

MEDICAL CANNABIS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Brad M. Daw

LONG TITLE

General Description:

This bill amends provisions related to medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends certain dosage form requirements for cannabinoid products;
- ▶ allows for the use of cannabidiol from outside the state in certain circumstances;
- ▶ provides for cannabis cultivation facilities rather than cannabis processing facilities to acquire industrial hemp waste from industrial hemp cultivators and processors;
- ▶ requires licensing agencies to give preference to certain abilities among license applicants;
- ▶ allows certain medical providers to access the electronic verification system regarding a patient the provider treats;
- ▶ amends proximity requirements regarding community locations;
- ▶ amends provisions regarding access to an inventory control system by certain financial institutions that the Division of Finance validates;
- ▶ allows the Utah Department of Agriculture and Food (UDAF) to grant a partial-year limited license to operate as a cannabis processing facility in certain circumstances;
- ▶ increases the ability of UDAF to revoke a cannabis production establishment license;
- ▶ allows for UDAF to operate an independent cannabis testing laboratory;
- ▶ clarifies provisions regarding license renewal;

- 30 ▶ allows a cannabis cultivation facility to operate using up to two locations;
- 31 ▶ allows for the use of stacking plants within allotted square footage limitations;
- 32 ▶ allows for a cannabis production establishment to hold educational events under
33 certain circumstances and in accordance with UDAF rules;
- 34 ▶ allows an individual without a state cannabis-related license to transport medical
35 cannabis devices in certain circumstances;
- 36 ▶ amends provisions regarding flavoring of cannabis products;
- 37 ▶ allows the Cannabinoid Product Board to review a broader category of scientific
38 research;
- 39 ▶ clarifies legal dosage limits;
- 40 ▶ amends the directions of use and dosing guidelines that may be associated with a
41 medical cannabis recommendation;
- 42 ▶ amends the medicinal dosage form for unprocessed cannabis flower;
- 43 ▶ amends provisions regarding access to the electronic verification system by law
44 enforcement and certain medical staff;
- 45 ▶ amends provisions regarding the obtaining and renewing of medical cannabis cards;
- 46 ▶ reduces the degree required for the professional who diagnoses or confirms
47 post-traumatic stress disorder as a qualifying condition;
- 48 ▶ requires the Compassionate Use Board to review recommendations for the use of
49 medical cannabis devices by patients under a certain age to vaporize medical
50 cannabis;
- 51 ▶ provides for an expedited petition process from the Compassionate Use Board to the
52 Department of Health (DoH);
- 53 ▶ exempts the Compassionate Use Board from certain compensation restrictions;
- 54 ▶ amends the patient limits on qualified medical providers and the specializations
55 which allow qualified medical providers to recommend medical cannabis to a larger
56 patient population;
- 57 ▶ amends provisions regarding medical professionals advertising regarding medical

- 58 cannabis;
- 59 ▶ provides certain immunity from liability for employees and agents of healthcare
- 60 facilities in certain circumstances;
- 61 ▶ provides protections for state or political subdivisions employees using medical
- 62 cannabis;
- 63 ▶ provides that private employers are not required to accommodate the use of medical
- 64 cannabis;
- 65 ▶ amends provisions regarding designated caregivers for certain minors and patients
- 66 in certain health care facilities;
- 67 ▶ directs DoH to establish a registration process that would allow out-of-state patients
- 68 visiting the state to purchase medical cannabis within the state under certain
- 69 conditions;
- 70 ▶ amends certain criminal penalties, including for certain nonresident patients, to be
- 71 infractions on a first offense;
- 72 ▶ increases the ability of DoH to revoke a medical cannabis pharmacy license;
- 73 ▶ amends requirements for pharmacist counseling or consultation based on the
- 74 directions of use and dosing guidelines that may accompany a medical cannabis
- 75 recommendation;
- 76 ▶ allows a medical cannabis pharmacy to purchase medical cannabis devices from a
- 77 seller that does not have a state cannabis-related license;
- 78 ▶ allow UDAF to conduct random sampling of medical cannabis in medical cannabis
- 79 pharmacies;
- 80 ▶ amends provisions regarding medical cannabis pharmacy advertising, including
- 81 allowing a medical cannabis pharmacy to hold educational events under certain
- 82 circumstances and in accordance with DoH rules;
- 83 ▶ amends provisions regarding the transportation of medical cannabis and medical
- 84 cannabis devices;
- 85 ▶ prohibits a municipality or county that imposes certain restrictions on a medical

- 86 cannabis pharmacy from restricting operations within certain hours;
- 87 ▶ allows for the state central patient portal to facilitate electronic medical cannabis
- 88 orders for an individual to obtain in person at a medical cannabis pharmacy;
- 89 ▶ allows a pharmacy medical provider to transport medical cannabis in certain
- 90 circumstances;
- 91 ▶ provides that meetings of the Compassionate Use Board are closed meetings;
- 92 ▶ amends the definition of marijuana;
- 93 ▶ creates a rebuttable presumption for cannabidiol use in certain circumstances;
- 94 ▶ exempts cannabis metabolite from a driving-related crime in certain circumstances;
- 95 ▶ adds a cannabis-based drug to the Controlled Substances Act;
- 96 ▶ amends the level of negligence required for certain marijuana-related vehicular
- 97 injuries to constitute a felony;
- 98 ▶ distinguishes medical cannabis devices from electronic cigarettes;
- 99 ▶ exempts a lawful medical cannabis user from a weapons restriction;
- 100 ▶ provides for expungement of cannabis-related convictions in certain circumstances;
- 101 and
- 102 ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

- 4-41-102**, as last amended by Laws of Utah 2019, Chapter 23
- 4-41-402**, as last amended by Laws of Utah 2019, Chapter 23
- 4-41a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-103**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 4-41a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

114 **4-41a-203**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

115 Chapter 1

116 **4-41a-204**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

117 **4-41a-205**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

118 **4-41a-403**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

119 **4-41a-404**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

120 **4-41a-602**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

121 Chapter 1

122 **4-41a-603**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

123 Chapter 1

124 **26-61-202**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

125 **26-61a-102**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

126 **26-61a-103**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

127 **26-61a-104**, as last amended by Laws of Utah 2019, Chapter 136

128 **26-61a-105**, as last amended by Laws of Utah 2019, Chapter 341

129 **26-61a-106**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

130 **26-61a-107**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

131 **26-61a-111**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

132 **26-61a-113**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

133 **26-61a-201**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

134 **26-61a-202**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

135 **26-61a-204**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

136 **26-61a-301**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

137 **26-61a-303**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

138 Chapter 1

139 **26-61a-305**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

140 **26-61a-501**, as renumbered and amended by Laws of Utah 2018, Third Special Session,

141 Chapter 1

142 **26-61a-502**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
143 **26-61a-504**, as last amended by Laws of Utah 2019, Chapter 136
144 **26-61a-505**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
145 **26-61a-506**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
146 **26-61a-507**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
147 **26-61a-601**, as repealed and reenacted by Laws of Utah 2019, First Special Session,
148 Chapter 5
149 **26-61a-603**, as repealed and reenacted by Laws of Utah 2019, First Special Session,
150 Chapter 5
151 **26-61a-605**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
152 **41-6a-517**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
153 **52-4-205**, as last amended by Laws of Utah 2019, Chapter 417
154 **58-37-2**, as last amended by Laws of Utah 2015, Chapter 258
155 **58-37-3.7**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
156 **58-37-3.9**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
157 **58-37-4**, as last amended by Laws of Utah 2019, Chapters 59 and 343
158 **58-37-8**, as last amended by Laws of Utah 2019, Chapter 58
159 **58-67-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
160 **58-68-304**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
161 **76-10-101**, as last amended by Laws of Utah 2015, Chapters 66, 132 and last amended
162 by Coordination Clause, Laws of Utah 2015, Chapter 132
163 **76-10-528**, as last amended by Laws of Utah 2019, Chapter 458
164 **77-40-103 (Superseded 05/01/20)**, as last amended by Laws of Utah 2014, Chapter 263
165 **77-40-103 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448
166 **77-40-107 (Superseded 05/01/20)**, as last amended by Laws of Utah 2018, Chapter 266
167 **77-40-107 (Effective 05/01/20)**, as last amended by Laws of Utah 2019, Chapter 448
168 **78A-2-231**, as enacted by Laws of Utah 2019, First Special Session, Chapter 5
169 **78A-6-115**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5

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

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

4-41-102. Definitions.

As used in this chapter:

(1) "Cannabinoid product" means a chemical compound extracted from a hemp product that:

- (a) is processed into a medicinal dosage form; and
- (b) contains less than 0.3% tetrahydrocannabinol by dry weight.

(2) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

(3) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection [4-41-103\(1\)](#).

(4) "Industrial hemp license" means a license that the department issues to a person for the purpose of growing, cultivating, processing, or marketing industrial hemp or an industrial hemp product.

(5) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(6) "Licensee" means an individual or business entity possessing a license that the department issues under this chapter to grow, cultivate, process, or market industrial hemp or an industrial hemp product.

(7) "Medicinal dosage form" means:

- (a) a tablet;
- (b) a capsule;
- (c) a concentrated oil;
- (d) a liquid suspension;
- ~~(e)~~ (e) a sublingual preparation;
- ~~(e)~~ (f) a topical preparation;

198 ~~[(f)]~~ (g) a transdermal preparation;

199 ~~[(g)]~~ (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
200 rectangular cuboid shape; or

201 ~~[(h)]~~ (i) other preparations that the department approves.

202 (8) "Person" means:

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

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

207 (9) "Research pilot program" means a program conducted by the department in
208 collaboration with at least one licensee to study methods of cultivating, processing, or
209 marketing industrial hemp.

210 Section 2. Section ~~4-41-402~~ is amended to read:

211 **4-41-402. Cannabinoid sales and use authorized.**

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

213 (a) except as provided in this chapter; or

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

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

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

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

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

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

225 Section 3. Section ~~4-41a-102~~ is amended to read:

226 **4-41a-102. Definitions.**

227 As used in this chapter:

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

229 (2) "Cannabis cultivation facility" means a person that:

230 (a) possesses cannabis;

231 (b) (i) grows or intends to grow cannabis; ~~[and]~~ or

232 (ii) acquires or intends to acquire industrial hemp waste from a holder of an industrial

233 hemp cultivator, licensed under Title 4, Chapter 41, Hemp and Cannabinoid Act, or an

234 industrial hemp processor; and

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

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

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

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

240 (4) "Cannabis processing facility" means a person that:

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

242 ~~[or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and~~

243 ~~Cannabinoid Act];~~

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

245 (c) manufactures or intends to manufacture a cannabis product from unprocessed

246 cannabis or a cannabis extract; and

247 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a

248 medical cannabis research licensee.

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

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

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

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

253 (7) "Cannabis production establishment" means a cannabis cultivation facility, a

254 cannabis processing facility, or an independent cannabis testing laboratory.

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

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

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

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

262 (10) "Community location" means a public or private elementary or secondary school,
263 [~~a licensed child-care facility or preschool;~~] a church, a public library, a public playground, or a
264 public park.

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

269 ~~[(11)]~~ (12) "Department" means the Department of Agriculture and Food.

270 ~~[(12)]~~ (13) "Family member" means a parent, step-parent, spouse, child, sibling,
271 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
272 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

273 ~~[(13)]~~ (14) (a) "Independent cannabis testing laboratory" means a person that:

274 ~~[(a)]~~ (i) conducts a chemical or other analysis of cannabis or a cannabis product; or

275 ~~[(b)]~~ (ii) acquires, possesses, and transports cannabis or a cannabis product with the
276 intent to conduct a chemical or other analysis of the cannabis or cannabis product.

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

279 ~~[(14)]~~ (15) "Independent cannabis testing laboratory agent" means an individual who:

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

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

282 [~~(15)~~] (16) "Inventory control system" means a system described in Section 4-41a-103.

283 [~~(16)~~] (17) "Medical cannabis" means the same as that term is defined in Section
284 26-61a-102.

285 [~~(17)~~] (18) "Medical cannabis card" means the same as that term is defined in Section
286 26-61a-102.

287 [~~(18)~~] (19) "Medical cannabis pharmacy" means the same as that term is defined in
288 Section 26-61a-102.

289 [~~(19)~~] (20) "Medical cannabis pharmacy agent" means the same as that term is defined
290 in Section 26-61a-102.

291 [~~(20)~~] (21) "Medical cannabis research license" means a license that the department
292 issues to a research university for the purpose of obtaining and possessing medical cannabis for
293 academic research.

294 [~~(21)~~] (22) "Medical cannabis research licensee" means a research university that the
295 department licenses to obtain and possess medical cannabis for academic research, in
296 accordance with Section 4-41a-901.

297 [~~(22)~~] (23) "Medical cannabis treatment" means the same as that term is defined in
298 Section 26-61a-102.

299 [~~(23)~~] (24) "Medicinal dosage form" means the same as that term is defined in Section
300 26-61a-102.

301 [~~(24)~~] (25) "Qualified medical provider" means the same as that term is defined in
302 Section 26-61a-102.

303 [~~(25)~~] (26) "Qualified Production Enterprise Fund" means the fund created in Section
304 4-41a-104.

305 [~~(26)~~] (27) "Research university" means the same as that term is defined in Section
306 53B-7-702.

307 [~~(27)~~] (28) "State electronic verification system" means the system described in Section
308 26-61a-103.

309 [~~(28)~~] (29) "Tetrahydrocannabinol" means a substance derived from cannabis or a

310 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

311 ~~[(29)]~~ (30) "Total composite tetrahydrocannabinol" means
312 delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

313 Section 4. Section 4-41a-103 is amended to read:

314 **4-41a-103. Inventory control system.**

315 (1) Each cannabis production establishment and each medical cannabis pharmacy shall
316 maintain an inventory control system that meets the requirements of this section.

317 (2) A cannabis production establishment and a medical cannabis pharmacy shall ensure
318 that the inventory control system maintained by the establishment or pharmacy:

319 (a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis
320 plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form
321 of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

322 (b) maintains in real time a record of the amount of cannabis and cannabis products in
323 the possession of the establishment or pharmacy;

324 (c) includes a video recording system that:

325 (i) tracks all handling and processing of cannabis or a cannabis product in the
326 establishment or pharmacy;

327 (ii) is tamper proof; and

328 (iii) stores a video record for at least 45 days; and

329 (d) preserves compatibility with the state electronic verification system described in
330 Section 26-61a-103.

