

## HB0072S03 compared with HB0072S01

~~{deleted text}~~ shows text that was in HB0072S01 but was deleted in HB0072S03.

inserted text shows text that was not in HB0072S01 but was inserted into HB0072S03.

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**Representative Walt Brooks** proposes the following substitute bill:

### **MEDICAL CANNABIS GOVERNANCE REVISIONS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Walt Brooks**

Senate Sponsor: Evan J. Vickers

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#### **LONG TITLE**

##### **General Description:**

This bill enacts provisions regarding medical cannabis governance.

##### **Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ moves most oversight and regulation of medical cannabis pharmacies and couriers from the Department of Health and Human Services to the Department of Agriculture and Food;
- ▶ ~~{allows medical cannabis products to be delivered from a cannabis processing facility under certain circumstances}~~ creates a transition period where the Department of Agriculture and Food may seek assistance from the Department of Health and Human Services;

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- ▶ authorizes the Department of Health and Human Services to revoke a pharmacy medical provider registration;
- ▶ creates a Medical Cannabis Policy Advisory Board (board);
- ▶ outlines the duties of board;
- ▶ modifies the duties and membership of the medical cannabis governance working group (working group);
- ▶ extends a sunset date for the working group; and
- ▶ makes technical 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 2022, Chapters 290, 452
- 4-41a-105**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
- 4-41a-201**, as last amended by Laws of Utah 2022, Chapter 290
- 4-41a-404**, as last amended by Laws of Utah 2020, Chapter 12
- 4-41a-802**, as last amended by Laws of Utah 2022, Chapter 97
- 10-9a-528**, as last amended by Laws of Utah 2021, Chapter 60
- 17-27a-525**, as last amended by Laws of Utah 2021, Chapter 60
- 26-61-202**, as last amended by Laws of Utah 2022, Chapter 415
- 26-61a-102**, as last amended by Laws of Utah 2022, Chapters 290, 452
- 26-61a-103**, as last amended by Laws of Utah 2022, Chapters 290, 415
- 26-61a-105**, as last amended by Laws of Utah 2022, Chapter 452
- 26-61a-106**, as last amended by Laws of Utah 2022, Chapters 415, 452
- 26-61a-109**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 26-61a-201**, as last amended by Laws of Utah 2022, Chapters 198, 290 and 452
- 26-61a-403**, as last amended by Laws of Utah 2022, Chapters 415, 452
- 26-61a-601**, as last amended by Laws of Utah 2021, Chapter 337
- 26-61a-701**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

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26-61a-703, as last amended by Laws of Utah 2022, Chapter 97

36-12-8.2, as enacted by Laws of Utah 2022, Chapter 97

58-17b-302, as last amended by Laws of Utah 2022, Chapter 353

58-17b-502, as last amended by Laws of Utah 2022, Chapter 465

58-37-3.8, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

63I-2-204, as last amended by Laws of Utah 2022, Chapters 67, 68

63I-2-236, as last amended by Laws of Utah 2022, Chapters 97, 141, 363, 437, and 458

78A-2-231, as last amended by Laws of Utah 2022, Chapter 256

80-3-110, as last amended by Laws of Utah 2022, Chapter 256

80-4-109, as enacted by Laws of Utah 2021, Chapter 261

### ENACTS:

4-41a-102.1, Utah Code Annotated 1953

4-41a-110, Utah Code Annotated 1953

4-41a-1201, Utah Code Annotated 1953

~~{ — 4-41a-1206, Utah Code Annotated 1953~~

{ 26-61a-206, Utah Code Annotated 1953

26-61a-801, Utah Code Annotated 1953

26-61a-802, Utah Code Annotated 1953

26-61a-803, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

4-41a-108, (Renumbered from 26-61a-603, as last amended by Laws of Utah 2020, Chapter 12)

4-41a-109, (Renumbered from 26-61a-116, as enacted by Laws of Utah 2022, Chapter 452)

4-41a-801.1, (Renumbered from 26-61a-702, as last amended by Laws of Utah 2022, Chapter 452)

4-41a-1001, (Renumbered from 26-61a-301, as last amended by Laws of Utah 2022, Chapter 290)

4-41a-1002, (Renumbered from 26-61a-302, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)

4-41a-1003, (Renumbered from 26-61a-303, as last amended by Laws of Utah 2022,

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Chapters 290, 415)

**4-41a-1004**, (Renumbered from 26-61a-304, as last amended by Laws of Utah 2019, First Special Session, Chapter 5)

**4-41a-1005**, (Renumbered from 26-61a-305, as last amended by Laws of Utah 2022, Chapter 290)

**4-41a-1101**, (Renumbered from 26-61a-501, as last amended by Laws of Utah 2022, Chapters 290, 415)

**4-41a-1102**, (Renumbered from 26-61a-502, as last amended by Laws of Utah 2022, Chapter 290)

**4-41a-1103**, (Renumbered from 26-61a-504, as last amended by Laws of Utah 2021, Chapter 350)

**4-41a-1104**, (Renumbered from 26-61a-505, as last amended by Laws of Utah 2022, Chapter 452 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 290)

**4-41a-1105**, (Renumbered from 26-61a-507, as last amended by Laws of Utah 2020, Chapter 12)

**4-41a-1106**, (Renumbered from 26-61a-401, as last amended by Laws of Utah 2022, Chapters 290, 415)

**4-41a-1107**, (Renumbered from 26-61a-402, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1)

**4-41a-1202**, (Renumbered from 26-61a-604, as last amended by Laws of Utah 2022, Chapters 290, 452)

**4-41a-1203**, (Renumbered from 26-61a-605, as last amended by Laws of Utah 2022, Chapter 415)

**4-41a-1204**, (Renumbered from 26-61a-606, as last amended by Laws of Utah 2022, Chapters 290, 415)

**4-41a-1205**, (Renumbered from 26-61a-607, as last amended by Laws of Utah 2022, Chapter 452)

**26-61a-404**, (Renumbered from 26-61a-503, as last amended by Laws of Utah 2022, Chapter 415)

REPEALS:

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26-61a-108, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

26-61a-506, as last amended by Laws of Utah 2022, Chapter 415

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

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

### CHAPTER 41a. CANNABIS PRODUCTION ESTABLISHMENTS AND PHARMACIES

#### 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) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26-61a-801.

~~[(2)]~~ (3) "~~{}~~Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26-61-201.

~~[(3)]~~ (4) "Cannabis" means the same as that term is defined in Section 26-61a-102.

~~[(4)]~~ (5) "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)]~~ (6) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

~~[(6)]~~ (7) "Cannabis cultivation facility" means a person that:

- (a) possesses cannabis;

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(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)]~~ (8) "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)]~~ (9) "Cannabis derivative product" means a product made using cannabis concentrate.

~~[(9)]~~ (10) "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)]~~ (11) "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)]~~ (12) "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)]~~ (13) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

~~[(13)]~~ (14) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

~~[(14)]~~ (15) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

~~[(15)]~~ (16) "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

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authorized to act as an agent.

~~[(16)]~~ (17) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

~~[(17)]~~ (18) "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.

(19) "Delivery address" means:

(a) for a medical cannabis cardholder who is not a facility, the medical cannabis cardholder's home address; or

(b) for a medical cannabis cardholder that is a facility, the facility's address.

~~[(18)]~~ (20) "Department" means the Department of Agriculture and Food.

~~[(19)]~~ (21) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

~~[(20)]~~ (22) "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.

