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H.B. 389
1st Sub. (Buff)

Representative Walt Brooks proposes the following substitute bill:

MEDICAL CANNABIS PHARMACY MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Walt Brooks

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis pharmacies.

Highlighted Provisions:

This bill:

- defines terms;
- creates a pharmacy ownership limit;
- clarifies that the pharmacist-in-charge of a medical cannabis pharmacy determines which products are stocked at the medical cannabis pharmacy;
- authorizes the use of a closed-door medical cannabis pharmacy;
- limits the amount of closed-door medical cannabis pharmacies in certain areas;
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2023, Chapters 273, 313 and 327

4-41a-406, as last amended by Laws of Utah 2023, Chapter 327

4-41a-1001, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

10-9a-528, as last amended by Laws of Utah 2023, Chapters 273, 327 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327

17-27a-525, as last amended by Laws of Utah 2023, Chapters 273, 327 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 327

26B-1-435, as enacted by Laws of Utah 2023, Chapter 273

26B-4-219, as last amended by Laws of Utah 2023, Chapters 273, 317 and renumbered and amended by Laws of Utah 2023, Chapter 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

26B-4-231, as last amended by Laws of Utah 2023, Chapter 317 and renumbered and amended by Laws of Utah 2023, Chapters 273, 307 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 307

ENACTS:

4-41a-1206, Utah Code Annotated 1953

REPEALS:

26B-1-435.1, as enacted by Laws of Utah 2023, Chapter 273

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

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

4-41a-102. Definitions.

As used in this chapter:

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

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) artificially derived cannabinoid;

(f) toxins; or

(g) foreign matter.

(2) "Advisory board" means the Medical Cannabis Policy Advisory Board created in Section 26B-1-435.

(3) (a) "Artificially derived cannabinoid" means a chemical substance that is created by a chemical reaction that changes the molecular structure of any chemical substance derived from the cannabis plant.

(b) "Artificially derived cannabinoid" does not include:

(i) a naturally occurring chemical substance that is separated from the cannabis plant by a chemical or mechanical extraction process; or

(ii) a cannabinoid that is produced by decarboxylation from a naturally occurring cannabinoid acid without the use of a chemical catalyst.

(4) "Cannabis Research Review Board" means the Cannabis Research Review Board created in Section 26B-1-420.

(5) "Cannabis" means the same as that term is defined in Section 26B-4-201.

(6) "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 cannabinoid or artificially derived cannabinoid in an artificially derived cannabinoid's purified state.

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

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

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

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

holds a valid cannabis production establishment agent registration card with a cannabis cultivation facility designation.

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

(11) "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.

(12) "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.

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

holds a valid cannabis production establishment agent registration card with a cannabis processing facility designation.

(14) "Cannabis product" means the same as that term is defined in Section 26B-4-201.

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

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

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

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

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

(18) "Closed-door medical cannabis pharmacy" means a facility operated by a home delivery medical cannabis pharmacy for delivering cannabis or a medical cannabis product.

[~~(18)~~] (19) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

[~~(19)~~] (20) "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.

[~~(20)~~] (21) "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.

[~~(21)~~] (22) "Department" means the Department of Agriculture and Food.

[~~(22)~~] (23) "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)~~] (24) "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 delivery address to fulfill electronic orders that the state central patient portal facilitates.

[~~(24)~~] (25) (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).

[~~(25)~~] (26) "Independent cannabis testing laboratory agent" means an individual who[~~:~~]

holds a valid cannabis production establishment agent registration card with an independent cannabis testing laboratory designation.

[~~(26)~~] (27) "Inventory control system" means a system described in Section 4-41a-103.

[~~(27)~~] (28) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(28)~~] (29) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.

[~~(29)~~] (30) "Medical cannabis card" means the same as that term is defined in Section 26B-4-201.

[~~(30)~~] (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.

[~~(31)~~] (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.

[~~(32)~~] (33) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

[~~(33)~~] (34) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26B-4-201.

[~~(34)~~] (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.

[~~(35)~~] (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.

[~~(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 delivery address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(37)~~] (38) "Medical cannabis treatment" means the same as that term is defined in Section 26B-4-201.

[~~(38)~~] (39) "Medicinal dosage form" means the same as that term is defined in Section 26B-4-201.

(40) "Pharmacy ownership limit" means an amount equal to 30% of the total number of medical cannabis pharmacy licenses issued by the department rounded down to the nearest whole number.

[~~(39)~~] (41) "Pharmacy medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(40)~~] (42) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.