331 (3) A cannabis production establishment and a medical cannabis pharmacy shall allow
332 the ~~[department or the Department of Health]~~ following to access ~~[to]~~ the cannabis production
333 establishment's or the medical cannabis pharmacy's inventory control system at any time~~[-]~~:

334 (a) the department;

335 (b) the Department of Health; and

336 (c) a financial institution that the Division of Finance validates, in accordance with
337 Subsection (6).

338 (4) The department may establish compatibility standards for an inventory control
339 system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
340 Rulemaking Act.

341 (5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
342 Administrative Rulemaking Act, establishing requirements for aggregate or batch records
343 regarding the planting and propagation of cannabis before being tracked in an inventory control
344 system described in this section.

345 (b) The department shall ensure that the rules described in Subsection (5)(a) address
346 record-keeping for the amount of planted seed, number of cuttings taken, date and time of
347 cutting and planting, number of plants established, and number of plants culled or dead.

348 (6) (a) The Division of Finance shall, in consultation with the state treasurer:

349 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
350 make rules to:

351 (A) establish a process for validating financial institutions for access to an inventory
352 control system in accordance with Subsections (3)(c) and (6)(b); and

353 (B) establish qualifications for the validation described in Subsection (6)(a)(i)(A);

354 (ii) review applications the Division of Finance receives in accordance with the process
355 established under Subsection (6)(a)(i);

356 (iii) validate a financial institution that meets the qualifications described in Subsection
357 (6)(a)(i); and

358 (iv) provide a list of validated financial institutions to the department and the
359 Department of Health.

360 (b) A financial institution that the Division of Finance validates under Subsection
361 (6)(a):

362 (i) may only access an inventory control system for the purpose of reconciling
363 transactions and other financial activity of cannabis production establishments, medical
364 cannabis pharmacies, and medical cannabis couriers that use financial services that the
365 financial institution provides;

366 (ii) may only access information related to financial transactions; and
367 (iii) may not access any identifying patient information.

368 Section 5. Section **4-41a-201** is amended to read:

369 **4-41a-201. Cannabis production establishment -- License.**

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

372 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section **4-41a-205**:

373 (A) for a licensing process that the department initiated before September 23, 2019, the
374 department shall use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, to
375 review and rank applications for a cannabis production establishment license; and

376 (B) for a licensing process that the department initiates after September 23, 2019, the
377 department shall issue a license to operate a cannabis production establishment in accordance
378 with the procedures described in Subsection (2)(a)(iii).

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

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

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

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

385 (C) timely and objectively evaluate applications;

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

387 (E) select applicants to receive a license.

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

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

- 394 (ii) the name and address of any individual who has:
- 395 (A) a financial or voting interest of 2% or greater in the proposed cannabis production
- 396 establishment; or
- 397 (B) the power to direct or cause the management or control of a proposed cannabis
- 398 production establishment;
- 399 (iii) an operating plan that:
- 400 (A) complies with Section 4-41a-204;
- 401 (B) includes operating procedures that comply with this chapter and any law the
- 402 municipality or county in which the person is located adopts that is consistent with Section
- 403 4-41a-406; and
- 404 (C) the department approves;
- 405 (iv) a statement that the applicant will obtain and maintain a performance bond that a
- 406 surety authorized to transact surety business in the state issues in an amount of at least:
- 407 (A) \$250,000 for each cannabis cultivation facility for which the applicant applies; or
- 408 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
- 409 laboratory for which the applicant applies;
- 410 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the
- 411 department sets in accordance with Section 63J-1-504; and
- 412 (vi) a description of any investigation or adverse action taken by any licensing
- 413 jurisdiction, government agency, law enforcement agency, or court in any state for any
- 414 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
- 415 or businesses.
- 416 (c) (i) A person may not locate a cannabis production establishment:
- 417 (A) within 1,000 feet of a community location; or
- 418 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
- 419 as primarily residential.
- 420 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
- 421 from the nearest entrance to the cannabis production establishment by following the shortest

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

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

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

429 (3) (a) If the department approves an application for a license under this section:

430 ~~[(a)]~~ (i) the applicant shall pay the department:

431 (A) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the
432 department sets in accordance with Section 63J-1-504; ~~[and]~~ or

433 (B) a fee for a 120-day limited license to operate as a cannabis processing facility
434 described in Subsection (3)(b) that is equal to 33% of the initial license fee described in
435 Subsection (3)(a)(i)(A).

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

438 (b) (i) (A) Before July 1, 2020, the department may issue a 120-day limited license to
439 operate as a cannabis processing facility to an eligible applicant.

440 (B) Except as provided in Subsection (3)(b)(i)(C), the department may not renew the
441 120-day limited license.

442 (C) At the termination of the 120-day limited license, the department may issue a
443 full-year license in accordance with Section 4-41a-203.

444 (ii) An applicant is eligible for the 120-day limited license described in Subsection
445 (3)(b)(i) if the applicant:

446 (A) is eligible for a full-year license under this section; and

447 (B) has submitted an application for a full-year license under this section.

448 (4) (a) Except as provided in Subsection (4)(b), the department shall require a separate
449 license for each type of cannabis production establishment and each location of a cannabis

450 production establishment.

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

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

457 (6) The department may not issue a license to operate an independent cannabis testing
458 laboratory to a person who:

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

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

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

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

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

470 (i) a felony; or

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

472 (b) is younger than 21 years old; or

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

474 (8) If an applicant for a cannabis production establishment license under this section
475 holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a,
476 Utah Medical Cannabis Act, the department:

477 (a) shall consult with the Department of Health regarding the applicant if the license

478 the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; ~~and~~

479 (b) may not give preference to the applicant based on the applicant's status as a holder
480 of a license described in this Subsection (8)~~[-]~~; and

481 (c) shall give preference to applicants that demonstrate an ability to increase efficiency
482 and decrease costs to patients.

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

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

486 (b) after the ~~[cannabis production establishment makes]~~ third of the same violation of
487 this chapter ~~[three times]~~ in any of the licensee's licensed cannabis production establishments
488 or medical cannabis pharmacies;

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

491 (i) a felony; or

492 (ii) after December 3, 2018, a misdemeanor for drug distribution; ~~[or]~~

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

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

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

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

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

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

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

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

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

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

519 (14) Notwithstanding this section, the department:

520 (a) may operate an independent cannabis testing laboratory;

521 (b) if the department operates an independent cannabis testing laboratory, may not
522 cease operating the independent cannabis testing laboratory unless:

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

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

528 (c) after ceasing operations under Subsection (14)(b)(ii) shall resume independent
529 cannabis testing laboratory operations at any time if:

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

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

533 Section 6. Section **4-41a-203** is amended to read:

534 **4-41a-203. Renewal.**

535 The department shall renew a license issued under Section 4-41a-201 every year
536 without opening a process described in Subsection 4-41a-201(2)(a) or convert a 120-day
537 limited license described in Subsection 4-41a-201(3)(b) into a full-year license if, at the time of
538 renewal:

539 (1) the licensee meets the requirements of Section 4-41a-201;

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

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

545 Section 7. Section 4-41a-204 is amended to read:

546 **4-41a-204. Operating plan.**

547 (1) A person applying for a cannabis production establishment license or license
548 renewal shall submit to the department for the department's review a proposed operating plan
549 that complies with this section and that includes:

550 (a) a description of the physical characteristics of the proposed facility or, for a
551 cannabis cultivation facility, no more than two facility locations, including a floor plan and an
552 architectural elevation;

553 (b) a description of the credentials and experience of:

554 (i) each officer, director, and owner of the proposed cannabis production
555 establishment; and

556 (ii) any highly skilled or experienced prospective employee;

557 (c) the cannabis production establishment's employee training standards;

558 (d) a security plan;

559 (e) a description of the cannabis production establishment's inventory control system,
560 including a description of how the inventory control system is compatible with the state
561 electronic verification system described in Section 26-61a-103;

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

564 (g) for a cannabis cultivation facility, the information described in Subsection (2);

565 (h) for a cannabis processing facility, the information described in Subsection (3); and

566 (i) for an independent cannabis testing laboratory, the information described in
567 Subsection (4).

568 (2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan
569 includes the facility's intended:

570 (i) cannabis cultivation practices, including the facility's intended pesticide use and
571 fertilizer use; and

572 (ii) subject to Subsection (2)(b), acreage or square footage under cultivation and
573 anticipated cannabis yield.

574 (b) Except as provided in Subsection (2)(c)(i) or (d)(ii), a cannabis cultivation facility
575 may not:

576 (i) for a facility that cultivates cannabis only indoors~~[-(A)]~~, use more than 100,000
577 total square feet [for] of cultivation space~~[- or (B) hang, suspend, stack or otherwise position~~
578 ~~plants above other plants to cultivate more plants through use of vertical space];~~

579 (ii) for a facility that cultivates cannabis only outdoors, use more than four acres for
580 cultivation; and

581 (iii) for a facility that cultivates cannabis through a combination of indoor and outdoor
582 cultivation, use more combined indoor square footage and outdoor acreage than allowed under
583 the department's formula described in Subsection (2)(e).

584 (c) (i) Each licensee may annually apply to the department for authorization to exceed
585 the cannabis cultivation facility's current cultivation size limitation by up to 20%.

586 (ii) The department may, after conducting a review as described in Subsection
587 [4-41a-205\(2\)\(a\)](#), grant the authorization described in Subsection (2)(c)(i).

588 (d) If a licensee describes an intended acreage or square footage under cultivation
589 under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

590 (i) the licensee may not cultivate more than the licensee's identified intended acreage or
591 square footage under cultivation; and

592 (ii) notwithstanding Subsection (2)(b), the department may allocate the remaining
593 difference in acreage or square footage under cultivation to another licensee.

594 (e) The department shall, in accordance with Title 63G, Chapter 3, Utah
595 Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor
596 cultivation that:

597 (i) does not exceed, in estimated cultivation yield, the aggregate limitations described
598 in Subsection (2)(b)(i) or (ii); and

599 (ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

600 (f) (i) The department may authorize a cannabis cultivation facility to operate at no
601 more than two separate locations.

602 (ii) If the department authorizes multiple locations under Subsection (2)(f)(i), the two
603 cannabis cultivation facility locations combined may not exceed the cultivation limitations
604 described in this Subsection (2).

605 ~~[(f) Notwithstanding an applicant's proposed operating plan, a cannabis production~~
606 ~~establishment is subject to land use regulations, as defined in Sections 10-9a-103 and~~
607 ~~17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.]~~

608 (3) A cannabis processing facility's operating plan shall include the facility's intended
609 cannabis processing practices, including the cannabis processing facility's intended:

610 (a) offered variety of cannabis product;

611 (b) cannabinoid extraction method;

612 (c) cannabinoid extraction equipment;

613 (d) processing equipment;

614 (e) processing techniques; and

615 (f) sanitation and manufacturing safety procedures for items for human consumption.

616 (4) An independent cannabis testing laboratory's operating plan shall include the
617 laboratory's intended:

- 618 (a) cannabis and cannabis product testing capability;
- 619 (b) cannabis and cannabis product testing equipment; and
- 620 (c) testing methods, standards, practices, and procedures for testing cannabis and
- 621 cannabis products.

622 (5) Notwithstanding an applicant's proposed operating plan, a cannabis production
623 establishment is subject to land use regulations, as defined in Sections 10-9a-103 and
624 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

625 Section 8. Section **4-41a-205** is amended to read:

626 **4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

627 (1) Except as provided in Subsection (2)(a), the department shall issue at least five but
628 not more than eight licenses to operate a cannabis cultivation facility.

629 (2) (a) The department may issue a number of licenses to operate a cannabis cultivation
630 facility that, in addition to the licenses described in Subsection (1), does not cause the total
631 number of licenses to exceed 15 if the department determines, in consultation with the
632 Department of Health and after an annual or more frequent analysis of the current and
633 anticipated market for medical cannabis, that each additional license is necessary to provide an
634 adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

635 (b) If the recipient of one of the initial licenses described in Subsection (1) ceases
636 operations for any reason or otherwise abandons the license, the department may but is not
637 required to grant the vacant license to another applicant based on an analysis as described in
638 Subsection (2)(a).

639 (3) If there are more qualified applicants than the number of available licenses for
640 cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the
641 applicants and award the limited number of licenses described in Subsections (1) and (2) to the
642 applicants that best demonstrate:

- 643 (a) experience with establishing and successfully operating a business that involves:
 - 644 (i) complying with a regulatory environment;
 - 645 (ii) tracking inventory; and

- 646 (iii) training, evaluating, and monitoring employees;
- 647 (b) an operating plan that will best ensure the safety and security of patrons and the
- 648 community;
- 649 (c) positive connections to the local community; and
- 650 (d) the extent to which the applicant can increase efficiency and reduce the cost to
- 651 patients of medical cannabis [~~in a medicinal dosage form or cannabis products in a medicinal~~
- 652 ~~dosage form~~].

653 (4) The department may conduct a face-to-face interview with an applicant for a

654 license that the department evaluates under Subsection (3).

655 Section 9. Section ~~4-41a-403~~ is amended to read:

656 **4-41a-403. Advertising.**

657 (1) Except as provided in [~~Subsection (2), (3), or (4)~~] this section, a cannabis

658 production establishment may not advertise to the general public in any medium.

659 (2) A cannabis production establishment may advertise an employment opportunity at

660 the cannabis production establishment.

661 (3) A cannabis production establishment may maintain a website that:

- 662 (a) contains information about the establishment and employees; and
- 663 (b) does not advertise any medical cannabis, cannabis products, or medical cannabis
- 664 devices.

665 (4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis

666 production establishment may use signage on the outside of the cannabis production

667 establishment that:

668 (a) includes only:

- 669 (i) the cannabis production establishment's name and hours of operation; and
- 670 (ii) a green cross;
- 671 (b) does not exceed four feet by five feet in size; and
- 672 (c) complies with local ordinances regulating signage.

673 (5) (a) A cannabis production establishment may hold an educational event for the

674 public or medical providers in accordance with this Subsection (5) and the rules described in
675 Subsection (5)(c).

676 (b) A cannabis production establishment may not include in an educational event
677 described in Subsection (5)(a):

678 (i) any topic that conflicts with this chapter or Title 26, Chapter 61a, Utah Medical
679 Cannabis Act;

680 (ii) any gift items or merchandise other than educational materials, as those terms are
681 defined by the department;

682 (iii) any marketing for a specific product from the cannabis production establishment
683 or any other statement, claim, or information that would violate the federal Food, Drug, and
684 Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

685 (iv) a presenter other than the following:

686 (A) a cannabis production establishment agent;

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

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

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

692 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
693 Act; or

694 (F) a state employee.