(23) "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 }~~ delivery address to fulfill electronic orders that the state central patient portal facilitates.

~~[(21)]~~ (24) (a) "Independent cannabis testing laboratory" means a person that:

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

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

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

~~[(22)]~~ (25) "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.

~~[(23)]~~ (26) "Industrial hemp waste" means:

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(a) a cannabinoid concentrate; or

(b) industrial hemp biomass.

~~[(24)]~~ (27) "Inventory control system" means a system described in Section 4-41a-103.

~~[(25)]~~ (28) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

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

~~[(27)]~~ (30) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(31) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 4-41a-1201; 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.

(32) "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.

~~[(28)]~~ (33) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

~~[(29)]~~ (34) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

~~[(30)]~~ (35) "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.

~~[(31)]~~ (36) "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.

(37) "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}~~ delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

~~[(32)]~~ (38) "Medical cannabis treatment" means the same as that term is defined in



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Section 26-61a-102.

~~[(33)]~~ (39) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(40) "Pharmacy medical provider" means the same as that term is defined in Section 26-61a-102.

~~[(34)]~~ (41) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

~~[(35)]~~ (42) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

~~[(36)]~~ (43) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

~~[(37)]~~ (44) "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.

~~[(38)]~~ (45) "State electronic verification system" means the system described in Section 26-61a-103.

~~[(39)]~~ (46) "Synthetic cannabinoid" means any cannabinoid that:

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

~~[(40)]~~ (47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

~~[(41)]~~ (48) "THC analog" means the same as that term is defined in Section 4-41-102.

~~[(42)]~~ (49) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

~~[(43)]~~ (50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section ~~{4-41a-105}~~ 4-41a-102.1 is ~~{amended to read:~~

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enacted to read:

### 4-41a-102.1. Temporary governance over medical cannabis pharmacies.

(1) As used in this section:

(a) "Pharmacy provisions" means the provisions contained in the following parts:

(i) Part 10, Medical Cannabis Pharmacy License;

(ii) Part 11, Medical Cannabis Pharmacy Operation and Agents; and

(iii) Part 12, Medical Cannabis Home Delivery and Couriers.

(b) "Transition period" means the period of time beginning on July 1, 2023, and ending

on January 1, 2024.

(2) During the transition period:

(a) the department may request:

(i) the Department of Health and Human Services to carry out the duties described in the pharmacy provisions; and

(ii) technical assistance from the Department of Health and Human Services related to carrying out the duties described in the pharmacy provisions;

(b) the department may terminate or limit the scope of the Department of Health and Human Services' power to carry out duties described in the pharmacy provisions; and

(c) if the department requests the Department of Health and Human Services to carry out duties described in the pharmacy provisions, the department may make personnel available to the Department of Health and Human Services for carrying out the duties.

(3) Upon the request of the department under this section, the Department of Health and Human Services has the authority to carry out any duties:

(a) within the scope of the request; and

(b) if related to the pharmacy provisions.

(4) Notwithstanding any other provision of law, the Department of Health and Human Services may use funds from the Qualified Patient Enterprise Fund, created in Section 26-61a-109, to cover any costs of Department of Health and Human Services personnel related to carrying out duties requested by the department under this section.

Section 3. Section 4-41a-105 is amended to read:

### **4-41a-105. Agreement with a tribe.**

(1) As used in this section, "tribe" means a federally recognized Indian tribe or Indian

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band.

(2) (a) In accordance with this section, the governor may enter into an agreement with a tribe to allow for the operation of a cannabis production establishment or a medical cannabis pharmacy on tribal land located within the state.

(b) An agreement described in Subsection (2)(a) may not exempt any person from the requirements of this chapter.

(c) The governor shall ensure that an agreement described in Subsection (2)(a):

(i) is in writing;

(ii) is signed by:

(A) the governor; and

(B) the governing body of the tribe that the tribe designates and has the authority to bind the tribe to the terms of the agreement;

(iii) states the effective date of the agreement;

(iv) provides that the governor shall renegotiate the agreement if the agreement is or becomes inconsistent with a state statute; and

(v) includes any accommodation that the tribe makes:

(A) to which the tribe agrees; and

(B) that is reasonably related to the agreement.

(d) Before executing an agreement under this Subsection (2), the governor shall consult with the department.

(e) At least 30 days before the execution of an agreement described in this Subsection (2), the governor or the governor's designee shall provide a copy of the agreement in the form in which the agreement will be executed to:

(i) the chairs of the Native American Legislative Liaison Committee; and

(ii) the Office of Legislative Research and General Counsel.

Section ~~33~~4. Section **4-41a-108**, which is renumbered from Section 26-61a-603 is renumbered and amended to read:

~~[26-61a-603]~~. **4-41a-108. Payment provider for electronic medical cannabis transactions.**

(1) A cannabis production establishment, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy seeking to use a payment provider shall

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submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

- (a) the name and contact information of the payment provider;
- (b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and
- (c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section ~~4~~5. Section **4-41a-109**, which is renumbered from Section 26-61a-116 is renumbered and amended to read:

~~[26-61a-116]~~. **4-41a-109**. **Advertising.**

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(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) 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;" and

(b) may not include:

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

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"bong," "budtender," "dab," "blaze," "toke," or "420."

(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 ~~5~~6. Section **4-41a-110** is enacted to read:

### **4-41a-110. Department coordination with the advisory board.**

The department shall:

(1) provide draft rules made under this chapter to the advisory board for the advisory board's review;

(2) consult with the advisory board before issuing an additional:

(a) cultivation facility license under Section 4-41a-205; or

(b) pharmacy license under Section 4-41a-1005;

(3) consult with the advisory board regarding fees set by the department that pertain to the medical cannabis program; and

(4) when appropriate, consult with the advisory board regarding issues that arise in the medical cannabis program.

Section ~~6~~7. Section **4-41a-201** is amended to read:

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

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

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

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

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

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

(C) timely and objectively evaluate applications;

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

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production

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establishment to an applicant who is not eligible for a license under this section.

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

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

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

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

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

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

(iii) an operating plan that:

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

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

(C) the department or licensing board approves;

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

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

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

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

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

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

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

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

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

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

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

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

(a) the applicant shall pay the department:

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

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

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

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

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

(5) If the licensing board receives more than one application for a cannabis production



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establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

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

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

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

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

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

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

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

~~[(i) shall consult with the Department of Health regarding the applicant, and]~~

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

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

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

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

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

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

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

(i) a felony; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) after ceasing department or research university operations under Subsection (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

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

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

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

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

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

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

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

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

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

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

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

Section ~~77~~8. Section **4-41a-404** is amended to read:

### **4-41a-404. Medical cannabis transportation.**

(1) (a) [~~Only~~] Except as provided in Part 12, Medical Cannabis Home Delivery and Couriers, the following individuals may transport cannabis or a cannabis product under this chapter:

(i) a registered cannabis production establishment agent; [~~or~~]

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter[-];

(iii) a registered medical cannabis pharmacy agent;

(iv) a registered medical cannabis courier agent; and

(v) a registered pharmacy medical provider.

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(b) Only an agent of a cannabis cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment, an individual transporting cannabis or a cannabis product shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

(b) includes origin and destination information for any cannabis or cannabis product that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis or cannabis product.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis or cannabis product to ensure that the cannabis or cannabis product remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis production establishment and another cannabis production establishment; ~~and~~

(ii) between a cannabis processing facility and a medical cannabis pharmacy~~[-]; and~~

(iii) a medical cannabis pharmacy and:

(A) another medical cannabis pharmacy; or

(B) for a medical cannabis shipment, a delivery address.

