

**MEDICAL CANNABIS ELECTRONIC VERIFICATION
SYSTEM DEADLINE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Francis D. Gibson

LONG TITLE

General Description:

This bill delays certain existing operational deadlines for the medical cannabis program's electronic verification system.

Highlighted Provisions:

This bill:

▸ delays the following existing operational deadlines for the medical cannabis program's electronic verification system:

- allowing qualified medical provider employee access to the system on behalf of the provider;

- allowing a prescribing provider access to information in the system regarding a patient the provider treats;

- allowing a parent or legal guardian who does not qualify for a medical cannabis guardian card to designate caregivers in the system;

- allowing for an individual from another state to register with the Utah Department of Health to purchase from a medical cannabis pharmacy on a limited basis; and

- allowing a patient to designate an assisted living facility, nursing care facility, or general acute hospital as a caregiver for medical cannabis purposes; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

30 **Other Special Clauses:**

31 This bill provides a special effective date.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **26-61a-103**, as last amended by Laws of Utah 2020, Chapter 12

35 **26-61a-201**, as last amended by Laws of Utah 2020, Chapters 12 and 148

36 **26-61a-202**, as last amended by Laws of Utah 2020, Chapter 12



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

39 Section 1. Section **26-61a-103** is amended to read:

40 **26-61a-103. Electronic verification system.**

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

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

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

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

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

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

54 (2) The Department of Agriculture and Food, the department, the Department of Public
55 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
56 2020, the state electronic verification system described in Subsection (1):

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

58 medical cannabis guardian card, provided that the card may not become active until the
59 relevant qualified medical provider completes the associated medical cannabis
60 recommendation;

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

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

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

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

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

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

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

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

76 (B) during a face-to-face visit with the patient, for a qualified medical provider who
77 did not originally recommend the medical cannabis treatment during a face-to-face visit; and

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

80 (d) connects with:

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

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

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

86 purchased;

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

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

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

97 (e) provides access to:

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

100 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
101 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
102 41a, Cannabis Production Establishments; and

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

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

107 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
108 Practice Act;

109 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
110 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

111 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
112 Assistant Act;

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

- 114 (g) provides access to state or local law enforcement:
- 115 (i) during a law enforcement encounter, without a warrant, using the individual's driver
116 license or state ID, only for the purpose of determining if the individual subject to the law
117 enforcement encounter has a valid medical cannabis card; or
- 118 (ii) after obtaining a warrant; and
- 119 (h) creates a record each time a person accesses the database that identifies the person
120 who accesses the database and the individual whose records the person accesses.
- 121 (3) (a) Beginning on the earlier of [~~January~~] September 1, 2021, or the date on which
122 the electronic verification system is functionally capable of allowing employee access under
123 this Subsection (3), an employee of a qualified medical provider may access the electronic
124 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
125 medical provider if:
- 126 (i) the qualified medical provider has designated the employee as an individual
127 authorized to access the electronic verification system on behalf of the qualified medical
128 provider;
- 129 (ii) the qualified medical provider provides written notice to the department of the
130 employee's identity and the designation described in Subsection (3)(a)(i); and
- 131 (iii) the department grants to the employee access to the electronic verification system.
- 132 (b) An employee of a business that employs a qualified medical provider may access
133 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
134 qualified medical provider if:
- 135 (i) the qualified medical provider has designated the employee as an individual
136 authorized to access the electronic verification system on behalf of the qualified medical
137 provider;
- 138 (ii) the qualified medical provider and the employing business jointly provide written
139 notice to the department of the employee's identity and the designation described in Subsection
140 (3)(b)(i); and
- 141 (iii) the department grants to the employee access to the electronic verification system.