695 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
696 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
697 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

698 Section 10. Section **4-41a-404** is amended to read:

699 **4-41a-404. Medical cannabis transportation.**

700 (1) (a) Only the following individuals may transport cannabis [~~in a medicinal dosage~~
701 ~~form, a cannabis product in a medicinal dosage form, or a medical cannabis device]~~ or a

702 cannabis product under this chapter:

703 (i) a registered cannabis production establishment agent; or

704 (ii) a medical cannabis cardholder who is transporting a medical cannabis treatment
705 that the cardholder is authorized to possess under this chapter.

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

709 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter
710 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall
711 possess a transportation manifest that:

712 (a) includes a unique identifier that links the cannabis[;] or cannabis product[~~;~~ ~~or~~
713 ~~medical cannabis device~~] to a relevant inventory control system;

714 (b) includes origin and destination information for any cannabis[;] or cannabis
715 product[~~;~~ ~~or medical cannabis device~~] that the individual is transporting; and

716 (c) identifies the departure and arrival times and locations of the individual
717 transporting the cannabis[;] or cannabis product[~~;~~ ~~or medical cannabis device~~].

718 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
719 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
720 Act, requirements for transporting cannabis [~~in a medicinal dosage form, a cannabis product in~~
721 ~~a medicinal dosage form, or a medical cannabis device~~] or cannabis product to ensure that the
722 cannabis[;] or cannabis product[~~;~~ ~~or medical cannabis device~~] remains safe for human
723 consumption.

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

725 (i) between a cannabis [~~cultivation facility~~] production establishment and[~~;~~~~(A)~~]
726 another cannabis [~~cultivation facility; or (B) a cannabis processing facility~~] production
727 establishment; and

728 (ii) between a cannabis processing facility and[~~;~~~~(A) another cannabis processing~~
729 ~~facility; (B) an independent cannabis testing laboratory; or (C)~~] a medical cannabis pharmacy.

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

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

734 (i) guilty of an infraction; and

735 (ii) subject to a \$100 fine.

736 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
737 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
738 underlying the violation described in Subsection (4)(b).

739 (d) If the agent described in Subsection (4)(a) is transporting more cannabis[;] or
740 cannabis product[; ~~or medical cannabis devices~~] than the manifest identifies, except for a de
741 minimis administrative error:

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

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

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

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

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

752 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

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

- 758 (ii) clearly displays the amount of total composite tetrahydrocannabinol and
759 cannabidiol in the labeled container;
- 760 (iii) has a unique identification number that:
761 (A) is connected to the inventory control system; and
762 (B) identifies the unique cannabis product manufacturing process the cannabis
763 processing facility used to manufacture the cannabis product;
- 764 (iv) identifies the cannabinoid extraction process that the cannabis processing facility
765 used to create the cannabis product;
- 766 (v) does not display an image, word, or phrase that the facility knows or should know
767 appeals to children; and
- 768 (vi) discloses each active or potentially active ingredient, in order of prominence, and
769 possible allergen; and
- 770 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a
771 container that:
- 772 (i) [~~except for a blister pack,~~] is tamper evident and tamper resistant;
773 (ii) does not appeal to children;
774 (iii) does not mimic a candy container;
775 (iv) [~~except for a blister pack,~~] is opaque;
776 (v) complies with child-resistant effectiveness standards that the United States
777 Consumer Product Safety Commission establishes; and
- 778 (vi) includes a warning label that states: "WARNING: Cannabis has intoxicating
779 effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP
780 OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed
781 by a qualified medical provider."
- 782 (2) For any cannabis or cannabis product that the cannabis processing facility processes
783 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
784 cuboid shape, the facility shall:
- 785 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or

786 other image of the content of the container; and

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

789 (3) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
790 Administrative Rulemaking Act~~[, establishing]~~ to establish:

791 (a) a standard labeling format that:

792 ~~[(a)]~~ (i) complies with the requirements of this section; and

793 ~~[(b)]~~ (ii) ensures inclusion of a pharmacy label~~[-];~~ and

794 (b) additional requirements on packaging for cannabis and cannabis products to ensure
795 safety and product quality.

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

797 **4-41a-603. Cannabis product -- Product quality.**

798 (1) A cannabis processing facility:

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

800 ~~[(a)]~~ (i) the facility knows or should know appeals to children;

801 ~~[(b)]~~ (ii) is designed to mimic or could be mistaken for a candy product; or

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

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

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

808 (3) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah
809 Administrative Rulemaking Act, human safety standards for the manufacturing of cannabis
810 products that are consistent with best practices for the use of cannabis.

811 Section 13. Section **26-61-202** is amended to read:

812 **26-61-202. Cannabinoid Product Board -- Duties.**

813 (1) The board shall review any available scientific research related to the human use of

814 cannabis, a cannabinoid product, or an expanded cannabinoid product that:

815 (a) was conducted under a study approved by an IRB; [~~or~~]

816 (b) was conducted or approved by the federal government[-]; or

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

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

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

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

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

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

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

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

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

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

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

841 (d) any other guideline the board determines appropriate.

- 842 (4) The board shall submit the guidelines described in Subsection (3) to:
- 843 (a) the director of the Division of Occupational and Professional Licensing; and
- 844 (b) the Health and Human Services Interim Committee.
- 845 (5) The board shall report the board's findings before November 1 of each year to the
- 846 Health and Human Services Interim Committee.
- 847 (6) Guidelines that the board develops under this section may not limit the availability
- 848 of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4,
- 849 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
- 850 Cannabis Act.

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

852 **26-61a-102. Definitions.**

853 As used in this chapter:

854 [~~(1) "Blister" means a plastic cavity or pocket used to contain no more than a single~~

855 ~~dose of cannabis or a cannabis product in a blister pack.]~~

856 [~~(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each~~

857 ~~containing no more than a single dose of cannabis or a cannabis product.]~~

858 [~~(3)] (1) "Cannabis" means marijuana.~~

859 [~~(4)] (2) "Cannabis cultivation facility" means the same as that term is defined in~~

860 Section [4-41a-102](#).

861 [~~(5)] (3) "Cannabis processing facility" means the same as that term is defined in~~

862 Section [4-41a-102](#).

863 [~~(6)] (4) "Cannabis product" means a product that:~~

- 864 (a) is intended for human use; and
- 865 (b) contains cannabis or tetrahydrocannabinol.

866 [~~(7)] (5) "Cannabis production establishment" means the same as that term is defined~~

867 in Section [4-41a-102](#).

868 [~~(8)] (6) "Cannabis production establishment agent" means the same as that term is~~

869 defined in Section [4-41a-102](#).

870 ~~[(9)]~~ (7) "Cannabis production establishment agent registration card" means the same
871 as that term is defined in Section ~~4-41a-102~~.

872 ~~[(10)]~~ (8) "Community location" means a public or private elementary or secondary
873 ~~school, [a licensed child-care facility or preschool,]~~ a church, a public library, a public
874 playground, or a public park.

875 ~~[(11)]~~ (9) "Department" means the Department of Health.

876 ~~[(12)]~~ (10) "Designated caregiver" means:

877 (a) an individual:

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

880 ~~[(b)]~~ (ii) who registers with the department under Section ~~26-61a-202[-]; or~~

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

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

884 (11) "Directions of use" means recommended routes of administration for a medical
885 cannabis treatment and suggested usage guidelines.

886 ~~[(13)]~~ (12) "Dosing [~~parameters~~] guidelines" means a quantity[~~, routes,~~] range and
887 frequency of administration for a recommended treatment of [cannabis in a medicinal dosage
888 form or a cannabis product in a medicinal dosage form] medical cannabis.

889 ~~[(14)]~~ (13) "Financial institution" means a bank, trust company, savings institution, or
890 credit union, chartered and supervised under state or federal law.

891 ~~[(15)]~~ (14) "Home delivery medical cannabis pharmacy" means a medical cannabis
892 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
893 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
894 that the state central patient portal facilitates.

895 ~~[(16)]~~ "Independent cannabis testing laboratory" means the same as that term is defined
896 in Section ~~4-41a-102~~.

897 ~~[(17)]~~ (15) "Inventory control system" means the system described in Section

898 [4-41a-103](#).

899 (16) "Legal dosage limit" means an amount that:

900 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
901 relevant qualified medical provider or the pharmacy medical provider, in accordance with
902 Subsection [26-61a-201](#)(4) or (5), recommends; and

903 (b) may not exceed:

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

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

907 (17) "Legal use termination date" means a date on the label of a container of
908 unprocessed cannabis flower:

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

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

912 (18) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

913 (19) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis
914 product in a medicinal dosage form.

915 (20) "Medical cannabis card" means a medical cannabis patient card, a medical
916 cannabis guardian card, or a medical cannabis caregiver card.

917 (21) "Medical cannabis cardholder" means:

918 (a) a holder of a medical cannabis card[-]; or

919 (b) a facility or assigned employee, described in Subsection (10)(b), only:

920 (i) within the scope of the facility's or assigned employee's performance of the role of a
921 medical cannabis patient cardholder's caregiver designation under Subsection
922 [26-61a-202](#)(1)(b); and

923 (ii) while in possession of documentation that establishes:

924 (A) a caregiver designation described in Subsection [26-61a-202](#)(1)(b);

925 (B) the identity of the individual presenting the documentation; and

926 (C) the relation of the individual presenting the documentation to the caregiver
927 designation.

928 (22) "Medical cannabis caregiver card" means an electronic document that a cardholder
929 may print or store on an electronic device or a physical card or document that:

930 (a) the department issues to an individual whom a medical cannabis patient cardholder
931 or a medical cannabis guardian cardholder designates as a designated caregiver; and

932 (b) is connected to the electronic verification system.

933 (23) "Medical cannabis courier" means a courier that:

934 (a) the department licenses in accordance with Section 26-61a-604; and

935 (b) contracts with a home delivery medical cannabis pharmacy to deliver medical
936 cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

937 (24) (a) "Medical cannabis device" means a device that an individual uses to ingest or
938 inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

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

940 (i) facilitates cannabis combustion; or

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

942 (25) "Medical cannabis guardian card" means an electronic document that a cardholder
943 may print or store on an electronic device or a physical card or document that:

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

946 (b) is connected to the electronic verification system.

947 (26) "Medical cannabis patient card" means an electronic document that a cardholder
948 may print or store on an electronic device or a physical card or document that:

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

950 (b) is connected to the electronic verification system.

951 (27) "Medical cannabis pharmacy" means a person that:

952 (a) (i) acquires or intends to acquire:

953 (A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage

954 form from a cannabis processing facility; or

955 (B) a medical cannabis device; or

956 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal
957 dosage form, or a medical cannabis device; and

958 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a
959 medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

960 (28) "Medical cannabis pharmacy agent" means an individual who:

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

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

963 (29) "Medical cannabis pharmacy agent registration card" means a registration card

964 issued by the department that authorizes an individual to act as a medical cannabis pharmacy
965 agent.

966 (30) "Medical cannabis shipment" means a shipment of medical cannabis or a medical
967 cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis
968 courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical
969 cannabis order that the state central patient portal facilitates.

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

972 (32) (a) "Medicinal dosage form" means:

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

975 (A) a tablet;

976 (B) a capsule;

977 (C) a concentrated liquid or viscous oil;

978 (D) a liquid suspension;

979 (E) a topical preparation;

980 (F) a transdermal preparation;

981 (G) a sublingual preparation;

982 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
983 rectangular cuboid shape; or

984 (I) ~~[for use only after the individual's qualifying condition has failed to substantially~~
985 ~~respond to at least two other forms described in this Subsection (32)(a)(i),]~~ a resin or wax;

986 (ii) for unprocessed cannabis flower, ~~[a blister pack, with each individual blister]~~ a
987 container described in Section 4-41a-602 that:

988 (A) ~~[containing a specific and consistent weight that does not exceed one gram and]~~
989 contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight
990 at the time of packaging; [and]

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

994 ~~[(B)]~~ (C) ~~[after December 31, 2020;]~~ is labeled with the container's content and
995 weight, the date of purchase, the legal use termination date, and after December 31, 2020, a
996 barcode that provides information connected to an inventory control system [and the individual
997 blister's content and weight]; and

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

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

1000 (i) the medical cannabis cardholder has recently removed from the ~~[blister pack]~~
1001 container described in Subsection (32)(a)(ii) for use; and

1002 (ii) does not exceed the quantity described in Subsection (32)(a)(ii).

1003 (c) "Medicinal dosage form" does not include:

1004 (i) any unprocessed cannabis flower outside of the ~~[blister pack]~~ container described in
1005 Subsection (32)(a)(ii), except as provided in Subsection (32)(b); [or]

1006 (ii) any unprocessed cannabis flower in a container described in Subsection (32)(a)(ii)
1007 after the legal use termination date; or

1008 ~~[(i)]~~ (iii) a process of vaporizing and inhaling concentrated cannabis by placing the
1009 cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

1010 (33) "Nonresident patient" means an individual who:
1011 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;
1012 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
1013 card under the laws of another state, district, territory, commonwealth, or insular possession of
1014 the United States; and
1015 (c) has been diagnosed with a qualifying condition as described in Section [26-61a-104](#).
1016 [~~33~~] (34) "Payment provider" means an entity that contracts with a cannabis
1017 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
1018 the establishment or pharmacy and other businesses or individuals.
1019 [~~34~~] (35) "Pharmacy medical provider" means the medical provider required to be on
1020 site at a medical cannabis pharmacy under Section [26-61a-403](#).
1021 [~~35~~] (36) "Provisional patient card" means a card that:
1022 (a) the department issues to a minor with a qualifying condition for whom:
1023 (i) a qualified medical provider has recommended a medical cannabis treatment; and
1024 (ii) the department issues a medical cannabis guardian card to the minor's parent or
1025 legal guardian; and
1026 (b) is connected to the electronic verification system.
1027 [~~36~~] (37) "Qualified medical provider" means an individual who is qualified to
1028 recommend treatment with cannabis in a medicinal dosage form under Section [26-61a-106](#).
1029 [~~37~~] (38) "Qualified Patient Enterprise Fund" means the enterprise fund created in
1030 Section [26-61a-109](#).
1031 [~~38~~] (39) "Qualifying condition" means a condition described in Section [26-61a-104](#).
1032 (40) "Recommend" or "recommendation" means, for a qualified medical provider, the
1033 act of suggesting the use of medical cannabis treatment, which:
1034 (a) certifies the patient's eligibility for a medical cannabis card; and
1035 (b) may include, at the qualified medical provider's discretion, directions of use, with
1036 or without dosing guidelines.
1037 [~~39~~] (41) "State central patient portal" means the website the department creates, in

1038 accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic
1039 medical cannabis order.

