionate Use Board.

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

SB0195S01 compared with SB0195

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

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

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

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

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

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

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

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

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

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

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

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

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

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

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

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

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis

SB0195S01 compared with SB0195

card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

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

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

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

(ii) the qualified medical provider:

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

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

(iii) the Compassionate Use Board determines that:

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

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

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

(c) unless no petitions are pending:

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

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

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

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

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

SB0195S01 compared with SB0195

Committee:

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

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

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

(a) time is of the essence;

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

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

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

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

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

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

(A) issue the relevant medical cannabis card; and

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

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

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

SB0195S01 compared with SB0195

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

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

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

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

(9) The Compassionate Use Board shall annually report the board's activity to the [~~Cannabinoid Product~~] Cannabis Research Review Board.

Section ~~{7}~~8. Section **26-61a-106** 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

SB0195S01 compared with SB0195

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:

(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.

SB0195S01 compared with SB0195

(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:

(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

SB0195S01 compared with SB0195

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

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

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

(E) 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

SB0195S01 compared with SB0195

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 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 a medical cannabis treatment [~~in accordance with this chapter~~].

(b) [~~For purposes of~~] Notwithstanding Subsection (6)(a)[~~, the communication of the following, through a website, by a qualified medical provider, does not constitute advertising:~~] and subject to Section 26-61a-116, a qualified medical provider or clinic or office that employs a qualified medical provider may advertise the following:

(i) a green cross;

(ii) a qualifying condition that the individual treats;

(iii) [~~the individual's registration~~] that the individual is registered as a qualified medical provider and recommends medical cannabis; 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

SB0195S01 compared with SB0195

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;

(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

SB0195S01 compared with SB0195

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 ~~8~~9. Section **26-61a-116** is enacted to read:

26-61a-116. Advertising.

(1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis.

(2) Notwithstanding any authorization to advertise regarding medical cannabis under this chapter, the person advertising may not advertise:

(a) using promotional discounts or incentives;

(b) except as provided in Section 26-61a-403, a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or

(c) an assurance regarding an outcome related to medical cannabis treatment.

(3) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and

(b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.

(4) To ensure that the name and logo of a licensee under this chapter have a medical rather than a recreational disposition, the name and logo of the licensee:

(a) may include terms and images associated with:

(i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient"; or

(ii) the plant form of cannabis, including "leaf," "flower," and "bloom";

(b) may not include:

(i) any term, statement, design representation, picture, or illustration that is associated

SB0195S01 compared with SB0195

with a recreational disposition or that appeals to children:

(ii) an emphasis on a psychoactive ingredient;

(iii) a specific cannabis strain; or

(iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

(~~3~~5) The department shall define standards for advertising authorized under this chapter, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Section ~~9~~10. 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)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

SB0195S01 compared with SB0195

(ii) A conditional medical cannabis 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 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); 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

SB0195S01 compared with SB0195

information described in Subsection (9);

(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

SB0195S01 compared with SB0195

department:

(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

SB0195S01 compared with SB0195

the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

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

(A) ingest or inhale medical cannabis;

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

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

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a 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, history of substance use or opioid use disorder, 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) or (c), 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

SB0195S01 compared with SB0195

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

(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.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26-61a-104 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(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] The recommending medical provider who made the underlying recommendation for the card of 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]~~ cardholder, at the recommending medical provider's discretion.

(c) ~~[A] Before having access to a renewed card, 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.

SB0195S01 compared with SB0195

(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, 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,

SB0195S01 compared with SB0195

2021, a ~~misdemeanor~~ drug distribution offense.

(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;

(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

SB0195S01 compared with SB0195

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 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 ~~10~~11. Section **26-61a-202** is amended to read:

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

Revocation.

(1) (a) (i) 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

SB0195S01 compared with SB0195

described in Section 26-61a-201 [~~who is a patient in~~] may designate one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

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

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26-21-2; [~~or~~]

(C) for a patient, a general acute hospital, as that term is defined in Section 26-21-2[~~;~~];
or

(D) for a student in a public school for which the principal has agreed to the designation, the student's school.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b)[~~;~~]; and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(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) A public school may not prohibit a student's dosage with medical cannabis or a medical cannabis product on the school grounds under the supervision of a medical cannabis guardian cardholder or a caregiver designated under this section.

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

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

(b) in accordance with this chapter, may purchase, possess, transport, or assist the

SB0195S01 compared with SB0195

patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

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

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

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

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

(A) unprocessed medical cannabis in a medicinal dosage form; 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)(e)(i).

(3) (a) The department shall:

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

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

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

(C) complies with this section; and

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

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

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

(a) is at least 21 years old;

(b) is a Utah resident;

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

SB0195S01 compared with SB0195

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.

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

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

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

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

(i) renews the cardholder's card; and

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

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

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

(ii) remove a caregiver's designation; or

SB0195S01 compared with SB0195

(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 ~~411~~12. Section **26-61a-403** is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

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

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the

SB0195S01 compared with SB0195

prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

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

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

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

(b) The department may not register a recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

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

(ii) as a condition precedent to renewal of the registration, four hours every two years.