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not

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guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis or cannabis product than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment, medical cannabis pharmacy, medical cannabis courier, or another person for failing to make a transport in compliance with the requirements of this section.

(6) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section ~~{8}9~~. Section **4-41a-801.1**, which is renumbered from Section 26-61a-702 is renumbered and amended to read:

**~~[26-61a-702].~~      4-41a-801.1. Enforcement for medical cannabis pharmacies and couriers -- 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

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(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 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 ~~9~~10. Section **4-41a-802** is amended to read:

**4-41a-802. Report.**

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(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of cannabis production facility that the department licenses in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter;

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed; and

(g) the expenses incurred and revenues generated under this chapter.

(2) The department may not include personally identifying information in the report described in this section.

(3) [~~During the 2022 legislative interim, the~~] The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section ~~{10}~~11. Section ~~4-41a-1001~~, which is renumbered from Section 26-61a-301 is renumbered and amended to read:

### **Part 10. Medical Cannabis Pharmacy License**

~~[26-61a-301]~~. 4-41a-1001. **Medical cannabis pharmacy -- License --**

#### **Eligibility.**

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

(2) (a) (i) Subject to Subsections (4) and (5) and to Section ~~[26-61a-305]~~ 4-41a-1005, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

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

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



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the department:

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

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

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

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

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

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

(iv) an operating plan that:

(A) complies with Section ~~[26-61a-304]~~ 4-41a-1004;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section ~~[26-61a-507]~~ 4-41a-1106; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection ~~[26-61a-109(5)]~~ 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

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

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

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

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

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the

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shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

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

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

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

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

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

(a) charge the applicant an initial license fee in an amount that, subject to Subsection ~~[26-61a-109(5)]~~ 4-41a-104(5), the department sets in accordance with Section 63J-1-504;

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

(c) charge the licensee a fee in an amount that, subject to Subsection ~~[26-61a-109(5)]~~ 4-41a-104(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

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

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

(i) a felony; or

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

(b) is younger than 21 years old; or

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

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds ~~[a] another~~ license under ~~[Title 4, Chapter 41, Hemp and Cannabinoid Act]~~ this chapter, the

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department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under this section, the department may give consideration to the applicant's status as a holder of the license if:

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

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

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

~~[(i) shall consult with the Department of Agriculture and Food regarding the applicant; and]~~

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

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

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

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

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

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

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

(A) a felony; or

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

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

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

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

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

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified [~~Patient~~] Production Enterprise Fund.

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

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

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

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

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

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(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

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

(A) conduct an application review; and

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

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

Section ~~4-11-12~~. Section **4-41a-1002**, which is renumbered from Section 26-61a-302 is renumbered and amended to read:

~~[26-61a-302]~~. **4-41a-1002**. **Medical cannabis pharmacy owners and directors -- Criminal background checks.**

(1) Each applicant to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, before the department may award the license, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

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

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

(c) consent to a fingerprint background check by:

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- (i) the Bureau of Criminal Identification; and
  - (ii) the Federal Bureau of Investigation.
- (2) The Bureau of Criminal Identification shall:
- (a) check the fingerprints the applicant submits under Subsection (1) 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 (1) 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.
- (3) The department shall:
- (a) assess an individual who submits fingerprints under Subsection (1) 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 (3)(a) to the Bureau of Criminal Identification.

Section ~~{12}~~13. Section **4-41a-1003**, which is renumbered from Section 26-61a-303 is renumbered and amended to read:

~~[26-61a-303]~~. **4-41a-1003. Renewal.**

- (1) The department shall renew a license under this part every year if, at the time of renewal:
- (a) the licensee meets the requirements of Section ~~[26-61a-301]~~ 4-41a-1001;
  - (b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection ~~[26-61a-109(5)]~~ 4-41a-1004(5), the department sets in accordance with Section

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63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section ~~[26-61a-304]~~ 4-41a-1004 that the department approved under Subsection ~~[26-61a-301(2)(b)(iv)]~~ 4-41a-1001(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section ~~{13}~~ 14. Section ~~4-41a-1004~~, which is renumbered from Section 26-61a-304 is renumbered and amended to read:

~~[26-61a-304]~~. **4-41a-1004. Operating plan.**

A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy [~~that complies with this section and~~] that includes:

(1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

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

(a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

(b) any highly skilled or experienced prospective employee;

(3) the medical cannabis pharmacy's employee training standards;

(4) a security plan;

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(5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system;

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

(7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:

(a) the supply of medical cannabis and medical cannabis products, in consultation with the [~~Department of Agriculture and Food~~] department; and

(b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the [~~department~~] Department of Health and Human Services.

Section ~~{14}~~15. Section **4-41a-1005**, which is renumbered from Section 26-61a-305 is renumbered and amended to read:

~~[26-61a-305]~~. **4-41a-1005**. **Maximum number of licenses .**

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than



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July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of [~~Agriculture and Food~~] Health and Human Services and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and

(B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A).

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of

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medical cannabis for patients; and

(F) a strategic plan described in Subsection ~~[26-61a-304(7)]~~ 4-41a-1004(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section ~~[26-61a-603]~~ 4-41a-108; or

(B) a financial institution in accordance with Subsection ~~[26-61a-603(4)]~~ 4-41a-108(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

~~[(4)(a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:]~~

~~[(i) safely conduct transactions for medical cannabis shipments;]~~

~~[(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and]~~

~~[(iii) accept payments through:]~~

~~[(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or]~~

~~[(B) a financial institution in accordance with Subsection 26-61a-603(4).]~~

~~[(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:]~~

~~[(i) the name and contact information of the payment provider;]~~

~~[(ii) the nature of the relationship between the prospective licensee and the payment~~

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provider;]

~~[(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:]~~

~~[(A) the prospective licensee; and]~~

~~[(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and]~~

~~[(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.]~~

~~[(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.]~~

Section ~~{15}~~16. Section **4-41a-1101**, which is renumbered from Section 26-61a-501 is renumbered and amended to read:

### **Part 11. Medical Cannabis Pharmacy Operation and Agents**

#### **~~[26-61a-501].~~        4-41a-1101. Operating requirements -- General.**

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section ~~[26-61a-301]~~ 4-41a-1001; and

(ii) in accordance with the operating plan provided to the department under Section ~~[26-61a-301]~~ 4-41a-1001 and, if applicable, Section ~~[26-61a-304]~~ 4-41a-1004.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department ~~[or the Department of Agriculture and Food]~~

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performing an inspection under Section [~~26-61a-504~~] 4-41a-1103; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection [~~26-61a-502(2)~~] 4-41a-1102(2).

(7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

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(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) a unique identification number;

(B) directions for use and cautionary statements;

(C) amount and cannabinoid content; and

(D) a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

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- (A) the cannabinoid content;
- (B) the suggested use date; and
- (C) any other requirements that the department determines.

(iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (9)(b)(i).

(10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection [26-61a-502(4) ~~or (5)~~] 26-61a-404(5) ~~or (5)~~ (6), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

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(b) A medical cannabis pharmacy with a disposal program described in Subsection (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section ~~416~~17. Section **4-41a-1102**, which is renumbered from Section 26-61a-502 is renumbered and amended to read:

~~[26-61a-502]~~. **4-41a-1102. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

(1) (a) A medical cannabis pharmacy may not sell a product other than~~[, subject to this chapter]~~:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

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(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card; or

(B) a department registration described in [~~Section 26-61a-201(10)~~] Subsection 26-61a-201(11); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection [~~(4)~~], 26-61a-404(5) any medical cannabis.