1040 ~~[(40)]~~ (42) "State central patient portal medical provider" means a physician or
1041 pharmacist that the department employs in relation to the state central patient portal to consult
1042 with medical cannabis cardholders in accordance with Section 26-61a-602.

1043 ~~[(41)]~~ (43) "State electronic verification system" means the system described in Section
1044 26-61a-103.

1045 ~~[(42)]~~ (44) "Valid form of photo identification" means a valid United States federal- or
1046 state-issued photo identification, including:

- 1047 (a) a driver license;
- 1048 (b) a United States passport;
- 1049 (c) a United States passport card; or
- 1050 (d) a United States military identification card.

1051 Section 15. Section 26-61a-103 is amended to read:

1052 **26-61a-103. Electronic verification system.**

1053 (1) The Department of Agriculture and Food, the department, the Department of Public
1054 Safety, and the Department of Technology Services shall:

1055 (a) enter into a memorandum of understanding in order to determine the function and
1056 operation of the state electronic verification system in accordance with Subsection (2);

1057 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1058 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1059 maintain the state electronic verification system in coordination with the Department of
1060 Technology Services; and

1061 (c) select a third-party provider who:

1062 (i) meets the requirements contained in the request for proposals issued under
1063 Subsection (1)(b); and

1064 (ii) may not have any commercial or ownership interest in a cannabis production
1065 establishment or a medical cannabis pharmacy.

1066 (2) The Department of Agriculture and Food, the department, the Department of Public
1067 Safety, and the Department of Technology Services shall ensure that, on or before March 1,
1068 2020, the state electronic verification system described in Subsection (1):

1069 (a) allows an individual~~[, with the individual's qualified medical provider in the~~
1070 ~~qualified medical provider's office,]~~ to apply for a medical cannabis patient card or, if
1071 applicable, a medical cannabis guardian card, provided that the card may not become active
1072 until the relevant qualified medical provider completes the associated medical cannabis
1073 recommendation;

1074 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1075 cannabis guardian card in accordance with Section [26-61a-201](#);

1076 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1077 acting on behalf of the qualified medical provider, to:

1078 (i) access dispensing and card status information regarding a patient:

1079 (A) with whom the qualified medical provider has a provider-patient relationship; and

1080 (B) for whom the qualified medical provider has recommended or is considering
1081 recommending a medical cannabis card;

1082 (ii) electronically recommend, ~~[during a]~~ after an initial face-to-face visit with a patient
1083 described in Subsection [26-61a-201](#)(4)(b), treatment with cannabis in a medicinal dosage form
1084 or a cannabis product in a medicinal dosage form and optionally recommend dosing
1085 ~~[parameters]~~ guidelines;

1086 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1087 medical cannabis guardian cardholder:

1088 (A) using telehealth services, for the qualified medical provider who originally
1089 recommended a medical cannabis treatment~~[, as that term is defined in Section [26-61a-102,](#)~~
1090 ~~using telehealth services]~~ during a face-to-face visit with the patient; or

1091 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1092 did not originally recommend the medical cannabis treatment~~[,]~~ during a face-to-face visit
1093 ~~[with a patient];~~ and

1094 (iv) notate a determination of physical difficulty or undue hardship, described in
1095 Subsection [26-61a-202](#)(1), to qualify a patient to designate a caregiver;

1096 (d) connects with:

1097 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1098 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1099 medicinal dosage form, or a medical cannabis device, including:

1100 (A) the time and date of each purchase;

1101 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1102 purchased;

1103 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1104 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1105 device; and

1106 (D) the personally identifiable information of the medical cannabis cardholder who
1107 made the purchase; and

1108 (ii) any commercially available inventory control system that a cannabis production
1109 establishment utilizes in accordance with Section [4-41a-103](#) to use data that the Department of
1110 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1111 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1112 track and confirm compliance;

1113 (e) provides access to:

1114 (i) the department to the extent necessary to carry out the department's functions and
1115 responsibilities under this chapter;

1116 (ii) the Department of Agriculture and Food to the extent necessary to carry out the
1117 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1118 41a, Cannabis Production Establishments; and

1119 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1120 carry out the functions and responsibilities related to the participation of the following in the
1121 recommendation and dispensing of medical cannabis:

- 1122 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;
- 1123 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1124 Practice Act;
- 1125 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1126 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 1127 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1128 Assistant Act;
- 1129 (f) provides access to and interaction with the state central patient portal;
- 1130 (g) provides access to state or local law enforcement:
- 1131 (i) during a ~~[traffic stop]~~ law enforcement encounter, without a warrant, using the
1132 individual's driver license or state ID, only for the purpose of determining if the individual
1133 subject to the ~~[traffic stop is in compliance with state medical cannabis law]~~ law enforcement
1134 encounter has a valid medical cannabis card; or
- 1135 (ii) after obtaining a warrant; and
- 1136 (h) creates a record each time a person accesses the database that identifies the person
1137 who accesses the database and the individual whose records the person accesses.
- 1138 (3) (a) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1139 verification system is functionally capable of allowing employee access under this Subsection
1140 (3), an employee of a qualified medical provider may access the electronic verification system
1141 for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:
- 1142 (i) the qualified medical provider has designated the employee as an individual
1143 authorized to access the electronic verification system on behalf of the qualified medical
1144 provider;
- 1145 (ii) the qualified medical provider provides written notice to the department of the
1146 employee's identity and the designation described in Subsection (3)(a)(i); and
- 1147 (iii) the department grants to the employee access to the electronic verification system.
- 1148 (b) An employee of a business that employs a qualified medical provider may access
1149 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the

1150 qualified medical provider if:

1151 (i) the qualified medical provider has designated the employee as an individual
1152 authorized to access the electronic verification system on behalf of the qualified medical
1153 provider;

1154 (ii) the qualified medical provider and the employing business jointly provide written
1155 notice to the department of the employee's identity and the designation described in Subsection
1156 (3)(b)(i); and

1157 (iii) the department grants to the employee access to the electronic verification system.

1158 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1159 (i) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1160 Practice Act;

1161 (ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title
1162 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1163 (iii) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1164 Assistant Act.

1165 (b) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1166 verification system is functionally capable of allowing provider access under this Subsection
1167 (4), a prescribing provider may access information in the electronic verification system
1168 regarding a patient the prescribing provider treats.

1169 ~~[(3)]~~ (5) The department may release limited data that the system collects for the
1170 purpose of:

1171 (a) conducting medical and other department approved research;

1172 (b) providing the report required by Section [26-61a-703](#); and

1173 (c) other official department purposes.

1174 ~~[(4)]~~ (6) The department shall make rules, in accordance with Title 63G, Chapter 3,
1175 Utah Administrative Rulemaking Act, to establish:

1176 (a) the limitations on access to the data in the state electronic verification system as
1177 described in this section; and

1178 (b) standards and procedures to ensure accurate identification of an individual
1179 requesting information or receiving information in this section.

1180 ~~[(5)]~~ (7) (a) Any person who knowingly and intentionally releases any information in
1181 the state electronic verification system in violation of this section is guilty of a third degree
1182 felony.

1183 (b) Any person who negligently or recklessly releases any information in the state
1184 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1185 ~~[(6)]~~ (8) (a) Any person who obtains or attempts to obtain information from the state
1186 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1187 (b) Any person who obtains or attempts to obtain information from the state electronic
1188 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1189 degree felony.

1190 ~~[(7)]~~ (9) (a) Except as provided in Subsection ~~[(7)]~~ (9)(e), a person may not knowingly
1191 and intentionally use, release, publish, or otherwise make available to any other person
1192 information obtained from the state electronic verification system for any purpose other than a
1193 purpose specified in this section.

1194 (b) Each separate violation of this Subsection ~~[(7)]~~ (9) is:

1195 (i) a third degree felony; and

1196 (ii) subject to a civil penalty not to exceed \$5,000.

1197 (c) The department shall determine a civil violation of this Subsection ~~[(7)]~~ (9) in
1198 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

1199 (d) Civil penalties assessed under this Subsection ~~[(7)]~~ (9) shall be deposited into the
1200 General Fund.

1201 (e) This Subsection ~~[(7)]~~ (9) does not prohibit a person who obtains information from
1202 the state electronic verification system under Subsection (2)(a), (c), or (f) from:

1203 (i) including the information in the person's medical chart or file for access by a person
1204 authorized to review the medical chart or file;

1205 (ii) providing the information to a person in accordance with the requirements of the

1206 Health Insurance Portability and Accountability Act of 1996; or

1207 (iii) discussing or sharing that information about the patient with the patient.

1208 Section 16. Section **26-61a-104** is amended to read:

1209 **26-61a-104. Qualifying condition.**

1210 (1) By designating a particular condition under Subsection (2) for which the use of
1211 medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively
1212 state that:

1213 (a) current scientific evidence clearly supports the efficacy of a medical cannabis
1214 treatment for the condition; or

1215 (b) a medical cannabis treatment will treat, cure, or positively affect the condition.

1216 (2) For the purposes of this chapter, each of the following conditions is a qualifying
1217 condition:

1218 (a) HIV or acquired immune deficiency syndrome;

1219 (b) Alzheimer's disease;

1220 (c) amyotrophic lateral sclerosis;

1221 (d) cancer;

1222 (e) cachexia;

1223 (f) persistent nausea that is not significantly responsive to traditional treatment, except
1224 for nausea related to:

1225 (i) pregnancy;

1226 (ii) cannabis-induced cyclical vomiting syndrome; or

1227 (iii) cannabinoid hyperemesis syndrome;

1228 (g) Crohn's disease or ulcerative colitis;

1229 (h) epilepsy or debilitating seizures;

1230 (i) multiple sclerosis or persistent and debilitating muscle spasms;

1231 (j) post-traumatic stress disorder that is being treated and monitored by a licensed

1232 mental health therapist, as that term is defined in Section [58-60-102](#), and that:

1233 (i) has been diagnosed by a healthcare provider or mental health provider employed or

1234 contracted by the United States Veterans Administration, evidenced by copies of medical
1235 records from the United States Veterans Administration that are included as part of the
1236 qualified medical provider's pre-treatment assessment and medical record documentation; or

1237 (ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of
1238 the patient, by a provider who is:

1239 (A) a licensed board-eligible or board-certified psychiatrist;

1240 (B) a licensed psychologist with a [~~doctorate~~] master's-level degree;

1241 (C) a licensed clinical social worker with a [~~doctorate~~] master's-level degree; or

1242 (D) a licensed advanced practice registered nurse who is qualified to practice within
1243 the psychiatric mental health nursing speciality and who has completed the clinical practice
1244 requirements in psychiatric mental health nursing, including in psychotherapy, in accordance
1245 with Subsection [58-31b-302\(4\)\(g\)](#);

1246 (k) autism;

1247 (l) a terminal illness when the patient's remaining life expectancy is less than six
1248 months;

1249 (m) a condition resulting in the individual receiving hospice care;

1250 (n) a rare condition or disease that:

1251 (i) affects less than 200,000 individuals in the United States, as defined in Section 526
1252 of the Federal Food, Drug, and Cosmetic Act; and

1253 (ii) is not adequately managed despite treatment attempts using:

1254 (A) conventional medications other than opioids or opiates; or

1255 (B) physical interventions;

1256 (o) pain lasting longer than two weeks that is not adequately managed, in the qualified
1257 medical provider's opinion, despite treatment attempts using:

1258 (i) conventional medications other than opioids or opiates; or

1259 (ii) physical interventions; and

1260 (p) a condition that the [~~compassionate use board~~] Compassionate Use Board approves
1261 under Section [26-61a-105](#), on an individual, case-by-case basis.

1262 Section 17. Section **26-61a-105** is amended to read:

1263 **26-61a-105. Compassionate Use Board.**

1264 (1) (a) The department shall establish a [~~compassionate use board~~] Compassionate Use
1265 Board consisting of:

1266 (i) seven qualified medical providers that the executive director appoints and the
1267 Senate confirms:

1268 (A) who are knowledgeable about the medicinal use of cannabis;

1269 (B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act,
1270 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

1271 (C) whom the appropriate board certifies in the specialty of neurology, pain medicine
1272 and pain management, medical oncology, psychiatry, infectious disease, internal medicine,
1273 pediatrics, or gastroenterology; and

1274 (ii) as a nonvoting member and the chair of the [~~board~~] Compassionate Use Board, the
1275 executive director or the director's designee.

1276 (b) In appointing the seven qualified medical providers described in Subsection (1)(a),
1277 the executive director shall ensure that at least two have a board certification in pediatrics.

1278 (2) (a) Of the members of the [~~board~~] Compassionate Use Board that the executive
1279 director first appoints:

1280 (i) three shall serve an initial term of two years; and

1281 (ii) the remaining members shall serve an initial term of four years.

1282 (b) After an initial term described in Subsection (2)(a) expires:

1283 (i) each term is four years; and

1284 (ii) each board member is eligible for reappointment.

1285 (c) A member of the [~~board~~] Compassionate Use Board may serve until a successor is
1286 appointed.

1287 (3) Four members constitute a quorum of the [~~compassionate use board~~]
1288 Compassionate Use Board.

1289 (4) A member of the [~~board~~] Compassionate Use Board may receive:

1290 (a) notwithstanding Section 63A-3-106, compensation or benefits for the member's
1291 service; and

1292 (b) [~~per diem and~~] travel expenses in accordance with [~~Section 63A-3-106;~~] Section
1293 63A-3-107[;] and rules made by the Division of Finance [~~pursuant to Sections 63A-3-106 and~~]
1294 in accordance with Section 63A-3-107.