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

(i) complete continuing education:

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

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

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

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

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

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

SB0195S01 compared with SB0195

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

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

(i) the provisions of this chapter;

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

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

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

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

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

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

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

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

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

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

(5) (a) Except as provided in Subsection (5)(b), ~~[an individual]~~ a person may not advertise that the ~~[individual]~~ person or another person dispenses medical cannabis.

(b) ~~[For purposes of this]~~ Notwithstanding Subsection (5)(a) ~~[, the communication of the following, through a website, by a pharmacy medical provider, does not constitute advertising]~~ and subject to Section 26-61a-116, a registered pharmacy medical provider may advertise the following:

SB0195S01 compared with SB0195

(i) a green cross;

(ii) ~~[the individual's registration]~~ that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

Section ~~{12}~~13. Section **26-61a-505** is amended to read:

26-61a-505. Medical cannabis pharmacy advertising.

(1) Except as provided in this section, a ~~[medical cannabis pharmacy]~~ person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

(2) ~~[A]~~ Subject to Section 26-61a-116, a medical cannabis pharmacy may:

(a) advertise an employment opportunity at the medical cannabis pharmacy[-];

~~[(3)(a) Notwithstanding]~~

(b) notwithstanding any municipal or county ordinance prohibiting signage, ~~[a medical cannabis pharmacy may]~~ use signage on the outside of the medical cannabis pharmacy that:

(i) includes only:

(A) in accordance with Subsection ~~[(3){(2)}(b)]~~ 26-61a-116(4), the medical cannabis pharmacy's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage[-];

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

~~[(4)(a) A medical cannabis pharmacy may]~~

(c) maintain a website that includes information about:

(i) the location and hours of operation of the medical cannabis pharmacy;

(ii) a product or service available at the medical cannabis pharmacy;

(iii) personnel affiliated with the medical cannabis pharmacy;

(iv) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;

~~[(iv)]~~ (v) best practices that the medical cannabis pharmacy upholds; and

~~[(v)]~~ (vi) educational material related to the medical use of cannabis, as defined by the department[-]; and

SB0195S01 compared with SB0195

(d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4).

~~[(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).]~~

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

~~[(b)] (3) A medical cannabis pharmacy may not include in an educational event described in Subsection ~~[(5)(a)] (2)(d):~~~~

~~[(i)] (a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;~~

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

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

~~[(iv)] (d) a presenter other than the following:~~

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

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

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

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

~~[(E)] (v) a medical practitioner, similar to the practitioners described in this Subsection ~~[(5)(b)(iv)] (3)(d)(v)~~, who is licensed in another state or country;~~

~~[(F)] (vi) a state employee; or~~

~~[(G)] (vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.~~

SB0195S01 compared with SB0195

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

(a) the educational material described in Subsection (2)(c)(v); and

(b) the elements of and restrictions on the educational event described in Subsection ~~(5)(a);~~ (3), including:

(i) a minimum age of 21 years old for attendees; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section ~~13~~14. 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

SB0195S01 compared with SB0195

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.

(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.

(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

SB0195S01 compared with SB0195

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 Identification.
- (13) The department shall renew a license under this section every year if, at the time of renewal:

SB0195S01 compared with SB0195

(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) Except as provided in Subsection (15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (15)(a) and subject to Section 26-61a-116, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross; and

(ii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section ~~{14}~~15. Section **26-61a-607** is amended to read:

26-61a-607. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a valid form of photo identification; and

(ii) (A) a valid medical cannabis card under the same name that appears on the valid form of photo identification; ~~[and]~~ or

(B) for a facility that a medical cannabis cardholder has designated as a caregiver under

SB0195S01 compared with SB0195

Subsection 26-61a-202(1)(b), evidence of the facility caregiver designation; and

(b) the delivery occurs at;

(i) the medical cannabis cardholder's home address that is on file in the state electronic verification system[-]; or

(ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b).

(2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent

SB0195S01 compared with SB0195

returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

- (i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and
- (ii) disposing of the shipment in accordance with:
 - (A) federal and state laws, rules, and regulations related to hazardous waste;
 - (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
 - (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
 - (D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section ~~{15}~~16. Section **26-61a-702** is amended to read:

26-61a-702. Enforcement -- Fine -- Citation.

(1) (a) The department may, for a medical cannabis pharmacy's or a medical cannabis courier's violation of this chapter or an applicable administrative rule:

- (i) revoke the medical cannabis pharmacy or medical cannabis courier license;
- (ii) refuse to renew the medical cannabis pharmacy or medical cannabis courier license; or
- (iii) assess the medical cannabis pharmacy or medical cannabis courier an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this chapter:

- (i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;
- (ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or
- (iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding

SB0195S01 compared with SB0195

of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to \$5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or the medical cannabis courier to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual 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 (7)(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 (7)(a).

Section ~~{16}~~17. Section **53B-17-903** is enacted to read:

53B-17-903. Education in pain treatment.

The University of Utah School of Medicine shall ensure that any licensed physicians who oversee fellowship training to specialize in pain treatment are qualified medical providers, as that term is defined in Section 26-61a-102.

Section ~~{17}~~18. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect

SB0195S01 compared with SB0195

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.