~~[(3) An individual with a medical cannabis card:]~~

~~[(a) may purchase, in any one 28-day period, up to the legal dosage limit of:]~~

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

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

~~[(b) may not purchase:]~~



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~~[(i) more medical cannabis than described in Subsection (3)(a); or]~~

~~[(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and]~~

~~[(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.]~~

~~[(4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:]~~

~~[(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:]~~

~~[(i) information regarding the qualifying condition underlying the recommendation;]~~

~~[(ii) information regarding prior treatment attempts with medical cannabis; and]~~

~~[(iii) portions of the patient's current medication list; and]~~

~~[(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:]~~

~~[(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and]~~

~~[(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:]~~

~~[(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;]~~

~~[(B) indications for available treatments;]~~

~~[(C) directions of use and dosing guidelines; and]~~

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~~[(D) potential adverse reactions.]~~

~~[(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.]~~

~~[(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.]~~

~~[(6)]~~ (3) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection ~~[(6)(a)(i)]~~ (3)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described

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in Subsection ~~[(6)(a)(iv)]~~ (3)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

~~[(7)]~~ (4) (a) Except as provided in Subsection ~~[(7)(b)]~~ (4)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

~~[(8)]~~ (5) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

~~[(9)]~~ ~~The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.]~~

~~[(10)]~~ (6) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this ~~[title or Title 4, Chapter 41a, Cannabis Production Establishments]~~ chapter or Title 26B, Utah Health and Human Services Code.

Section ~~{17}~~18. Section **4-41a-1103**, which is renumbered from Section 26-61a-504 is renumbered and amended to read:

~~[26-61a-504].~~      **4-41a-1103. Inspections.**

(1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis treatment recommendation files and other records in accordance with this chapter, department rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) (a) The department ~~[or the Department of Agriculture and Food]~~ may inspect the records, facility, and inventory of a medical cannabis pharmacy at any time during business hours in order to determine if the medical cannabis pharmacy complies with this chapter ~~[and Title 4, Chapter 41a, Cannabis Production Establishments].~~

(b) The Department of Health and Human Services may inspect patient records held by

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a medical cannabis pharmacy:

(i) for compliance with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; or

(ii) to ensure that a medical cannabis pharmacy is providing a cannabis product to a patient in accordance with the recommendations of the patient's recommending medical provider.

(3) (a) An inspection conducted by the department under this section may include:

~~[(a)]~~ (i) ~~[inspection of]~~ inspecting a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above;

~~[(b)]~~ (ii) questioning of any relevant individual;

~~[(c)]~~ (iii) ~~[inspection of]~~ inspecting equipment, an instrument, a tool, or machinery, including a container or label;

~~[(d)]~~ (iv) random sampling of medical cannabis ~~[by the Department of Agriculture and Food]~~ in accordance with rules described in Section 4-41a-701; or

~~[(e)]~~ (v) seizure of medical cannabis, medical cannabis devices, or educational material as evidence in a department investigation or inspection or in instances of compliance failure.

(b) An inspection conducted by the Department of Health and Human Services under Subsection (2)(b) may include:

(i) inspecting a site, facility, vehicle, book, record, paper, document, data, or other physical or electronic information, or any combination of the above; or

(ii) questioning of any relevant individual.

(4) In making an inspection under this section~~[-]~~:

(a) the department ~~[or the Department of Agriculture and Food]~~ may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information, including financial data, sales data, shipping data, pricing data, and employee data~~[-]~~; and

(b) the Department of Health and Human Services may freely access any area and review and make copies of a book, record, paper, document, data, or other physical or electronic information related to patient records.

(5) Failure to provide the department, the ~~[Department of Agriculture and Food]~~ Department of Health and Human Services, or the authorized agents of the department or the

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[~~Department of Agriculture and Food~~] Department of Health and Human Services immediate access to records and facilities during business hours in accordance with this section may result in:

(a) the imposition of a civil monetary penalty that the department sets in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) license or registration suspension or revocation; or

(c) an immediate cessation of operations under a cease and desist order that the department issues.

(6) Notwithstanding any other provision of law, the department may temporarily store in any department facility the items the department seizes under Subsection [~~(3)(e)~~] (3)(a)(v) until the department:

(a) determines that sufficient compliance justifies the return of the seized items; or

(b) disposes of the items in the same manner as a cannabis production establishment in accordance with Section 4-41a-405.

Section ~~{18}~~19. Section **4-41a-1104**, which is renumbered from Section 26-61a-505 is renumbered and amended to read:

~~[26-61a-505].~~        **4-41a-1104. Advertising.**

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

(2) Subject to Section [~~26-61a-116~~] 4-41a-109, a medical cannabis pharmacy may:

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

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

(i) includes only:

(A) in accordance with Subsection [~~26-61a-116(4)~~] 4-41a-109(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;

(c) advertise in any medium:

(i) the pharmacy's name and logo;

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

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- (iii) a service available at the medical cannabis pharmacy;
  - (iv) personnel affiliated with the medical cannabis pharmacy;
  - (v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;
  - (vi) best practices that the medical cannabis pharmacy upholds; and
  - (vii) educational material related to the medical use of cannabis, as defined by the department;
- (d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4); and
- (e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory.
- (3) A medical cannabis pharmacy may not include in an educational event described in Subsection (2)(d):
- (a) any topic that conflicts with this chapter or [~~Title 4, Chapter 41a, Cannabis Production Establishments~~] Title 26, Chapter 61a, Utah Medical Cannabis Act;
  - (b) any gift items or merchandise other than educational materials, as those terms are defined by the department;
  - (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
  - (d) a presenter other than the following:
    - (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
    - (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;
    - (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
    - (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;
    - (v) a medical practitioner, similar to [~~the practitioners~~] a practitioner described in [~~this Subsection (3)(d)(v)] Subsections (3)(d)(i) through (iv), who is licensed in another state or country;~~

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(vi) a state employee; or

(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.

(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)(vii); and

(b) the elements of and restrictions on the educational event described in Subsection (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 ~~19~~20. Section **4-41a-1105**, which is renumbered from Section 26-61a-507 is renumbered and amended to read:

~~[26-61a-507]~~. **4-41a-1105**. **Local control.**

(1) The operation of a medical cannabis pharmacy:

(a) shall be a permitted use:

(i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and

(ii) on land that the municipality or county has not zoned; and

(b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.

(2) A municipality or county may not:

(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis, deny or revoke:

(i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy;

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

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(iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

(3) (a) A municipality or county may enact an ordinance that:

(i) is not in conflict with this chapter; and

(ii) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not restrict the hours of operation from 7 a.m. to 10 p.m.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section ~~20~~21. Section **4-41a-1106**, which is renumbered from Section 26-61a-401 is renumbered and amended to read:

~~[26-61a-401]~~. **4-41a-1106**. **Medical cannabis pharmacy agent --**

### **Registration.**

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

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



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(i) provides to the department:

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

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

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

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

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

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

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

- (a) Utah medical cannabis law; and
- (b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
  - (i) a felony within the preceding 10 years; or
  - (ii) after December 3, 2018, a misdemeanor for drug distribution.