1295 (5) The [~~compassionate use board~~] Compassionate Use Board shall:

1296 (a) review and recommend for department approval a petition to the board regarding an
1297 individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection
1298 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis
1299 card to obtain a medical cannabis card for compassionate use if:

1300 (i) for an individual who is not otherwise qualified to receive a medical cannabis card,
1301 the individual's qualified medical provider is actively treating the individual for an intractable
1302 condition that:

1303 (A) substantially impairs the individual's quality of life; and

1304 (B) has not, in the qualified medical provider's professional opinion, adequately
1305 responded to conventional treatments;

1306 (ii) the qualified medical provider:

1307 (A) recommends that the individual or minor be allowed to use medical cannabis; and

1308 (B) provides a letter, relevant treatment history, and notes or copies of progress notes
1309 describing relevant treatment history including rationale for considering the use of medical
1310 cannabis; and

1311 (iii) the [~~board~~] Compassionate Use Board determines that:

1312 (A) the recommendation of the individual's qualified medical provider is justified; and

1313 (B) based on available information, it may be in the best interests of the individual to
1314 allow the use of medical cannabis;

1315 (b) review and approve or deny the use of a medical cannabis device for an individual
1316 described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection

1317 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the

1318 individual or minor be allowed to use a medical cannabis device to vaporize the medical
1319 cannabis treatment;

1320 ~~[(b)]~~ (c) unless no petitions are pending:

1321 (i) meet to receive or review compassionate use petitions at least quarterly; and

1322 (ii) if there are more petitions than the board can receive or review during the board's
1323 regular schedule, as often as necessary;

1324 ~~[(c)]~~ (d) except as provided in Subsection (6), complete a review of each petition and
1325 recommend to the department approval or denial of the applicant for qualification for a medical
1326 cannabis card within 90 days after the day on which the board received the petition; [and]

1327 (e) consult with the department regarding the criteria described in Subsection (6); and

1328 ~~[(d)]~~ (f) report, before November 1 of each year, to the Health and Human Services
1329 Interim Committee:

1330 (i) the number of compassionate use recommendations the board issued during the past
1331 year; and

1332 (ii) the types of conditions for which the board ~~[approved]~~ recommended
1333 compassionate use.

1334 (6) The department shall make rules, in consultation with the Compassionate Use
1335 Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to
1336 establish a process and criteria for a petition to the board to automatically qualify for expedited
1337 final review and approval or denial by the department in cases where, in the determination of
1338 the department and the board:

1339 (a) time is of the essence;

1340 (b) engaging the full review process would be unreasonable in light of the petitioner's
1341 physical condition; and

1342 (c) sufficient factors are present regarding the petitioner's safety.

1343 ~~[(6)]~~ (7) (a) (i) The department shall review:

1344 (A) any compassionate use for which the [board] Compassionate Use Board
1345 recommends approval under Subsection (5)~~[(c)]~~(d) to determine whether the board properly

1346 exercised the board's discretion under this section[-]; and

1347 (B) any expedited petitions the department receives under the process described in
1348 Subsection (6).

1349 (ii) If the department determines that the [~~board~~] Compassionate Use Board properly
1350 exercised the board's discretion in recommending approval under Subsection (5)[~~(c)~~](d) or that
1351 the expedited petition merits approval based on the criteria established in accordance with
1352 Subsection (6), the department shall:

1353 (A) issue the relevant medical cannabis card; and

1354 (B) provide for the renewal of the medical cannabis card in accordance with the
1355 recommendation of the qualified medical provider described in Subsection (5)(a).

1356 (b) (i) If the [~~board~~] Compassionate Use Board recommends denial under Subsection
1357 (5)[~~(c)~~](d), the individual seeking to obtain a medical cannabis card may petition the
1358 department to review the board's decision.

1359 (ii) If the department determines that the [~~board's~~] Compassionate Use Board's
1360 recommendation for denial under Subsection (5)[~~(c)~~](d) was arbitrary or capricious:

1361 (A) the department shall notify the [~~board~~] Compassionate Use Board of the
1362 department's determination; and

1363 (B) the board shall reconsider the [~~board's~~] Compassionate Use Board's refusal to
1364 recommend approval under this section.

1365 (c) In reviewing the [~~board's~~] Compassionate Use Board's recommendation for
1366 approval or denial under Subsection (5)[~~(c)~~](d) in accordance with this Subsection [~~(6)~~] (7), the
1367 department shall presume the board properly exercised the board's discretion unless the
1368 department determines that the board's recommendation was arbitrary or capricious.

1369 [~~(7)~~] (8) Any individually identifiable health information contained in a petition that
1370 the [~~board~~] Compassionate Use Board or department receives under this section is a protected
1371 record in accordance with Title 63G, Chapter 2, Government Records Access and Management
1372 Act.

1373 [~~(8)~~] (9) The [~~compassionate use board~~] Compassionate Use Board shall annually

1374 report the board's activity to the Cannabinoid Product Board created in Section 26-61-201.

1375 Section 18. Section 26-61a-106 is amended to read:

1376 **26-61a-106. Qualified medical provider registration -- Continuing education --**
1377 **Treatment recommendation.**

1378 (1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a
1379 medical cannabis treatment unless the department registers the individual as a qualified
1380 medical provider in accordance with this section.

1381 (b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii)
1382 and (iv) may recommend a medical cannabis treatment without registering under Subsection
1383 (1)(a) until January 1, 2021.

1384 (2) (a) The department shall, within 15 days after the day on which the department
1385 receives an application from an individual, register and issue a qualified medical provider
1386 registration card to the individual if the individual:

1387 (i) provides to the department the individual's name and address;

1388 (ii) provides to the department a report detailing the individual's completion of the
1389 applicable continuing education requirement described in Subsection (3);

1390 (iii) provides to the department evidence that the individual:

1391 (A) has the authority to write a prescription;

1392 (B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah
1393 Controlled Substances Act; and

1394 (C) possesses the authority, in accordance with the individual's scope of practice, to
1395 prescribe a Schedule II controlled substance;

1396 (iv) provides to the department evidence that the individual is:

1397 (A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1398 Practice Act;

1399 (B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1400 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1401 (C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant

1402 Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102,
1403 includes the recommending of medical cannabis, and whose supervising physician is a
1404 qualified medical provider; and

1405 (v) pays the department a fee in an amount that:

1406 (A) the department sets, in accordance with Section 63J-1-504; and

1407 (B) does not exceed \$300 for an initial registration.

1408 (b) The department may not register an individual as a qualified medical provider if the
1409 individual is:

1410 (i) a pharmacy medical provider; or

1411 (ii) an owner, officer, director, board member, employee, or agent of a cannabis
1412 production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

1413 (3) (a) An individual shall complete the continuing education described in this
1414 Subsection (3) in the following amounts:

1415 (i) for an individual as a condition precedent to registration, four hours; and

1416 (ii) for a qualified medical provider as a condition precedent to renewal, four hours
1417 every two years.

1418 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1419 (i) complete continuing education:

1420 (A) regarding the topics described in Subsection (3)(d); and

1421 (B) offered by the department under Subsection (3)(c) or an accredited or approved
1422 continuing education provider that the department recognizes as offering continuing education
1423 appropriate for the recommendation of cannabis to patients; and

1424 (ii) make a continuing education report to the department in accordance with a process
1425 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
1426 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
1427 Professional Licensing and:

1428 (A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b,
1429 Nurse Practice Act, the Board of Nursing;

1430 (B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical
1431 Practice Act, the Physicians Licensing Board;

1432 (C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah
1433 Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board;
1434 and

1435 (D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1436 Assistant Act, the Physician Assistant Licensing Board.

1437 (c) The department may, in consultation with the Division of Occupational and
1438 Professional Licensing, develop the continuing education described in this Subsection (3).

1439 (d) The continuing education described in this Subsection (3) may discuss:

1440 (i) the provisions of this chapter;

1441 (ii) general information about medical cannabis under federal and state law;

1442 (iii) the latest scientific research on the endocannabinoid system and medical cannabis,
1443 including risks and benefits;

1444 (iv) recommendations for medical cannabis as it relates to the continuing care of a
1445 patient in pain management, risk management, potential addiction, or palliative care; and

1446 (v) best practices for recommending the form and dosage of medical cannabis products
1447 based on the qualifying condition underlying a medical cannabis recommendation.

1448 (4) (a) Except as provided in Subsection (4)(b) [~~or (c)~~], a qualified medical provider
1449 may not recommend a medical cannabis treatment to more than [~~175~~] 275 of the qualified
1450 medical provider's patients at the same time, as determined by the number of medical cannabis
1451 cards under the qualified medical provider's name in the state electronic verification system.

1452 (b) [~~Except as provided in Subsection (4)(c), a~~] A qualified medical provider may
1453 recommend a medical cannabis treatment to up to [~~300~~] 600 of the qualified medical provider's
1454 patients at any given time, as determined by the number of medical cannabis cards under the
1455 qualified medical provider's name in the state electronic verification system, if:

1456 (i) the appropriate American medical board has certified the qualified medical provider
1457 in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and

1458 palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or
1459 psychiatry; or

1460 (ii) a licensed business employs or contracts with the qualified medical provider for the
1461 specific purpose of providing hospice and palliative care.

1462 [~~(c)(i) Notwithstanding Subsection (4)(b), a qualified medical provider described in~~
1463 ~~Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for~~
1464 ~~authorization to exceed the limit described in Subsection (4)(b) by graduating increments of~~
1465 ~~100 patients per authorization, not to exceed three authorizations.]~~

1466 [~~(ii) The Division of Occupational and Professional Licensing shall grant the~~
1467 ~~authorization described in Subsection (4)(c)(i) if:]~~

1468 [~~(A) the petitioning qualified medical provider pays a \$100 fee;]~~

1469 [~~(B) the division performs a review that includes the qualified medical provider's~~
1470 ~~medical cannabis recommendation activity in the state electronic verification system, relevant~~
1471 ~~information related to patient demand, and any patient medical records that the division~~
1472 ~~determines would assist in the division's review; and]~~

1473 [~~(C) after the review described in this Subsection (4)(c)(ii), the division determines that~~
1474 ~~granting the authorization would not adversely affect public safety, adversely concentrate the~~
1475 ~~overall patient population among too few qualified medical providers, or adversely concentrate~~
1476 ~~the use of medical cannabis among the provider's patients:]~~

1477 (5) A qualified medical provider may recommend medical cannabis to an individual
1478 under this chapter only in the course of a qualified medical provider-patient relationship after
1479 the qualifying medical provider has completed and documented in the patient's medical record
1480 a thorough assessment of the patient's condition and medical history based on the appropriate
1481 standard of care for the patient's condition.

1482 (6) (a) Except as provided in Subsection (6)(b), [~~a qualified medical provider~~] an
1483 individual may not advertise that the [~~qualified medical provider~~] individual recommends
1484 medical cannabis treatment in accordance with this chapter.

1485 (b) For purposes of Subsection (6)(a), the communication of the following, through a

1486 website, by an individual described in Subsection (6)(c), does not constitute advertising:

1487 (i) a green cross;

1488 (ii) a qualifying condition that the qualified medical provider treats; or

1489 (iii) a scientific study regarding medical cannabis use.

1490 (c) The following are subject to Subsection (6)(b):

1491 (i) before the department begins registering qualified medical providers:

1492 (A) an advanced practice registered nurse described in Subsection (2)(a)(iv)(A);

1493 (B) a physician described in Subsection (2)(a)(iv)(B); or

1494 (C) a physician assistant described in Subsection (2)(a)(iv)(C); and

1495 (ii) after the department begins registering qualified medical providers, a qualified
1496 medical provider.

1497 (7) (a) A qualified medical provider registration card expires two years after the day on
1498 which the department issues the card.

1499 (b) The department shall renew a qualified medical provider's registration card if the
1500 provider:

1501 (i) applies for renewal;

1502 (ii) is eligible for a qualified medical provider registration card under this section,
1503 including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

1504 (iii) certifies to the department in a renewal application that the information in
1505 Subsection (2)(a) is accurate or updates the information;

1506 (iv) submits a report detailing the completion of the continuing education requirement
1507 described in Subsection (3); and

1508 (v) pays the department a fee in an amount that:

1509 (A) the department sets, in accordance with Section [63J-1-504](#); and

1510 (B) does not exceed \$50 for a registration renewal.

1511 (8) The department may revoke the registration of a qualified medical provider who
1512 fails to maintain compliance with the requirements of this section.

1513 (9) A qualified medical provider may not receive any compensation or benefit for the

1514 qualified medical provider's medical cannabis treatment recommendation from:

1515 (a) a cannabis production establishment or an owner, officer, director, board member,
1516 employee, or agent of a cannabis production establishment;

1517 (b) a medical cannabis pharmacy or an owner, officer, director, board member,
1518 employee, or agent of a medical cannabis pharmacy; or

1519 (c) a qualified medical provider or pharmacy medical provider.

1520 Section 19. Section **26-61a-107** is amended to read:

1521 **26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No**
1522 **private right of action.**

1523 (1) An individual described in Subsection (2) is not subject to the following solely for
1524 violating a federal law or regulation that would otherwise prohibit recommending, prescribing,
1525 or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the
1526 United States Food and Drug Administration has not approved:

1527 (a) civil or criminal liability; or

1528 (b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58,
1529 Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58,
1530 Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician
1531 Assistant Act.

1532 (2) The limitations of liability described in Subsection (1) apply to:

1533 (a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1534 Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1535 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed
1536 under Title 58, Chapter 70a, Utah Physician Assistant Act:

1537 (i) (A) whom the department has registered as a qualified medical provider; and

1538 (B) who recommends treatment with cannabis in a medicinal dosage form or a
1539 cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

1540 (ii) before January 1, 2021, who:

1541 (A) has the authority to write a prescription; and

1542 (B) recommends a medical cannabis treatment to a patient who has a qualifying
1543 condition; and

1544 (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

1545 (i) whom the department has registered as a pharmacy medical provider; and

1546 (ii) who dispenses, in a medical cannabis pharmacy, treatment with cannabis in a
1547 medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis
1548 cardholder in accordance with this chapter.

1549 (3) Nothing in this section or chapter reduces or in any way negates the duty of an
1550 individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a
1551 patient:

1552 (a) who may have a qualifying condition; and

1553 (b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has
1554 recommended or might consider recommending a treatment with cannabis or a cannabis
1555 product; or

1556 (ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the
1557 dosing or dispensing of cannabis or a cannabis product.

1558 (4) (a) As used in this Subsection (4), "healthcare facility" means the same as that term
1559 is defined in Section 26-21-2.

1560 (b) A healthcare facility may adopt restrictions on the possession, use, and storage of
1561 medical cannabis on the premises of the healthcare facility by a medical cannabis cardholder
1562 who resides at or is actively receiving treatment or care at the healthcare facility.

1563 (c) The restrictions described in Subsection (4)(b) may include provisions stating:

1564 (i) whether the healthcare facility will store or maintain the medical cannabis
1565 cardholder's supply of medical cannabis;

1566 (ii) that the facility is not responsible for providing medical cannabis to the medical
1567 cannabis cardholder; or

1568 (iii) where medical cannabis may be used on the premises of the healthcare facility if
1569 the facility provides for the on-premises use of medical cannabis.