[~~(41)~~] (43) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(42)~~] (44) "Recommending medical provider" means the same as that term is defined

in Section 26B-4-201.

[~~(43)~~] (45) "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.

[~~(44)~~] (46) "State electronic verification system" means the system described in Section 26B-4-202.

[~~(45)~~] (47) "Tetrahydrocannabinol" or "THC" means the same as that term is defined in Section 4-41-102.

[~~(46)~~] (48) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(47)~~] (49) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

[~~(48)~~] (50) "Total tetrahydrocannabinol" or "total THC" means the same as that term is defined in Section 4-41-102.

Section 2. Section **4-41a-406** is amended to read:

4-41a-406. Local control.

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102 and includes a closed-door medical cannabis pharmacy.

(b) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(b)~~] (c) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(c)~~] (d) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at

least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

(3) A municipality or county may not:

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

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility;

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section 26B-7-501; 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 cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a cannabis production establishment 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 3. Section **4-41a-1001** is amended to read:

4-41a-1001. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not:

(a) operate as a medical cannabis pharmacy without a license that the department issues under this part[-];

(b) obtain a medical cannabis pharmacy license if obtaining the license would cause the person to exceed the pharmacy ownership limit;

(c) obtain a partial ownership share of a medical cannabis pharmacy if obtaining the partial ownership share would cause the person to exceed the pharmacy ownership limit; or

(d) enter into any contract or agreement that allows the person to directly or indirectly control the operations of a medical cannabis pharmacy if the person's control of the medical cannabis pharmacy would cause the person to effectively exceed the pharmacy ownership limit.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 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 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 10% 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) for each application that the applicant submits to the department, a statement from the applicant that the applicant will obtain and maintain:

(A) a performance bond in the amount of $100,000 issued by a surety authorized to transact surety business in the state; or

(B) a liquid cash account in the amount of $100,000 with a financial institution;

(iv) an operating plan that:

(A) complies with Section 4-41a-1004;

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

(C) the department approves;

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

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

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

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

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

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

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

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

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant complies with the bond or liquid cash requirement 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 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 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 another license under this chapter, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under 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.

(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 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 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.

(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. Section **4-41a-1206** is enacted to read:

4-41a-1206. Closed-door medical cannabis pharmacy.

(1) (a) Subject to Subsections (1)(b) and (c), a home delivery medical cannabis pharmacy may open a single closed-door medical cannabis pharmacy.

(b) A home delivery medical cannabis pharmacy may not open a closed-door medical cannabis pharmacy unless the home delivery medical cannabis pharmacy:

(i) has an operating plan that includes a closed-door medical cannabis pharmacy; and

(ii) obtains a license issued by the department for a closed-door medical cannabis pharmacy.

(c) An entity that owns multiple home delivery medical cannabis pharmacies may open only one closed-door medical cannabis pharmacy.

(d) The department may institute a fee in accordance with Section 63J-1-504 to administer this section.

(2) A home delivery medical cannabis pharmacy that opens a closed-door medical cannabis pharmacy under Subsection (1) shall ensure:

(a) that a pharmacy medical provider who is a licensed pharmacist:

(i) is directly supervising the packaging of an order; and

(ii) is present in the closed-door medical cannabis pharmacy when an order is packaged for delivery; and

(b) all record keeping requirements, labeling requirements, and patient counseling requirements described in this chapter and Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, are satisfied before sending out an order.

(3) An individual who prepares an order at a closed-door medical cannabis pharmacy under this section shall be registered as:

(a) a pharmacy medical provider; or

(b) a medical cannabis pharmacy agent.

(4) (a) A closed-door medical cannabis pharmacy shall operate:

(i) except as provided in Subsection (4)(b), in a facility that is accessible only by an individual who is a pharmacy medical provider or a medical cannabis pharmacy agent; and

(ii) at a physical address in accordance with Subsection (6).

(b) A closed-door medical cannabis pharmacy may authorize an individual who is at least 18 years old and is not a pharmacy medical provider or a cannabis pharmacy agent to access the closed-door medical cannabis pharmacy if the closed-door medical cannabis pharmacy:

(i) tracks and monitors the individual at all times while the individual is at the closed-door medical cannabis pharmacy; and

(ii) maintains a record of the individual's access, including arrival and departure.

(c) A closed-door medical cannabis pharmacy shall operate in a facility that has:

(i) a single, secure public entrance; and

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

(A) detects and records entry into the closed-door medical cannabis pharmacy;

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

(C) a lock or equivalent restrictive security feature on any area where the closed-door medical cannabis pharmacy stores a cannabis product.