- 142 (4) (a) As used in this Subsection (4), "prescribing provider" means:
- 143 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
144 Practice Act;
- 145 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
146 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 147 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
148 Assistant Act.
- 149 (b) Beginning on the earlier of [~~January~~] September 1, 2021, or the date on which the
150 electronic verification system is functionally capable of allowing provider access under this
151 Subsection (4), a prescribing provider may access information in the electronic verification
152 system regarding a patient the prescribing provider treats.
- 153 (5) The department may release limited data that the system collects for the purpose of:
- 154 (a) conducting medical and other department approved research;
- 155 (b) providing the report required by Section [26-61a-703](#); and
- 156 (c) other official department purposes.
- 157 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
158 Administrative Rulemaking Act, to establish:
- 159 (a) the limitations on access to the data in the state electronic verification system as
160 described in this section; and
- 161 (b) standards and procedures to ensure accurate identification of an individual
162 requesting information or receiving information in this section.
- 163 (7) (a) Any person who knowingly and intentionally releases any information in the
164 state electronic verification system in violation of this section is guilty of a third degree felony.
- 165 (b) Any person who negligently or recklessly releases any information in the state
166 electronic verification system in violation of this section is guilty of a class C misdemeanor.
- 167 (8) (a) Any person who obtains or attempts to obtain information from the state
168 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.
- 169 (b) Any person who obtains or attempts to obtain information from the state electronic

170 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
171 degree felony.

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

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

177 (i) a third degree felony; and

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

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

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

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

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

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

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

190 Section 2. Section **26-61a-201** is amended to read:

191 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
192 **application -- Fees -- Studies.**

193 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
194 which an individual who satisfies the eligibility criteria in this section or Section [26-61a-202](#)
195 submits an application in accordance with this section or Section [26-61a-202](#):

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

198 (b) issue a medical cannabis guardian card to an individual described in Subsection
199 (2)(b);
200 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and
201 (d) issue a medical cannabis caregiver card to an individual described in Subsection
202 26-61a-202(4).

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

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

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

208 (ii) the individual is a Utah resident;

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

211 (iv) the individual signs an acknowledgment stating that the individual received the
212 information described in Subsection (8); and

213 (v) the individual pays to the department a fee in an amount that, subject to Subsection
214 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

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

216 (A) is at least 18 years old;

217 (B) is a Utah resident;

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

222 (D) the individual signs an acknowledgment stating that the individual received the
223 information described in Subsection (8);

224 (E) pays to the department a fee in an amount that, subject to Subsection

225 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the

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

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

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

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

234 (A) the minor has a qualifying condition;

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

237 (C) the minor's parent or legal guardian petitions the Compassionate Use Board under
238 Section 26-61a-105, and the Compassionate Use Board recommends department approval of
239 the petition; and

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

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

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

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

254 department:

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

257 (ii) with the recommending qualified medical provider; and

258 (iii) with information including:

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

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

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

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

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

268 (c) (i) If a qualified medical provider determines that, because of age, illness, or
269 disability, a medical cannabis patient cardholder requires assistance in administering the
270 medical cannabis treatment that the qualified medical provider recommends, the qualified
271 medical provider may indicate the cardholder's need in the state electronic verification system.

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

274 (A) the department shall add a label to the relevant medical cannabis patient card
275 indicating the cardholder's need for assistance; [~~and~~]

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

281 (C) an individual of any age who is physically present with the cardholder in the event

282 of an emergency medical condition, as that term is defined in Section [31A-22-627](#), may handle
283 the medical cannabis treatment and any associated medical cannabis device as needed to assist
284 the cardholder in administering the recommended medical cannabis treatment.

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

286 (A) ingest or inhale medical cannabis;

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

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

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

294 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
295 a medicinal dosage form:

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

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

300 (A) the state electronic verification system; and

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

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

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

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

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

309 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the

310 department issues under this section is valid for the lesser of:

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

312 (ii) (A) for the first issuance, 90 days;

313 (B) except as provided in Subsection (5)(a)(ii)(C), for a renewal, six months; or

314 (C) for a renewal, one year if, after at least one year following the issuance of the
315 original medical cannabis card, the qualified medical provider determines that the patient has
316 been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

317 (b) (i) A medical cannabis card that the department issues in relation to a terminal
318 illness described in Section 26-61a-104 does not expire.

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

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

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

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

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

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

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

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

334 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
335 63J-1-504; and

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

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

341 (e) The department may revoke a medical cannabis guardian card if the cardholder
342 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense
343 under either state or federal law.

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

346 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
347 purchase, in accordance with this chapter and the recommendation underlying the card,
348 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
349 medical cannabis device.