1570 (d) An employee or agent of a healthcare facility that adopts restrictions described in
1571 Subsection (4)(b) is not subject to civil or criminal liability for carrying out employment duties,
1572 including:

1573 (i) providing or supervising care to a medical cannabis cardholder; or
1574 (ii) in accordance with a caregiver designation under Section [26-61a-201](#) for a medical
1575 cannabis cardholder residing at the healthcare facility, purchasing, transporting, or possessing,
1576 medical cannabis for the relevant patient and in accordance with the designation.

1577 (e) Nothing in this section requires a healthcare facility to adopt a restriction under
1578 Subsection (4)(b).

1579 Section 20. Section **26-61a-111** is amended to read:

1580 **26-61a-111. Nondiscrimination for medical care or government employment --**
1581 **Notice to prospective and current public employees -- No effect on private employers.**

1582 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
1583 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
1584 product in a medicinal dosage form:

1585 (a) is considered the equivalent of the authorized use of any other medication used at
1586 the discretion of a physician; and

1587 (b) does not constitute the use of an illicit substance or otherwise disqualify an
1588 individual from needed medical care.

1589 (2) (a) Notwithstanding any other provision of law and except as provided in
1590 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
1591 cannabis in accordance with this chapter or Section [58-37-3.7](#) in the same way the state or
1592 political subdivision treats employee use of any prescribed controlled substance.

1593 (b) A state or political subdivision employee who has a valid medical cannabis card is
1594 not subject to adverse action, as that term is defined in Section [67-21-2](#), for failing a drug test
1595 due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or
1596 otherwise adversely affected in the employee's job performance due to the use of medical
1597 cannabis.

1598 ~~[(b)]~~ (c) ~~[Subsection]~~ Subsections (2)(a) ~~[does]~~ and (b) do not apply where the
1599 application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security
1600 clearance, or any other federal background determination required for the employee's position,
1601 or if the employee's position is dependent on a license that is subject to federal regulations.

1602 (3) (a) (i) A state employer or a political subdivision employer shall take the action
1603 described in Subsection (3)(a)(ii) before:

1604 (A) giving to a current employee an assignment or duty that arises from or directly
1605 relates to an obligation under this chapter; or

1606 (B) hiring a prospective employee whose assignments or duties would include an
1607 assignment or duty that arises from or directly relates to an obligation under this chapter.

1608 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or
1609 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the
1610 employee or prospective employee:

1611 (A) that the employee's or prospective employee's job duties may require the employee
1612 or prospective employee to engage in conduct which is in violation of the criminal laws of the
1613 United States; and

1614 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),
1615 although the employee or prospective employee is entitled to the protections of Title 67,
1616 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
1617 carry out an assignment or duty that may be a violation of the criminal laws of the United
1618 States with respect to the manufacture, sale, or distribution of cannabis.

1619 (b) The Department of Human Resource Management shall create, revise, and publish
1620 the form of the notice described in Subsection (3)(a).

1621 (c) Notwithstanding Subsection [67-21-3\(3\)](#), an employee who has signed the notice
1622 described in Subsection (3)(a) may not:

1623 (i) claim in good faith that the employee's actions violate or potentially violate the laws
1624 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

1625 (ii) refuse to carry out a directive that the employee reasonably believes violates the

1626 criminal laws of the United States with respect to the manufacture, sale, or distribution of
1627 cannabis.

1628 (d) An employer ~~[of an employee who has signed the notice described in Subsection~~
1629 ~~(3)(a)]~~ may not take retaliatory action as defined in Section 67-19a-101 against a current
1630 employee who refuses to sign the notice described in Subsection (3)(a).

1631 (4) Nothing in this section requires a private employer to accommodate the use of
1632 medical cannabis or affects the ability of a private employer to have policies restricting the use
1633 of medical cannabis by applicants or employees.

1634 Section 21. Section 26-61a-113 is amended to read:

1635 **26-61a-113. No effect on use of hemp extract -- Cannabinoid product -- Approved**
1636 **drugs.**

1637 (1) Nothing in this chapter prohibits an individual:

1638 (a) ~~[with a valid hemp extract registration card that the department issues under Section~~
1639 ~~26-56-103]~~ from possessing, administering, or using hemp extract in accordance with Section
1640 58-37-4.3; or

1641 (b) from purchasing, selling, possessing, or using a ~~[cannabidiol]~~ cannabinoid product
1642 in accordance with Section 4-41-402.

1643 (2) Nothing in this chapter restricts or otherwise affects the prescription, distribution,
1644 or dispensing of a product that the United States Food and Drug Administration has approved.

1645 Section 22. Section 26-61a-201 is amended to read:

1646 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card**
1647 **application -- Fees -- Studies.**

1648 (1) On or before March 1, 2020, the department shall, within 15 days after the day on
1649 which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202
1650 submits an application in accordance with this section or Section 26-61a-202:

1651 (a) issue a medical cannabis patient card to an individual described in Subsection
1652 (2)(a);

1653 (b) issue a medical cannabis guardian card to an individual described in Subsection

1654 (2)(b);
1655 (c) issue a provisional patient card to a minor described in Subsection (2)(c); and
1656 (d) issue a medical cannabis caregiver card to an individual described in Subsection
1657 26-61a-202(4).
1658 (2) (a) An individual is eligible for a medical cannabis patient card if:
1659 (i) (A) the individual is at least 21 years old; or
1660 (B) the individual is 18, 19, or 20 years old, the individual petitions the [~~compassionate~~
1661 ~~use board~~] Compassionate Use Board under Section 26-61a-105, and the [~~compassionate use~~
1662 ~~board~~] Compassionate Use Board recommends department approval of the petition;
1663 (ii) the individual is a Utah resident;
1664 (iii) the individual's qualified medical provider recommends treatment with medical
1665 cannabis in accordance with Subsection (4);
1666 (iv) the individual signs an acknowledgment stating that the individual received the
1667 information described in Subsection (8); and
1668 (v) the individual pays to the department a fee in an amount that, subject to Subsection
1669 26-61a-109(5), the department sets in accordance with Section 63J-1-504.
1670 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:
1671 (A) is at least 18 years old;
1672 (B) is a Utah resident;
1673 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical
1674 provider recommends a medical cannabis treatment, the individual petitions the
1675 [~~compassionate use board~~] Compassionate Use Board under Section 26-61a-105, and the
1676 [~~compassionate use board~~] Compassionate Use Board recommends department approval of the
1677 petition;
1678 (D) the individual signs an acknowledgment stating that the individual received the
1679 information described in Subsection (8);
1680 (E) pays to the department a fee in an amount that, subject to Subsection
1681 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the

1682 criminal background check described in Section [26-61a-203](#); and

1683 (F) the individual has not been convicted of a misdemeanor or felony drug distribution
1684 offense under either state or federal law, unless the individual completed any imposed sentence
1685 six months or more before the day on which the individual applies for a medical cannabis
1686 guardian card.

1687 (ii) The department shall notify the Department of Public Safety of each individual that
1688 the department registers for a medical cannabis guardian card.

1689 (c) (i) A minor is eligible for a provisional patient card if:

1690 (A) the minor has a qualifying condition;

1691 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1692 to address the minor's qualifying condition;

1693 (C) the minor's parent or legal guardian petitions the [~~compassionate use board~~]
1694 Compassionate Use Board under Section [26-61a-105](#), and the [~~compassionate use board~~]
1695 Compassionate Use Board recommends department approval of the petition; and

1696 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1697 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1698 medical cannabis caregiver card under Section [26-61a-202](#).

1699 (ii) The department shall automatically issue a provisional patient card to the minor
1700 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1701 guardian card to the minor's parent or legal guardian.

1702 (d) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1703 verification system is functionally capable of servicing the designation, if the parent or legal
1704 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1705 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1706 designate up to two caregivers in accordance with Subsection [26-61a-202](#)(1)(c) to ensure that
1707 the minor has adequate and safe access to the recommended medical cannabis treatment.

1708 (3) (a) An individual who is eligible for a medical cannabis card described in
1709 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the

1710 department:

1711 (i) through an electronic application connected to the state electronic verification
1712 system;

1713 (ii) with the recommending qualified medical provider [~~while in the recommending~~
1714 ~~qualified medical provider's office~~]; and

1715 (iii) with information including:

1716 (A) the applicant's name, gender, age, and address;

1717 (B) the number of the applicant's valid form of photo identification;

1718 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1719 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1720 and

1721 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1722 holds the associated medical cannabis guardian card.

1723 (b) The department shall ensure that a medical cannabis card the department issues
1724 under this section contains the information described in Subsection (3)(a)(iii).

1725 (c) (i) If a qualified medical provider determines that, because of age, illness, or
1726 disability, a medical cannabis patient cardholder requires assistance in administering the
1727 medical cannabis treatment that the qualified medical provider recommends, the qualified
1728 medical provider may indicate the cardholder's need in the state electronic verification system.

1729 (ii) If a qualified medical provider makes the indication described in Subsection
1730 (3)(c)(i):

1731 (A) the department shall add a label to the relevant medical cannabis patient card
1732 indicating the cardholder's need for assistance; and

1733 (B) any adult who is [~~21~~] 18 years old or older and who is physically present with the
1734 cardholder at the time the cardholder needs to use the recommended medical cannabis
1735 treatment may handle the medical cannabis treatment and any associated medical cannabis
1736 device as needed to assist the cardholder in administering the recommended medical cannabis
1737 treatment, including in the event of an emergency medical condition under Subsection

1738 26-61a-204(2).

1739 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

1740 (A) ingest or inhale medical cannabis;

1741 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1742 of the immediate area where the cardholder is present or with an intent other than to provide
1743 assistance to the cardholder; or

1744 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1745 the cardholder is not in the process of being dosed with medical cannabis.

1746 (4) To recommend a medical cannabis treatment to a patient or to renew a
1747 recommendation, a qualified medical provider shall:

1748 (a) before recommending cannabis in a medicinal dosage form or a cannabis product in
1749 a medicinal dosage form:

1750 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1751 guardian's valid form of identification described in Subsection (3)(a);

1752 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1753 or legal guardian in:

1754 (A) the state electronic verification system; and

1755 (B) the controlled substance database created in Section 58-37f-201; and

1756 (iii) consider the recommendation in light of the patient's qualifying condition and
1757 history of medical cannabis and controlled substance use during an initial face-to-face visit
1758 with the patient; and

1759 (b) state in the qualified medical provider's recommendation that the patient:

1760 (i) suffers from a qualifying condition, including the type of qualifying condition; and

1761 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1762 product in a medicinal dosage form.

1763 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1764 department issues under this section is valid for the lesser of:

1765 (i) an amount of time that the qualified medical provider determines; or

1766 (ii) (A) for the first issuance, 30 days; or

1767 (B) for a renewal, six months.

1768 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1769 illness described in Section 26-61a-104 does not expire.

1770 (ii) The recommending qualified medical provider may revoke a recommendation that
1771 the provider made in relation to a terminal illness described in Section 26-61a-104 if the
1772 medical cannabis cardholder no longer has the terminal illness.

1773 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1774 renewable if:

1775 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1776 (b); or

1777 (ii) the cardholder received the medical cannabis card through the recommendation of
1778 the [~~compassionate use board~~] Compassionate Use Board under Section 26-61a-105.

1779 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1780 (i) using the application process described in Subsection (3); or

1781 (ii) through phone or video conference with the qualified medical provider who made
1782 the recommendation underlying the card, at the qualifying medical provider's discretion.

1783 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1784 pay to the department a renewal fee in an amount that:

1785 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1786 63J-1-504; and

1787 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1788 comparison to the original application process.

1789 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional
1790 patient card renews automatically at the time the minor's parent or legal guardian renews the
1791 parent or legal guardian's associated medical cannabis guardian card.

1792 (e) The department may revoke a medical cannabis guardian card if the cardholder
1793 under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense

1794 under either state or federal law.

1795 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1796 cannabis card with the patient's name.

1797 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1798 purchase, in accordance with this chapter and the recommendation underlying the card,
1799 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1800 medical cannabis device.

1801 (ii) A cardholder under this section may possess or transport, in accordance with this
1802 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1803 cannabis product in a medicinal dosage form, or a medical cannabis device.

1804 (iii) To address the qualifying condition underlying the medical cannabis treatment
1805 recommendation:

1806 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1807 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1808 or a medical cannabis device; and

1809 (B) a medical cannabis guardian cardholder may assist the associated provisional
1810 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1811 product in a medicinal dosage form, or a medical cannabis device.

1812 (c) If a licensed medical cannabis pharmacy is not operating within the state after
1813 January 1, 2021, a cardholder under this section [~~is not subject to prosecution for the~~
1814 ~~possession of~~]:

1815 (i) may possess:

1816 [~~(i) no more than 113 grams of marijuana]~~

1817 (A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

1818 [~~(ii) an amount of]~~

1819 (B) up to the legal dosage limit of a cannabis product in a medicinal dosage form [~~that~~
1820 ~~contains no more than 20 grams of tetrahydrocannabinol; or~~]; and

1821 [~~(iii) (C) marijuana drug paraphernalia[-]; and~~

1822 (ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

1823 (8) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1824 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1825 to an individual receiving a medical cannabis card:

1826 (a) risks associated with medical cannabis treatment;

1827 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1828 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1829 Subsection 26-61a-104(1); and

1830 (c) other relevant warnings and safety information that the department determines.

1831 (9) The department may establish procedures by rule, in accordance with Title 63G,
1832 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1833 provisions of this section.

1834 (10) (a) On or before January 1, 2021, the department shall establish by rule, in
1835 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1836 an individual from another state to register with the Department of Health in order to purchase
1837 medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the
1838 individual is visiting the state.

1839 (b) The department may only provide the registration process described in Subsection
1840 (10)(a):

1841 (i) to a nonresident patient; and

1842 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1843 per visitation period.

1844 [~~(10)~~] (11) (a) A person may submit to the department a request to conduct a research
1845 study using medical cannabis cardholder data that the state electronic verification system
1846 contains.

1847 (b) The department shall review a request described in Subsection [~~(10)~~] (11)(a) to
1848 determine whether an institutional review board, as that term is defined in Section 26-61-102,
1849 could approve the research study.

1850 (c) At the time an individual applies for a medical cannabis card, the department shall
1851 notify the individual:

1852 (i) of how the individual's information will be used as a cardholder;

1853 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1854 consent under Subsection ~~[(10)]~~ (11)(d), the individual consents to the use of the individual's
1855 information for external research; and

1856 (iii) that the individual may withdraw consent for the use of the individual's
1857 information for external research at any time, including at the time of application.