(d) A closed-door medical cannabis pharmacy shall ensure that any cannabis or cannabis products in the closed-door medical cannabis pharmacy that are intended for home delivery are separated in a manner that is readily distinguishable from any other cannabis or cannabis product in the facility.

(5) A closed-door medical cannabis pharmacy may only provide cannabis or a cannabis product to an individual through a delivery that complies with this part.

(6) (a) A person may not locate a closed-door medical cannabis pharmacy:

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

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

(b) The proximity requirements described in Subsection (6)(a) shall be measured from the nearest entrance to the closed-door medical cannabis pharmacy by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(c) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (6)(a) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed closed-door medical cannabis pharmacy without the waiver.

(d) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (6)(a).

(7) When determining where a closed-door medical cannabis pharmacy may open, the licensing board:

(a) shall utilize geographic regions created by the department through rule;

(b) shall prioritize allowing entities that do not have a medical cannabis pharmacy in a

region to open a closed-door medical cannabis pharmacy in the region;

(c) if the total amount of closed-door medical cannabis pharmacies, may allow only three closed-door medical cannabis pharmacies to operate in counties of the first and second class as described in Section 17-50-501; and

(d) for determining the three closed-door medical cannabis pharmacies described in Subsection (7)(c), consider the following:

(i) the history of compliance with state law and rules for all licenses issued under this chapter;

(ii) the medical cannabis pharmacy's willingness to offer a variety of brands and products;

(iii) the ability of the operating plan to ensure the safety and security of the community;

(iv) the suitability of the proposed location and the location's ability to serve the local community; and

(v) any other relevant information determined through rule.

(8) A closed-door medical cannabis pharmacy may not account for more than:

(a) for an entity that holds a single medical cannabis pharmacy license, the greater of:

(i) 35% of the medical cannabis pharmacy's total revenue; or

(ii) $2,000,000 in total revenue; or

(b) for an entity that holds more than one medical cannabis pharmacy license, the greater of:

(i) 35% of the total revenue of the entity's medical cannabis pharmacy that generates the most revenue; or

(ii) $2,000,000 in total revenue.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to implement this section.

Section 5. 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 and includes a closed-door medical cannabis pharmacy.

(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.

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

[~~(c)~~] (d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(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 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.

(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 [~~4-41a-110~~] 4-41a-1105.

(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 6. 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 and includes a closed-door medical cannabis pharmacy.

(b) "Closed-door medical cannabis pharmacy" means the same as that term is defined in Section 4-41a-102.

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

[~~(c)~~] (d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26B-4-201.

(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

(B) this chapter.

(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.

(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 [~~4-41a-110~~] 4-41a-1105.

(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 7. Section **26B-1-435** is amended to read:

26B-1-435. Medical Cannabis Policy Advisory Board creation -- Membership -- Duties.

(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:

(A) a qualified medical provider who has recommended medical cannabis to at least 100 patients [~~who have a medical cannabis patient card at the time of appointment~~] before being appointed;

(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~~] For a term lasting one year, the advisory board shall annually designate [~~one~~

~~of the advisory board's members~~] members of the advisory board to serve as chair [~~for a one-year period.~~] and vice-chair.

(d) When designating the chair and vice-chair, the advisory board shall ensure that at least one individual described Subsection (2)(a)(i) is appointed as chair or vice-chair.

(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 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.

(8) 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.

(9) 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 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 8. Section **26B-4-219** is amended to read:

26B-4-219. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

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

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

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

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

(b) The pharmacist-in-charge shall determine which cannabis and cannabis products the medical cannabis pharmacy maintains in the medical cannabis pharmacy's inventory.

[~~(b)~~] (c) 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 26B-1-310(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider as a pharmacy medical provider.

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

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

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

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

(i) complete continuing education:

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

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

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

(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 26B-1-310(5), the department sets in accordance with Section 63J-1-504; and

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

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

(b) Notwithstanding Subsection (5)(a) and Section 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 9. Section **26B-4-231** is amended to read:

26B-4-231. 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 guidelines.

(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 medical cannabis cardholder, determine different dosing guidelines, subject to the dosing limits in Subsection 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 guidelines for the partial fill under Subsection 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 recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

Section 10. **Repealer.**

This bill repeals:

Section **26B-1-435.1, Medical Cannabis Policy Advisory Board duties.**

Section 11. **Effective date.**

This bill takes effect on May 1, 2024.