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

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the

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agent:

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

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

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

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

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

(9) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

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

(b) The department may, in consultation with the Division of Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

Section ~~{21}~~22. Section **4-41a-1107**, which is renumbered from Section 26-61a-402 is renumbered and amended to read:

~~[26-61a-402]~~. **4-41a-1107. Medical cannabis pharmacy agent registration card -- Rebuttable presumption.**

(1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis

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pharmacy agent registration card with the individual at all times when:

- (a) the individual is on the premises of a medical cannabis pharmacy; and
- (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis

product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.

(2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

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

(b) there is no probable cause, based solely on the individual's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.

(3) (a) A medical cannabis pharmacy agent who fails to carry the agent's medical cannabis pharmacy agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) is subject to a \$100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a \$750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant medical cannabis pharmacy of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant medical cannabis pharmacy a fine of up to \$5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not

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guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section ~~22~~23. Section **4-41a-1201** is enacted to read:

### **Part 12. Medical Cannabis Home Delivery and Couriers**

#### **4-41a-1201. Medical cannabis home delivery designation.**

(1) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(a) safely conduct transactions for medical cannabis shipments;

(b) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(c) accept payments through:

(i) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(ii) a financial institution in accordance with Subsection 26-61a-603(4).

(2) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (1), including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the prospective licensee and the payment provider;

(c) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(i) the prospective licensee; and

(ii) the electronic payment provider or the financial institution described in Subsection (1)(c); and

(d) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(3) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver

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medical cannabis shipments in accordance with this part.

Section ~~{23}~~24. Section **4-41a-1202**, which is renumbered from Section 26-61a-604 is renumbered and amended to read:

~~[26-61a-604]~~. **4-41a-1202. 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)]~~ 4-41a-104(5), the 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)]~~ 4-41a-104(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

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each individual described in Subsection [~~(3)(b)(ii)~~] (3)(b)(i).

(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)~~] (3)(b)(i):

(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;

(c) an individual described in Subsection [~~(3)(b)(ii)~~] (3)(b)(i) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified [~~Patient~~] Production 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 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

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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:

(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



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department a proposed operating plan that complies with this section and that includes:

- (a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;
- (b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;
- (c) the medical cannabis courier's employee training standards;
- (d) a security plan; and
- (e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

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

(A) conduct an application review; and

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

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

(16) (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]~~ 4-41a-109, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

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- (i) a green cross;
- (ii) the pharmacy's or courier's name and logo; and
- (iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section ~~{24}~~25. Section **4-41a-1203**, which is renumbered from Section 26-61a-605 is renumbered and amended to read:

~~[26-61a-605].~~        **4-41a-1203. Medical cannabis shipment transportation.**

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) [~~Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an~~] Notwithstanding Subsection 4-41a-404(1), an individual may [not] transport a medical cannabis shipment [unless] if the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall [~~possess a physical or electronic transportation manifest that:~~] comply with the ~~{requirement}~~requirements of Subsection 4-41a-404(3).

~~[(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;]~~

~~[(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and]~~

~~[(c) indicates the departure and estimated arrival times and locations of the individual~~

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~~transporting the medical cannabis shipment.]~~

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

- (i) this chapter does not apply; and
- (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section ~~{25}26~~. Section **4-41a-1204**, which is renumbered from Section 26-61a-606 is renumbered and amended to read:

~~[26-61a-606]~~. **4-41a-1204. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.**

- (1) An individual may not serve as a medical cannabis courier agent unless:
  - (a) the individual is an employee of a licensed medical cannabis courier; and
  - (b) the department registers the individual as a medical cannabis courier agent.
- (2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to

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the prospective agent if the medical cannabis courier:

(i) provides to the department:

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

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

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

(iii) pays the department a fee in an amount that, subject to Subsection ~~[26-61a-109(5)]~~ 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

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

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

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

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

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records

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databases, including latent prints;

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

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

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the

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agent:

- (i) is eligible for a medical cannabis courier agent registration card under this section;
- (ii) certifies to the department in a renewal application that the information in

Subsection (2)(a) is accurate or updates the information; and

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

(A) subject to Subsection [~~26-61a-109(5)~~] 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

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

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

- (a) violates the requirements of this chapter; or
- (b) is convicted under state or federal law of:
  - (i) a felony within the preceding 10 years; or
  - (ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

- (a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and
- (b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

- (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
- (b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

- (i) guilty of an infraction; and
- (ii) subject to a \$100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct

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underlying the violation described in Subsection (9)(a).

Section ~~{26}27~~. Section **4-41a-1205**, which is renumbered from Section 26-61a-607 is renumbered and amended to read:

~~[26-61a-607]~~. **4-41a-1205**. **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; or

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

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

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

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

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

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

(i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~{ Section 27. Section 4-41a-1206 is enacted to read:~~

~~—— 4-41a-1206. Home delivery medical cannabis pharmacy extension.~~

~~—— (1) A home delivery medical cannabis pharmacy may enter into an agreement with a cannabis processing facility for the home delivery medical cannabis pharmacy or a medical cannabis courier to obtain a medical cannabis product from the cannabis processing facility and deliver the product to a delivery address.~~

~~—— (2) A home delivery medical cannabis pharmacy that enters into an agreement under Subsection (1) shall ensure that:~~



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~~— (a) a pharmacy medical provider who is a licensed pharmacist verifies the order is accurate and consistent with the patient's medical cannabis recommendation, on site, before the order exits the cannabis processing facility for delivery; and~~

~~— (b) all record keeping requirements, labeling requirements, and patient counseling requirements are satisfied in accordance with this chapter and Title 26, Chapter 61a, Utah Medical Cannabis Act.~~

~~— (3) An individual who prepares an order at a cannabis processing facility under this section shall be registered as:~~

~~— (a) a pharmacy medical provider; or~~

~~— (b) a medical cannabis pharmacy agent.~~

~~— (4) A home delivery under this section may not be made unless the department has been notified of the agreement described in Subsection (1).~~

‡ Section 28. Section **10-9a-528** is amended to read:

**10-9a-528. Cannabis production establishments, medical cannabis pharmacies, and industrial hemp producer licensee.**

(1) As used in this section:

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

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

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

(2) (a) (i) A municipality may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

(B) this chapter.

~~[(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:]~~

~~[(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and]~~

~~[(B) this chapter.]~~

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~~[(iii)]~~ (ii) A municipality may not regulate an industrial hemp producer licensee in conflict with:

- (A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and
- (B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

~~[(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.]~~

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

- (i) regarding a cannabis production establishment, Section 4-41a-406; or
- (ii) regarding a medical cannabis pharmacy, Section ~~[26-61a-507]~~ 4-41a-110.

(b) A municipality shall take the action described in Subsection (3)(a):

- (i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and
- (ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 29. Section ~~17-27a-525~~ is amended to read:

**17-27a-525. Cannabis production establishments and medical cannabis pharmacies.**

(1) As used in this section:

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

(b) "Industrial hemp producer licensee" means the same as the term "licensee" is defined in Section 4-41-102.

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

(2) (a) (i) A county may not regulate a cannabis production establishment or a medical cannabis pharmacy in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, and applicable jurisprudence; and

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(B) this chapter.

~~[(ii) A county may not regulate a medical cannabis pharmacy in conflict with:]~~

~~[(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence;  
and]~~

~~[(B) this chapter.]~~

~~[(iii)]~~ (ii) A county may not regulate an industrial hemp producer licensee in conflict with:

(A) Title 4, Chapter 41, Hemp and Cannabinoid Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment or a medical cannabis pharmacy.

~~[(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.]~~

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section ~~[26-61a-507]~~ 4-41a-110.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 17-27a-509.5(2).