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

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

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

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

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

363 (i) may possess:

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

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

366 (C) marijuana drug paraphernalia; and
367 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).
368 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
369 Utah Administrative Rulemaking Act, a process to provide information regarding the following
370 to an individual receiving a medical cannabis card:
371 (a) risks associated with medical cannabis treatment;
372 (b) the fact that a condition's listing as a qualifying condition does not suggest that
373 medical cannabis treatment is an effective treatment or cure for that condition, as described in
374 Subsection 26-61a-104(1); and
375 (c) other relevant warnings and safety information that the department determines.
376 (9) The department may establish procedures by rule, in accordance with Title 63G,
377 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
378 provisions of this section.
379 (10) (a) On or before [~~January~~] September 1, 2021, the department shall establish by
380 rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process
381 to allow an individual from another state to register with the [~~Department of Health~~]
382 department in order to purchase medical cannabis or a medical cannabis device from a medical
383 cannabis pharmacy while the individual is visiting the state.
384 (b) The department may only provide the registration process described in Subsection
385 (10)(a):
386 (i) to a nonresident patient; and
387 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
388 per visitation period.
389 (11) (a) A person may submit to the department a request to conduct a research study
390 using medical cannabis cardholder data that the state electronic verification system contains.
391 (b) The department shall review a request described in Subsection (11)(a) to determine
392 whether an institutional review board, as that term is defined in Section 26-61-102, could
393 approve the research study.

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

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

397 (ii) that by applying for a medical cannabis card, unless the individual withdraws
398 consent under Subsection (11)(d), the individual consents to the use of the individual's
399 information for external research; and

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

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

405 (e) The department may release, for the purposes of a study described in this
406 Subsection (11), information about a cardholder under this section who consents to participate
407 under Subsection (11)(c).

408 (f) If an individual withdraws consent under Subsection (11)(d), the withdrawal of
409 consent:

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

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

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

414 Section 3. Section **26-61a-202** is amended to read:

415 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**

416 **Revocation.**

417 (1) (a) A cardholder described in Section **26-61a-201** may designate, through the state
418 central patient portal, up to two individuals, or an individual and a facility in accordance with
419 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
420 provider notates in the electronic verification system that the provider determines that, due to
421 physical difficulty or undue hardship, including concerns of distance to a medical cannabis

422 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
423 qualified medical provider recommends.

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

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

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

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

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

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

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

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

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

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

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

450 caregiver;

451 (d) may accept reimbursement from the designating medical cannabis cardholder for

452 direct costs the designated caregiver incurs for assisting with the designating cardholder's

453 medicinal use of cannabis; and

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

455 January 1, 2021:

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

457 (A) unprocessed medical cannabis in a medicinal dosage form;

458 (B) a cannabis product in a medicinal dosage form; and

459 (ii) may possess marijuana drug paraphernalia; and

460 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

461 (3) (a) The department shall:

462 (i) within 15 days after the day on which an individual submits an application in

463 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

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

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

466 (C) complies with this section; and

467 (ii) notify the Department of Public Safety of each individual that the department

468 registers as a designated caregiver.

469 (b) The department shall ensure that a medical cannabis caregiver card contains the

470 information described in Subsection (5)(b).

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

472 (a) is at least 21 years old;

473 (b) is a Utah resident;

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

475 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#), plus the cost of the

476 criminal background check described in Section [26-61a-203](#);

477 (d) signs an acknowledgment stating that the applicant received the information

478 described in Subsection 26-61a-201(8); and

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

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

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

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

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

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

488 26-61a-201 who designated the applicant; and

489 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
490 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
491 cannabis guardian cardholder.

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

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

496 (b) the amount of time remaining before the card of the cardholder described in Section
497 26-61a-201 expires.

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

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

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

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

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

- 506 (ii) remove a caregiver's designation; or
- 507 (iii) designate a new caregiver.
- 508 (8) The department may revoke a medical cannabis caregiver card if the designated
- 509 caregiver:
- 510 (a) violates this chapter; or
- 511 (b) is convicted under state or federal law of:
- 512 (i) a felony; or
- 513 (ii) after December 3, 2018, a misdemeanor for drug distribution.

514 **Section 4. Effective date.**

515 If approved by two-thirds of all the members elected to each house, this bill takes effect
516 upon approval by the governor, or the day following the constitutional time limit of Utah
517 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
518 the date of veto override.