1858 (d) An applicant may, through the medical cannabis card application, and a medical
1859 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1860 cardholder's consent to participate in external research at any time.

1861 (e) The department may release, for the purposes of a study described in this
1862 Subsection ~~[(10)]~~ (11), information about a cardholder under this section who consents to
1863 participate under Subsection ~~[(10)]~~ (11)(c).

1864 (f) If an individual withdraws consent under Subsection ~~[(10)]~~ (11)(d), the withdrawal
1865 of consent:

1866 (i) applies to external research that is initiated after the withdrawal of consent; and

1867 (ii) does not apply to research that was initiated before the withdrawal of consent.

1868 (g) The department may establish standards for a medical research study's validity, by
1869 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1870 Section 23. Section **26-61a-202** is amended to read:

1871 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**

1872 **Revocation.**

1873 (1) (a) A cardholder described in Section **26-61a-201** may designate, through the state
1874 central patient portal, up to two individuals, or an individual and a facility in accordance with
1875 Subsection (1)(b), to serve as a designated caregiver for the cardholder if a qualified medical
1876 provider notates in the electronic verification system that the provider determines that, due to
1877 physical difficulty or undue hardship, including concerns of distance to a medical cannabis

1878 pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the
1879 qualified medical provider recommends.

1880 (b) (i) Beginning on the earlier of January 1, 2021, or the date on which the electronic
1881 verification system is functionally capable of servicing the designation, a cardholder described
1882 in Section 26-61a-201 who is a patient in one of the following types of facilities may designate
1883 the facility as one of the caregivers described in Subsection (1)(a):

1884 (A) an assisted living facility, as that term is defined in Section 26-21-2;

1885 (B) a nursing care facility, as that term is defined in Section 26-21-2; or

1886 (C) a general acute hospital, as that term is defined in Section 26-21-2.

1887 (ii) A facility may assign one or more employees to assist patients with medical
1888 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1889 (iii) The department shall make rules to regulate the practice of facilities and facility
1890 employees serving as designated caregivers under this Subsection (1)(b).

1891 (c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in
1892 consultation with the minor and the minor's qualified medical provider, may designate, through
1893 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1894 minor, if the department determines that the parent or legal guardian is not eligible for a
1895 medical cannabis guardian card under Section 26-61a-201.

1896 (2) An individual that the department registers as a designated caregiver under this
1897 section and a facility described in Subsection (1)(b):

1898 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1899 card;

1900 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1901 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1902 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1903 cardholder;

1904 (c) may not charge a fee to an individual to act as the individual's designated caregiver
1905 or for a service that the designated caregiver provides in relation to the role as a designated

1906 caregiver;

1907 (d) may accept reimbursement from the designating medical cannabis cardholder for

1908 direct costs the designated caregiver incurs for assisting with the designating cardholder's

1909 medicinal use of cannabis; and

1910 (e) if a licensed medical cannabis pharmacy is not operating within the state after

1911 January 1, 2021~~[- is not subject to prosecution for the possession of: (i) no more than 113~~

1912 ~~grams of marijuana];~~

1913 (i) may possess up to the legal dosage limit of:

1914 (A) unprocessed medical cannabis in a medicinal dosage form;

1915 ~~[(ii) an amount of]~~

1916 (B) a cannabis product in a medicinal dosage form ~~[that contains no more than 20~~

1917 ~~grams of tetrahydrocannabinol; or]; and~~

1918 ~~[(iii)]~~ (ii) may possess marijuana drug paraphernalia~~[-]; and~~

1919 (iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

1920 (3) (a) The department shall:

1921 (i) within 15 days after the day on which an individual submits an application in

1922 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1923 (A) is designated as a caregiver under Subsection (1);

1924 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1925 (C) complies with this section; and

1926 (ii) notify the Department of Public Safety of each individual that the department

1927 registers as a designated caregiver.

1928 (b) The department shall ensure that a medical cannabis caregiver card contains the

1929 information described in Subsection (5)(b).

1930 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

1931 (a) is at least 21 years old;

1932 (b) is a Utah resident;

1933 (c) pays to the department a fee in an amount that, subject to Subsection

1934 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1935 criminal background check described in Section 26-61a-203;

1936 (d) signs an acknowledgment stating that the applicant received the information
1937 described in Subsection 26-61a-201(8); and

1938 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1939 a felony under either state or federal law, unless the individual completes any imposed sentence
1940 two or more years before the day on which the individual submits the application.

1941 (5) An eligible applicant for a medical cannabis caregiver card shall:

1942 (a) submit an application for a medical cannabis caregiver card to the department
1943 through an electronic application connected to the state electronic verification system; and

1944 (b) submit the following information in the application described in Subsection (5)(a):

1945 (i) the applicant's name, gender, age, and address;

1946 (ii) the name, gender, age, and address of the cardholder described in Section

1947 26-61a-201 who designated the applicant; and

1948 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1949 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1950 cannabis guardian cardholder.

1951 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1952 department issues under this section is valid for the lesser of:

1953 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1954 designated the caregiver determines; or

1955 (b) the amount of time remaining before the card of the cardholder described in Section
1956 26-61a-201 expires.

1957 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1958 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1959 cardholder described in Section 26-61a-201 who designated the caregiver:

1960 (i) renews the cardholder's card; and

1961 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1962 (b) The department shall provide a method in the card renewal process to allow a
1963 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1964 (i) signify that the cardholder renews the caregiver's designation;

1965 (ii) remove a caregiver's designation; or

1966 (iii) designate a new caregiver.

1967 (8) The department may revoke a medical cannabis caregiver card if the designated
1968 caregiver:

1969 (a) violates this chapter; or

1970 (b) is convicted under state or federal law of:

1971 (i) a felony; or

1972 (ii) after December 3, 2018, a misdemeanor for drug distribution.

1973 Section 24. Section 26-61a-204 is amended to read:

1974 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**

1975 **requirements -- Rebuttable presumption.**

1976 (1) (a) A medical cannabis cardholder who possesses medical cannabis ~~[in a medicinal~~
1977 ~~dosage form or a cannabis product in a medicinal dosage form]~~ that the cardholder purchased
1978 under this chapter ~~[shall: (i) carry]:~~

1979 (i) shall carry:

1980 (A) at all times the cardholder's medical cannabis card; and

1981 ~~[(ii) carry;]~~ (B) after the earlier of January 1, 2021, or the day on which the individual
1982 purchases any medical cannabis from a medical cannabis pharmacy, with the medical cannabis

1983 ~~[in a medicinal dosage form or cannabis product in a medicinal dosage form],~~ a label that

1984 identifies that the medical cannabis ~~[or cannabis product: (A)]~~ was sold from a licensed

1985 medical cannabis pharmacy~~;~~ ~~and (B)]~~ and includes an identification number that links the

1986 medical cannabis ~~[or cannabis product]~~ to the inventory control system; and

1987 ~~[(iii) possess not more than]~~

1988 (ii) may possess up to the legal dosage limit of:

1989 (A) ~~[13 grams of]~~ unprocessed cannabis in medicinal dosage form; ~~[or (B) an amount~~

1990 of cannabis product that contains 20 grams of total composite tetrahydrocannabinol.] and
 1991 (B) a cannabis product in medicinal dosage form; and
 1992 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii).
 1993 (b) [~~A~~] Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder
 1994 who possesses medical cannabis [~~in a medicinal dosage form or a cannabis product in a~~
 1995 ~~medicinal dosage form~~] in violation of Subsection (1)(a) is:
 1996 (i) guilty of an infraction; and
 1997 (ii) subject to a \$100 fine.
 1998 (c) A medical cannabis cardholder or a nonresident patient who possesses [~~between~~
 1999 ~~113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains~~
 2000 ~~between 20 and 40 grams of total composite tetrahydrocannabinol~~] medical cannabis in an
 2001 amount that is greater than the legal dosage limit and equal to or less than twice the legal
 2002 dosage limit is:
 2003 (i) for a first offense:
 2004 (A) guilty of an infraction; and
 2005 (B) subject to a fine of up to \$100; and
 2006 (ii) for a second or subsequent offense:
 2007 [~~(i)~~] (A) guilty of a class B misdemeanor; and
 2008 [~~(ii)~~] (B) subject to a fine of \$1,000.
 2009 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
 2010 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
 2011 conduct underlying the penalty described in Subsection (1)(b) or (c).
 2012 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
 2013 dosage form is:
 2014 (i) for a first offense:
 2015 (A) guilty of an infraction; and
 2016 (B) subject to a fine of up to \$100; and
 2017 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,

2018 Chapter 37, Utah Controlled Substances Act.

2019 ~~[(e)]~~ (f) A medical cannabis cardholder or a nonresident patient who possesses [~~more~~
2020 ~~than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains~~
2021 ~~more than 40 grams of total composite tetrahydrocannabinol]~~ medical cannabis in an amount
2022 that is greater than twice the legal dosage limit is subject to the penalties described in Title 58,
2023 Chapter 37, Utah Controlled Substances Act.

2024 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
2025 as that term is defined in Section [31A-22-627](#).

2026 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder
2027 [~~or~~], a provisional patient cardholder, or a nonresident patient may not use, in public view,
2028 medical cannabis or a cannabis product.

2029 (c) In the event of an emergency medical condition, an individual described in
2030 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
2031 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
2032 medicinal dosage form or a cannabis product in a medicinal dosage form.

2033 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

2034 (i) for a first offense:

2035 (A) guilty of an infraction; and

2036 (B) subject to a fine of up to \$100; and

2037 (ii) for a second or subsequent offense:

2038 (A) guilty of a class B misdemeanor; and

2039 (B) subject to a fine of \$1,000.

2040 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
2041 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
2042 medical cannabis device that corresponds with the cannabis or cannabis product:

2043 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
2044 cannabis product, or medical cannabis device legally; and

2045 (b) there is no probable cause, based solely on the cardholder's possession of the

2046 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
2047 cannabis device, to believe that the cardholder is engaging in illegal activity.

2048 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
2049 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
2050 device, and the individual represents to the law enforcement officer that the individual holds a
2051 valid medical cannabis card, but the individual does not have the medical cannabis card in the
2052 individual's possession at the time of the stop by the law enforcement officer, the law
2053 enforcement officer shall attempt to access the state electronic verification system to determine
2054 whether the individual holds a valid medical cannabis card.

2055 (b) If the law enforcement officer is able to verify that the individual described in
2056 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

2057 (i) may not arrest or take the individual into custody for the sole reason that the
2058 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
2059 medicinal dosage form, or a medical cannabis device; and

2060 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

2061 Section 25. Section **26-61a-301** is amended to read:

2062 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

2063 (1) A person may not operate as a medical cannabis pharmacy without a license that
2064 the department issues under this part.

2065 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
2066 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
2067 Chapter 6a, Utah Procurement Code.

2068 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
2069 an applicant who is not eligible for a license under this section.

2070 (b) An applicant is eligible for a license under this section if the applicant submits to
2071 the department:

2072 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
2073 operate the medical cannabis pharmacy;

- 2074 (ii) the name and address of an individual who:
- 2075 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis
- 2076 pharmacy; or
- 2077 (B) has the power to direct or cause the management or control of a proposed cannabis
- 2078 production establishment;
- 2079 (iii) a statement that the applicant will obtain and maintain a performance bond that a
- 2080 surety authorized to transact surety business in the state issues in an amount of at least
- 2081 \$125,000 for each application that the applicant submits to the department;
- 2082 (iv) an operating plan that:
- 2083 (A) complies with Section 26-61a-304;
- 2084 (B) includes operating procedures to comply with the operating requirements for a
- 2085 medical cannabis pharmacy described in this chapter and with a relevant municipal or county
- 2086 law that is consistent with Section 26-61a-507; and
- 2087 (C) the department approves;
- 2088 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
- 2089 department sets in accordance with Section 63J-1-504; and
- 2090 (vi) a description of any investigation or adverse action taken by any licensing
- 2091 jurisdiction, government agency, law enforcement agency, or court in any state for any
- 2092 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
- 2093 or businesses.
- 2094 (c) (i) A person may not locate a medical cannabis pharmacy:
- 2095 (A) within 200 feet of a community location; or
- 2096 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
- 2097 as primarily residential.
- 2098 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
- 2099 from the nearest entrance to the medical cannabis pharmacy establishment by following the
- 2100 shortest route of ordinary pedestrian travel to the property boundary of the community location
- 2101 or residential area.

2102 (iii) The department may grant a waiver to reduce the proximity requirements in
2103 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
2104 for the applicant to site the proposed medical cannabis pharmacy without the waiver.

2105 (iv) An applicant for a license under this section shall provide evidence of compliance
2106 with the proximity requirements described in Subsection (2)(c)(i).

2107 (d) The department may not issue a license to an eligible applicant that the department
2108 has selected to receive a license until the selected eligible applicant obtains the performance
2109 bond described in Subsection (2)(b)(iii).

2110 (e) If the department receives more than one application for a medical cannabis
2111 pharmacy within the same city or town, the department shall consult with the local land use
2112 authority before approving any of the applications pertaining to that city or town.

2113 (3) If the department selects an applicant for a medical cannabis pharmacy license
2114 under this section, the department shall:

2115 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2116 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#); and

2117 (b) notify the Department of Public Safety of the license approval and the names of
2118 each individual described in Subsection (2)(b)(ii).

2119 (4) The department may not issue a license to operate a medical cannabis pharmacy to
2120 an applicant if an individual described in Subsection (2)(b)(ii):

2121 (a) has been convicted under state or federal law of:

2122 (i) a felony; or

2123 (ii) after December 3, 2018, a misdemeanor for drug distribution;

2124 (b) is younger than 21 years old; or

2125 (c) after the effective date of this bill until January 1, 2023, is actively serving as a
2126 legislator.

2127 (5) If an applicant for a medical cannabis pharmacy license under this section holds a
2128 license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,
2129 Cannabis Production Establishments, the department:

2130 (a) shall consult with the Department of Agriculture and Food regarding the applicant;
2131 [~~and~~]

2132 (b) may not give preference to the applicant based on the applicant's status as a holder
2133 of a license described in this Subsection (5)~~[-]~~; and

2134 (c) shall give preference to applicants that demonstrate an ability to increase efficiency
2135 and decrease costs to patients.