Section 30. Section ~~26-61-202~~ is amended to read:

### **26-61-202. Duties.**

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB;

(b) was conducted or approved by the federal government; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

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(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

(d) any other guideline the board determines appropriate.

(4) Based on the board's evaluation under Subsection (2), the board may provide recommendations to the Medical Cannabis Policy Advisory Board created in Section 26-61a-801 regarding restrictions for a substance found in a medical cannabis product that:

(a) is likely harmful to human health; or

(b) is associated with a substance that is likely harmful to human health.

~~(4)~~ (5) The board shall submit the guidelines described in Subsection (3) to the director of the Division of Professional Licensing.

~~(5)~~ (6) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted

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under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 31. Section **26-61a-102** is amended to read:

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

As used in this chapter:

(1) "Active tetrahydrocannabinol" means THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26-61a-117.

~~[(2)]~~ (3) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26-61-201.

~~[(3)]~~ (4) "Cannabis" means marijuana.

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

~~[(5)]~~ (6) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

~~[(6)]~~ (7) "Cannabis product" means a product that:

(a) is intended for human use; and

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

~~[(7)]~~ (8) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

~~[(8)]~~ (9) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

~~[(9)]~~ (10) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

~~[(10)]~~ (11) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

~~[(11)]~~ (12) "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

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review of the application.

~~[(12)]~~ (13) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

~~[(13)]~~ (14) "Department" means the Department of Health and Human Services.

~~[(14)]~~ (15) "Designated caregiver" means:

(a) an individual:

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

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

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

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

~~[(15)]~~ (16) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

~~[(16)]~~ (17) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

~~[(17)]~~ (18) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

~~[(18)]~~ (19) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

~~[(19)]~~ (20) "Inventory control system" means the system described in Section 4-41a-103.

~~[(20)]~~ (21) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection ~~[26-61a-502(4) or (5)]~~ 26-61a-404(5) ~~or~~ (5) ~~or~~ (5) + (6), recommends; and

(b) may not exceed:

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

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

~~[(21)]~~ (22) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

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

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

~~[(22)]~~ (23) "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).

~~[(23)]~~ (24) "Marijuana" means the same as that term is defined in Section 58-37-2.

~~[(24)]~~ (25) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

~~[(25)]~~ (26) "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.

~~[(26)]~~ (27) "Medical cannabis cardholder" means:

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

(b) a facility or assigned employee, described in Subsection~~[(14)(b);]~~ (15)(b), only:

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

(ii) while in possession of documentation that establishes:

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

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

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

~~[(27)]~~ (28) "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:

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(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.

~~[(28)]~~ (29) "Medical cannabis courier" means ~~[a courier that:]~~ the same as that term is defined in Section 4-41a-102.

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

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

~~[(29)]~~ (30) "Medical cannabis courier agent" means ~~[an individual who:]~~ the same as that term is defined in Section 4-41a-102.

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

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

~~[(30)]~~ (31) (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.

~~[(31)]~~ (32) "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.

~~[(32)]~~ (33) "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.

~~[(33)]~~ (34) "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



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(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.

~~[(34)]~~ (35) "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.

~~[(35)]~~ (36) "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.

~~[(36)]~~ (37) "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]~~ the same as that term is defined in Section 4-41a-102.

~~[(37)]~~ (38) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

~~[(38)]~~ (39) (a) "Medicinal dosage form" means:

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

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

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

(I) a resin or wax; or

(J) an aerosol; or

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

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(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 ~~[(38)]~~ (39)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection ~~[(38)]~~ (39)(a)(ii).

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

(i) any unprocessed cannabis flower outside of the container described in Subsection ~~[(38)]~~ (39)(a)(ii), except as provided in Subsection ~~[(38)(b)]~~; (39)(b);

(ii) ~~[any]~~ unprocessed cannabis flower in a container described in Subsection ~~[(38)]~~ (39)(a)(ii) after the legal use termination date;

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

(iv) a liquid suspension that is branded as a beverage~~[-]; or~~

(v) a substance described in Subsection (39)(a)(i) or (ii) if the substance is not measured in grams, milligrams, or milliliters.

~~[(39)]~~ (40) "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.

~~[(40)]~~ (41) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between

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the establishment or pharmacy and other businesses or individuals.

~~[(41)]~~ (42) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

~~[(42)]~~ (43) "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.

~~[(43)]~~ (44) "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.

~~[(44)]~~ (45) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

~~[(45)]~~ (46) "Qualifying condition" means a condition described in Section 26-61a-104.

~~[(46)]~~ (47) "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.

~~[(47)]~~ (48) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

~~[(48)]~~ (49) "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:

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- (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.

~~[(49)]~~ (50) "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.

~~[(50)]~~ (51) "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.

~~[(51)]~~ (52) "State electronic verification system" means the system described in Section 26-61a-103.

~~[(52)]~~ (53) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

~~[(53)]~~ (54) "THC analog" means the same as that term is defined in Section 4-41-102.

~~[(54)]~~ (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
  - (iv) a permanent resident card or alien registration receipt card; or
- (c) a passport that another country issued.

Section 32. Section **26-61a-103** is amended to read:

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

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

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

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

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

(c) select a third-party provider who:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) [~~beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording,~~] allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection [~~26-61a-501(10)(a);~~] 4-41a-1101(10)(a), to:

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

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

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

(e) connects with:

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

(A) the time and date of each purchase;

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

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

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

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

(f) provides access to:

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

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

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

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

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

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

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

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

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

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection ~~[26-61a-502(6)(a)(ii)]~~ 4-41a-1102(3)(a)(ii) to the controlled substance database;

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

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

(ii) after obtaining a warrant; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

- (a) conducting medical and other department approved research;
- (b) providing the report required by Section 26-61a-703; and
- (c) other official department purposes.

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

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

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

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

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

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

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

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

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

- (i) a third degree felony; and
- (ii) subject to a civil penalty not to exceed \$5,000.

(c) The department shall determine a civil violation of this Subsection (9) in

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accordance with Title 63G, Chapter 4, Administrative Procedures Act.

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

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

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

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

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

Section 33. Section **26-61a-105** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(i) each term is four years; and

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- (ii) each board member is eligible for reappointment.
- (c) A member of the Compassionate Use Board may serve until a successor is appointed.
  - (3) Four members constitute a quorum of the Compassionate Use Board.
  - (4) A member of the Compassionate Use Board may receive:
    - (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and
    - (b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.
  - (5) The Compassionate Use Board shall:
    - (a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:
      - (i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:
        - (A) substantially impairs the individual's quality of life; and
        - (B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;
      - (ii) the qualified medical provider:
        - (A) recommends that the individual or minor be allowed to use medical cannabis; and
        - (B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and
      - (iii) the Compassionate Use Board determines that:
        - (A) the recommendation of the individual's qualified medical provider is justified; and
        - (B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;
    - (b) review and approve or deny the use of a medical cannabis device for an individual

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

(c) unless no petitions are pending:

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

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

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

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

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

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

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

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

(a) time is of the essence;

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

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

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

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

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

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Subsection (6).

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

(A) issue the relevant medical cannabis card; and

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

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

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

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

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

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

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

(9) The Compassionate Use Board shall annually report the board's activity to the Cannabis Research Review Board and the advisory board.

Section 34. 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

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medical provider in accordance with this section.

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

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

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

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

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

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

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

(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

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26-61a-201(3)(c).

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

- (i) the date of issuance;
- (ii) the provider's name, address and contact information, controlled substance license information, and signature; and
- (iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

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

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

- (i) provides to the department the individual's name and address;
  - (ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);
  - (iii) provides to the department evidence that the individual meets the recommending qualifications;
  - (iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and
  - (v) pays the department a fee in an amount that:
    - (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.

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

- (i) for an individual as a condition precedent to registration, four hours; and
- (ii) for a qualified medical provider as a condition precedent to renewal, four hours

every two years.

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

(i) complete continuing education:

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

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

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



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

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

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

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

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

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

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

(5) A recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a provider-patient relationship after the 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~~] a person may not advertise that the [~~individual~~] person or the person's employee recommends a medical cannabis treatment.

(b) Notwithstanding Subsection (6)(a) and [~~subject to~~] Section [~~26-61a-116~~] 4-41a-109, a qualified medical provider or clinic or office that employs a qualified medical provider may advertise the following:

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- (i) a green cross;
  - (ii) the provider's or clinic's name and logo;
  - (iii) a qualifying condition that the individual treats;
  - (iv) that the individual is registered as a qualified medical provider and recommends medical cannabis; or
  - (v) a scientific study regarding medical cannabis use.
- (7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.
- (b) The department shall renew a qualified medical provider's registration card if the provider:
- (i) applies for renewal;
  - (ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;
  - (iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;
  - (iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and
  - (v) pays the department a fee in an amount that:
    - (A) the department sets, in accordance with Section 63J-1-504; and
    - (B) does not exceed \$50 for a registration renewal.
- (8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.
- (9) A recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:
- (a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;
  - (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:

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

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

(b) The department shall:

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

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

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

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

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

Section 35. Section **26-61a-109** is amended to read:

**26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality -- Uniform fee.**

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under this chapter.

(5) The department shall set fees authorized under this chapter in amounts that the

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department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

(6) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection (5), the department sets in accordance with Section 63J-1-504.

Section 36. 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(10)(a)]~~ 4-41a-1101(10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

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

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(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 (9); and

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

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

(A) is at least 18 years old;

(B) is a Utah resident;

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

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

(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

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offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

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

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

(A) the minor has a qualifying condition;

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

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

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

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

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

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

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

(ii) with the recommending medical provider; and

(iii) with information including:

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(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-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

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

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside

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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

(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



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illness described in Section 26-61a-104 expires after one year.

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

(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) 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 through phone or video conference with the cardholder, at the recommending medical provider's discretion.

(c) Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) shall pay to the department a renewal fee in an amount that:

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

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

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

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

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

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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.

(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, after March 17, 2021, a 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

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cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

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

(i) to a nonresident patient; and

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

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

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

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

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

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

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

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

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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 37. Section **26-61a-206** is enacted to read:

### **26-61a-206. Purchasing and use limitations.**

An individual with a medical cannabis card:

(1) may purchase, in any one 28-day period, up to the legal dosage limit of:

(a) unprocessed cannabis in a medicinal dosage form; and

(b) a cannabis product in a medicinal dosage form;

(2) may not purchase:

(a) more medical cannabis than described in Subsection (1)(a); or

(b) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection 26-61a-404(5), any medical cannabis; and

(3) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection 26-61a-404(5) ~~for~~ ~~(6)~~, has not recommended.

Section 38. Section **26-61a-403** is amended to read:

### **Part 4. Pharmacy Medical Providers**

#### **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.

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

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

(i) provides to the department:

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

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

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

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

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

(b) The department may not register a 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

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that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Professional Licensing and:

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

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

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

(c) The department may, in consultation with the Division of 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

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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), a person may not advertise that the person or another person dispenses medical cannabis.

(b) Notwithstanding Subsection (5)(a) and ~~[subject to] Section [26-61a-116]~~ 4-41a-109, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

(6) (a) The department may revoke a pharmacy medical provider's registration for a violation of this chapter.

(b) The department may inspect patient records held by a medical cannabis pharmacy to ensure a pharmacy medical provider is practicing in accordance with this chapter and applicable rules.

Section 39. Section **26-61a-404**, which is renumbered from Section 26-61a-503 is renumbered and amended to read:

~~[26-61a-503].~~      **26-61a-404. Partial filling -- Pharmacy medical provider directions of use.**

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a

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medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection ~~[26-61a-502(2)]~~ 4-41a-1102(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection ~~[26-61a-502(4) or (5)]~~ 4-41a-1102(5) or (6); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

(5) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (5)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (6), after completing the review described in Subsection (5)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the



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recommending medical provider:

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

Section 40. Section **26-61a-601** is amended to read:

### **26-61a-601. State central patient portal -- Department duties.**

(1) [~~On or before July 1, 2020, the~~] The department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(12);

(c) if the cardholder's recommending medical provider recommended the use of medical cannabis without providing directions of use and dosing guidelines and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order:

(i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or

(ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in person from the pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection

~~[26-61a-502(2)(a) or (b)]~~ 4-41a-1102(2)(a) or (b);

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(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 41. Section **26-61a-701** is amended to read:

### **26-61a-701. Enforcement -- Misdemeanor.**

(1) Except as provided in Title 4, Chapter 41a, Cannabis Production Establishments[; and Sections 26-61a-502, 26-61a-605, and 26-61a-607] and Pharmacies, it is unlawful for a medical cannabis cardholder to sell or otherwise give to another medical cannabis cardholder cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, a medical cannabis device, or any cannabis residue remaining in or from a medical cannabis device.

(2) (a) Except as provided in Subsection (2)(b), a medical cannabis cardholder who violates Subsection (1) is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a \$1,000 fine.

(b) An individual is not guilty under Subsection (2)(a) if the individual:

(i) (A) is a designated caregiver; and

(B) gives the product described in Subsection (1) to the medical cannabis cardholder who designated the individual as a designated caregiver; or

(ii) (A) is a medical cannabis guardian cardholder; and

(B) gives the product described in Subsection (1) to the relevant provisional patient cardholder.

(c) An individual who is guilty of a violation described in Subsection (2)(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 (2)(a).

Section 42. Section **26-61a-703** is amended to read:

### **26-61a-703. Report.**

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(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies in consultation with the Department of Agriculture and Food.

(2) The department may not include personally identifying information in the report described in this section.

(3) [~~During the 2022 legislative interim, the~~] The department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 43. Section ~~26-61a-801~~ is enacted to read:

### **Part 8. Medical Cannabis Policy Advisory Board**

#### **26-61a-801. Advisory board creation -- Membership.**

(1) There is created within the department the Medical Cannabis Policy Advisory Board.

(2) (a) The advisory board shall consist of the following members:

(i) appointed by the executive director:

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(A) a qualified medical provider who has at least ~~150~~100 patients who have a medical cannabis patient card at the time of appointment;

(B) a medical research professional;

(C) a mental health specialist;

(D) an individual who represents an organization that advocates for medical cannabis patients;

(E) an individual who holds a medical cannabis patient card; and

(F) a member of the general public who does not hold a medical cannabis card; and

(ii) appointed by the commissioner of the Department of Agriculture and Food:

(A) an individual who owns or operates a licensed cannabis cultivation facility;

(B) an individual who owns or operates a licensed medical cannabis pharmacy; and

(C) a law enforcement officer.

(b) The commissioner of the Department of Agriculture and Food shall ensure that at least one individual appointed under Subsection (2)(a)(ii)(A) or (B) also owns or operates a licensed cannabis processing facility.

(3) (a) Subject to Subsection (3)(b), a member of the advisory board shall serve for a four year term.

(b) When appointing the initial membership of the advisory board, the executive director and the commissioner of the Department of Agriculture and Food shall coordinate to appoint four advisory board members to serve a term of two years to ensure that approximately half of the board is appointed every two years.

(4) (a) If an advisory board member is no longer able to serve as a member, a new member shall be appointed in the same manner as the original appointment.

(b) A member appointed in accordance with Subsection (4)(a) shall serve for the remainder of the unexpired term of the original appointment.

(5) (a) A majority of the advisory board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory board.

(c) The advisory board shall annually designate one of the advisory board's members to serve as chair for a one-year period.

(6) An advisory board member may not receive compensation or benefits for the member's service on the advisory board but may receive per diem and reimbursement for travel

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expenses incurred as an advisory board member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The department shall:

(a) provide staff support for the advisory board; and

(b) assist the advisory board in conducting meetings.

Section 44. Section **26-61a-802** is enacted to read:

**26-61a-802. Advisory board duties.**

(1) The advisory board may recommend:

(a) to the department or the Department of Agriculture and Food changes to current or proposed medical cannabis rules or statutes;

(b) to the appropriate legislative committee whether the advisory board supports a change to medical cannabis statutes.

(2) The advisory board shall:

(a) review any draft rule that is authorized under this chapter or Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) consult with the Department of Agriculture and Food regarding the issuance of an additional:

(i) cultivation facility license under Section 4-41a-205; or

(ii) pharmacy license under Section 4-41a-1005;

(c) consult with the department regarding cannabis patient education;

(d) consult regarding the reasonableness of any fees set by the department or the Utah Department of Agriculture and Food that pertain to the medical cannabis program; and

(e) consult regarding any issue pertaining to medical cannabis when asked by the department or the Utah Department of Agriculture and Food.

Section 45. Section **26-61a-803** is enacted to read:

**26-61a-803. Department coordination.**

The department shall:

(1) provide draft rules made under this chapter to the advisory board for the advisory board's review;

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(2) consult with the advisory board regarding:

(a) patient education; and

(b) fees set by the department that pertain to the medical cannabis program; and

(3) when appropriate, consult with the advisory board regarding issues that arise in the medical cannabis program.

Section 46. Section **36-12-8.2** is amended to read:

### **36-12-8.2. Medical cannabis governance structure working group.**

~~[During the 2022 legislative interim, the]~~

(1) The Legislative Management Committee shall establish a medical cannabis governance structure working group composed of [three members of the Health and Human Services Interim Committee and three members of the Natural Resources, Agriculture, and Environment Interim Committee to:] six members of the Legislature.

(2) The working group may:

~~[(1)]~~ (a) work with industry, patients, medical providers, and others [to conduct a] to review ~~[of]~~ the state's governance structure over medical cannabis;

~~[(2)]~~ (b) study various regulatory structures throughout the nation regarding state agency regulation of medical cannabis; and

(c) make recommendations to the Health and Human Services Interim Committee or the Natural Resources, Agriculture, and Environment Interim Committee regarding medical cannabis governance before or at the October interim meeting.

~~[(3) at or before the October 2022 interim meeting, make recommendations to the Health and Human Services Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee on whether a committee should recommend committee legislation to vertically integrate licenses, streamline regulations, and reduce costs for patients by unifying the efforts of the Department of Health and Human Services and the Department of Agriculture and Food under a single state authority over medical cannabis.]~~

Section 47. Section **58-17b-302** is amended to read:

### **58-17b-302. License required -- License classifications for pharmacy facilities.**

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307;

(b) for the operation of a medical cannabis pharmacy under ~~[Title 26, Chapter 61a,~~

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~~Utah Medical Cannabis Act]~~ Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies; and

(c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing Practice.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

- (a) class A pharmacy;
- (b) class B pharmacy;
- (c) class C pharmacy;
- (d) class D pharmacy;
- (e) class E pharmacy; or
- (f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 48. Section **58-17b-502** is amended to read:

### **58-17b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

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(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of a pharmacy;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing



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jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order;

(o) violating the requirements of Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 49. Section **58-37-3.8** is amended to read:

### **58-37-3.8. Enforcement.**

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies, or Title 26,

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Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 26-61a-102, the state central patient portal, as that term is defined in Section 26-61a-102, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 50. Section 63I-2-204 is amended to read:

**63I-2-204. Repeal dates: Title 4.**

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2027.

(2) Section 4-41a-102.1 is repealed January 1, 2024.

~~(2)~~(3) Section 4-46-104, Transition, is repealed July 1, 2024.

Section ~~{50}~~51. Section **63I-2-236** is amended to read:

**63I-2-236. Repeal dates: Title 36.**

(1) Section 36-12-8.2 is repealed July 1, [~~2023~~] 2024.

(2) Section 36-29-107.5 is repealed on November 30, 2023.

(3) Section 36-29-109 is repealed on November 30, 2027.

(4) Section 36-29-110 is repealed on November 30, 2024.

(5) Section 36-29-111 is repealed April 30, 2023.

(6) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

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(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(7) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

Section ~~51~~52. Section **78A-2-231** is amended to read:

### **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

(1) As used in this section:

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

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

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

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

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

(g) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines

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determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5).

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

- (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or
- (b) Subsection 58-37-3.7(2) or (3).

Section ~~{52}~~53. Section **80-3-110** is amended to read:

### **80-3-110. Consideration of cannabis during proceedings -- Drug testing.**

- (1) As used in this section:
  - (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.
  - (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
  - (c) (i) "Chronic" means repeated or patterned.
  - (ii) "Chronic" does not mean an isolated incident.
  - (d) "Directions of use" means the same as that term is defined in Section 26-61a-102.
  - (e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.
  - (f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
  - (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.
  - (h) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

- (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis

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Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah

Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5).

(3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection [~~26-61a-502(4) or (5)~~] 26-61a-404(5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(6) If an individual, who is party to a proceeding under this chapter, is ordered by the

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juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section ~~53~~54. Section **80-4-109** is amended to read:

### **80-4-109. Consideration of cannabis during proceedings.**

(1) As used in this section:

- (a) "Cannabis" means the same as that term is defined in Section 26-61a-102.
- (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- (c) (i) "Chronic" means repeated or patterned.
- (ii) "Chronic" does not mean an isolated incident.
- (d) "Directions of use" means the same as that term is defined in Section 26-61a-102.
- (e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.
- (f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

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

(2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection ~~[26-61a-502(4) or (5)]~~ 26-61a-404(5).

(3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a

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cannabis product is not abuse or neglect of a child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection [26-61a-502(4) or (5)] ~~26-61a-404(5)~~ ~~or (6)~~; or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section ~~{54}~~55. **Repealer.**

This bill repeals:

Section **26-61a-108, Agreement with a tribe.**

Section **26-61a-506, Medical cannabis transportation.**

Section ~~{55}~~56. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on ~~{January}~~July 1, ~~{2024}~~2023.

(2) The actions affecting the following sections take effect on May 3, 2023:

(a) Section 4-41a-102;

(b) Section 4-41a-110;

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- (c) Section 4-41a-802;
- (d) Section 26-61-202;
- (e) Section 26-61a-102;
- (f) Section 26-61a-105;
- (g) Section 26-61a-801;
- (h) Section 26-61a-802;
- (i) Section 26-61a-803;
- (j) Section 36-12-8.2; and
- (k) Section 63I-2-236.