2136 (6) The department may revoke a license under this part [~~if~~]:

2137 (a) if the medical cannabis pharmacy does not begin operations within one year after
2138 the day on which the department issues the initial license;

2139 (b) after the [~~medical cannabis pharmacy makes~~] third of the same violation of this
2140 chapter [~~three times~~] in any of the licensee's licensed cannabis production establishments or
2141 medical cannabis pharmacies;

2142 (c) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is
2143 active, under state or federal law of:

2144 (i) a felony; or

2145 (ii) after December 3, 2018, a misdemeanor for drug distribution; [~~or~~]

2146 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
2147 the time of application, or fails to supplement the information described in Subsection
2148 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
2149 application~~[-]~~ within 14 calendar days after the licensee receives notice of the investigation or
2150 adverse action; or

2151 (e) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for
2152 the requirements of this chapter or the rules the department makes in accordance with this
2153 chapter.

2154 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
2155 if the municipality or county where the licensed medical cannabis pharmacy will be located
2156 requires a local land use permit, shall submit to the department a copy of the licensee's
2157 approved application for the land use permit within 120 days after the day on which the

2158 department issues the license.

2159 (b) If a licensee fails to submit to the department a copy the licensee's approved land
2160 use permit application in accordance with Subsection (7)(a), the department may revoke the
2161 licensee's license.

2162 (8) The department shall deposit the proceeds of a fee imposed by this section in the
2163 Qualified Patient Enterprise Fund.

2164 (9) The department shall begin accepting applications under this part on or before
2165 March 1, 2020.

2166 (10) (a) The department's authority to issue a license under this section is plenary and is
2167 not subject to review.

2168 (b) Notwithstanding Subsection (2), the decision of the department to award a license
2169 to an applicant is not subject to:

2170 (i) Title 63G, Chapter 6a, Part 16, Protests; or

2171 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

2172 Section 26. Section **26-61a-303** is amended to read:

2173 **26-61a-303. Renewal.**

2174 (1) The department shall renew a license under this part every year if, at the time of
2175 renewal:

2176 (a) the licensee meets the requirements of Section [26-61a-301](#); ~~and~~

2177 (b) the licensee pays the department a license renewal fee in an amount that, subject to
2178 Subsection [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#)~~[-]~~; and

2179 (c) if the medical cannabis pharmacy changes the operating plan described in Section
2180 [26-61a-304](#) that the department approved under Subsection [26-61a-301\(2\)\(b\)\(iv\)](#), the
2181 department approves the new operating plan.

2182 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
2183 pharmacy's license, the department shall publish notice of an available license:

2184 (i) in a newspaper of general circulation for the geographic area in which the medical
2185 cannabis pharmacy license is available; or

2186 (ii) on the Utah Public Notice Website established in Section 63F-1-701.

2187 (b) The department may establish criteria, in collaboration with the Division of
2188 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
2189 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis
2190 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

2191 Section 27. Section **26-61a-305** is amended to read:

2192 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**
2193 **pharmacies.**

2194 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of
2195 applicants apply, the department shall issue 14 medical cannabis pharmacy licenses in
2196 accordance with this section.

2197 (b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy
2198 license, the department shall issue a medical cannabis pharmacy license to each qualified
2199 applicant.

2200 (c) The department may issue the licenses described in Subsection (1)(a) in two phases
2201 in accordance with this Subsection (1)(c).

2202 (i) Using one procurement process, the department may issue eight licenses to an initial
2203 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis
2204 pharmacies.

2205 (ii) If the department issues licenses in two phases in accordance with this Subsection
2206 (1)(c), the department shall:

2207 (A) divide the state into no less than four geographic regions;

2208 (B) issue at least one license in each geographic region during each phase of issuing
2209 licenses; and

2210 (C) complete the process of issuing medical cannabis pharmacy licenses no later than
2211 July 1, 2020.

2212 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in
2213 addition to the licenses described in Subsection (1)(a) if the department determines, in

2214 consultation with the Department of Agriculture and Food and after an annual or more frequent
2215 analysis of the current and anticipated market for medical cannabis, that each additional license
2216 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical
2217 cannabis cardholders.

2218 (ii) The department shall:

2219 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2220 make rules to establish criteria and processes for the consultation, analysis, and application for
2221 a license described in Subsection (1)(d)(i);

2222 (B) before November 30, 2020, report on the rules described in Subsection
2223 (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

2224 (C) report to the Executive Appropriations Committee of the Legislature before each
2225 time the department issues an additional license under Subsection (1)(d)(i) regarding the results
2226 of the consultation and analysis described in Subsection (1)(d)(i) and the application of the
2227 criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

2228 (2) (a) If there are more qualified applicants than there are available licenses for
2229 medical cannabis pharmacies, the department shall:

2230 (i) evaluate each applicant and award the license to the applicant that best
2231 demonstrates:

2232 (A) experience with establishing and successfully operating a business that involves
2233 complying with a regulatory environment, tracking inventory, and training, evaluating, and
2234 monitoring employees;

2235 (B) an operating plan that will best ensure the safety and security of patrons and the
2236 community;

2237 (C) positive connections to the local community;

2238 (D) the suitability of the proposed location and the location's accessibility for
2239 qualifying patients;

2240 (E) the extent to which the applicant can increase efficiency and reduce the cost of
2241 medical cannabis [~~or cannabis products~~] for patients; and

2242 (F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively
2243 high likelihood of success; and

2244 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably
2245 maximize access to the largest number of medical cannabis cardholders.

2246 (b) In making the evaluation described in Subsection (2)(a), the department may give
2247 increased consideration to applicants who indicate a willingness to:

2248 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic
2249 medical cannabis orders that the state central patient portal facilitates; and

2250 (ii) accept payments through:

2251 (A) a payment provider that the Division of Finance approves, in consultation with the
2252 state treasurer, in accordance with Section 26-61a-603; or

2253 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2254 (3) The department may conduct a face-to-face interview with an applicant for a
2255 license that the department evaluates under Subsection (2).

2256 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery
2257 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's
2258 operating plan demonstrates the functional and technical ability to:

2259 (i) safely conduct transactions for medical cannabis shipments;

2260 (ii) accept electronic medical cannabis orders that the state central patient portal
2261 facilitates; and

2262 (iii) accept payments through:

2263 (A) a payment provider that the Division of Finance approves, in consultation with the
2264 state treasurer, in accordance with Section 26-61a-603; or

2265 (B) a financial institution in accordance with Subsection 26-61a-603(4).

2266 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy
2267 shall identify in the applicant's operating plan any information relevant to the department's
2268 evaluation described in Subsection (4)(a), including:

2269 (i) the name and contact information of the payment provider;

2270 (ii) the nature of the relationship between the prospective licensee and the payment
2271 provider;

2272 (iii) the processes of the following to safely and reliably conduct transactions for
2273 medical cannabis shipments:

2274 (A) the prospective licensee; and

2275 (B) the electronic payment provider or the financial institution described in Subsection
2276 (4)(a)(iii); and

2277 (iv) the ability of the licensee to comply with the department's rules regarding the
2278 secure transportation and delivery of medical cannabis or medical cannabis product to a
2279 medical cannabis cardholder.

2280 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy
2281 that the department designates as a home delivery medical cannabis pharmacy may deliver
2282 medical cannabis shipments in accordance with this chapter.

2283 Section 28. Section **26-61a-501** is amended to read:

2284 **26-61a-501. Operating requirements -- General.**

2285 (1) (a) A medical cannabis pharmacy shall operate:

2286 (i) at the physical address provided to the department under Section **26-61a-301**; and

2287 (ii) in accordance with the operating plan provided to the department under Section
2288 **26-61a-301** and, if applicable, **26-61a-304**.

2289 (b) A medical cannabis pharmacy shall notify the department before a change in the
2290 medical cannabis pharmacy's physical address or operating plan.

2291 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2292 (a) is at least 18 years old; and

2293 (b) except as provided in Subsection (5), possesses a valid:

2294 (i) medical cannabis pharmacy agent registration card; ~~or~~

2295 (ii) pharmacy medical provider registration card; or

2296 ~~(ii)~~ (iii) medical cannabis card.

2297 (3) A medical cannabis pharmacy may not employ an individual who is younger than

2298 21 years old.

2299 (4) A medical cannabis pharmacy may not employ an individual who has been
2300 convicted of a felony under state or federal law.

2301 (5) Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an
2302 individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to
2303 access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors
2304 the individual at all times while the individual is at the medical cannabis pharmacy and
2305 maintains a record of the individual's access.

2306 (6) A medical cannabis pharmacy shall operate in a facility that has:

2307 (a) a single, secure public entrance;

2308 (b) a security system with a backup power source that:

2309 (i) detects and records entry into the medical cannabis pharmacy; and

2310 (ii) provides notice of an unauthorized entry to law enforcement when the medical
2311 cannabis pharmacy is closed; and

2312 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
2313 cannabis product.

2314 (7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
2315 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
2316 [26-61a-502\(2\)](#).

2317 (8) A medical cannabis pharmacy may not allow any individual to consume cannabis
2318 on the property or premises of the medical cannabis pharmacy.

2319 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without
2320 first indicating on the cannabis or cannabis product label the name of the medical cannabis
2321 pharmacy.

2322 (10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the
2323 following information regarding each recommendation underlying a transaction:

2324 (i) the qualified medical provider's name, address, and telephone number;

2325 (ii) the patient's name and address;

2326 (iii) the date of issuance;
2327 (iv) ~~[dosing parameters]~~ directions of use and dosing guidelines or an indication that
2328 the qualified medical provider did not recommend specific directions of use or dosing
2329 ~~[parameters]~~ guidelines; and

2330 (v) if the patient did not complete the transaction, the name of the medical cannabis
2331 cardholder who completed the transaction.

2332 (b) (i) ~~[The]~~ Except as provided in Subsection (10)(b)(ii), a medical cannabis pharmacy
2333 may not sell medical cannabis ~~[or a cannabis product]~~ unless the medical cannabis ~~[or cannabis~~
2334 ~~product]~~ has a label securely affixed to the container indicating the following minimum
2335 information:

- 2336 [(i)] (A) the name, address, and telephone number of the medical cannabis pharmacy;
- 2337 [(ii)] (B) the unique identification number that the medical cannabis pharmacy assigns;
- 2338 [(iii)] (C) the date of the sale;
- 2339 [(iv)] (D) the name of the patient;
- 2340 [(v)] (E) the name of the qualified medical provider who recommended the medical
2341 cannabis treatment;
- 2342 [(vi)] (F) directions for use and cautionary statements, if any;
- 2343 [(vii)] (G) the amount dispensed and the cannabinoid content;
- 2344 [(viii)] (H) the ~~[beyond]~~ suggested use date; ~~[and]~~
- 2345 (I) for unprocessed cannabis flower, the legal use termination date; and
- 2346 [(ix)] (J) any other requirements that the department determines, in consultation with
2347 the Division of Occupational and Professional Licensing and the Board of Pharmacy.

2348 (ii) A medical cannabis pharmacy may sell medical cannabis to another medical
2349 cannabis pharmacy without a label described in Subsection (10)(b)(i).

2350 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

- 2351 (a) unless the medical cannabis cardholder has had a consultation under Subsection
2352 [26-61a-502\(4\)](#), verbally offer to a medical cannabis cardholder at the time of a purchase of
2353 cannabis, a cannabis product, or a medical cannabis device, personal~~[- face-to-face]~~ counseling

2354 with the pharmacy medical provider [~~who is a pharmacist~~]; and

2355 (b) provide a telephone number or website by which the cardholder may contact a
2356 pharmacy medical provider for counseling.

2357 (12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program
2358 that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a
2359 medical cannabis device, or medical cannabis product in a locked box or other secure
2360 receptacle within the medical cannabis pharmacy.

2361 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2362 (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider
2363 can access deposited medical cannabis or medical cannabis products.

2364 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2365 medical cannabis products by:

2366 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2367 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2368 products from the medical cannabis pharmacy; and

2369 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2370 accordance with:

2371 (A) federal and state law, rules, and regulations related to hazardous waste;

2372 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

2373 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

2374 (D) other regulations that the department makes in accordance with Title 63G, Chapter
2375 3, Utah Administrative Rulemaking Act.

2376 (13) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
2377 Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products
2378 by a medical cannabis pharmacy.

2379 Section 29. Section **26-61a-502** is amended to read:

2380 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2381 **Reporting -- Form of cannabis or cannabis product.**

2382 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2383 chapter:

2384 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2385 from a cannabis processing facility that is licensed under Section [4-41a-201](#);

2386 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2387 acquired from a cannabis processing facility that is licensed under Section [4-41a-201](#);

2388 (iii) a medical cannabis device; or

2389 (iv) educational material related to the medical use of cannabis.

2390 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2391 an individual with:

2392 (i) (A) a medical cannabis card; ~~and~~ or

2393 (B) a department registration described in Subsection [26-61a-202\(10\)](#); and

2394 (ii) a corresponding valid form of photo identification.

2395 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a
2396 cannabis-based drug that the United States Food and Drug Administration has approved.

2397 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2398 medical cannabis device to an individual described in Subsection [26-61a-201\(2\)\(a\)\(i\)\(B\)](#) or to a
2399 minor described in Subsection [26-61a-201\(2\)\(c\)](#) unless the individual or minor has the
2400 approval of the Compassionate Use Board in accordance with Subsection [26-61a-105\(5\)](#).

2401 (2) A medical cannabis pharmacy ~~may not dispense: (a)~~:

2402 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, ~~more~~
2403 than the lesser] up to the legal dosage limit of:

2404 ~~[(i) an amount sufficient to provide 30 days of treatment based on the dosing~~
2405 ~~parameters that the relevant qualified medical provider recommends; or (ii) (A) 113 grams by~~
2406 ~~weight of]~~

2407 (i) unprocessed cannabis that:

2408 (A) is in a medicinal dosage form; and ~~that~~

2409 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and

2410 cannabidiol in the cannabis; ~~[or]~~ and
 2411 ~~[(B) an amount of cannabis products that is in a medicinal dosage form and that~~
 2412 ~~contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or]~~
 2413 (ii) a cannabis product that is in a medicinal dosage form; and
 2414 (b) may not dispense:
 2415 (i) more medical cannabis than described in Subsection (2)(a); or
 2416 ~~[(b)]~~ (ii) to an individual whose qualified medical provider did not recommend [dosing
 2417 ~~parameters] directions of use and dosing guidelines, until the individual consults with the~~
 2418 ~~pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis~~
 2419 ~~products.~~

2420 (3) An individual with a medical cannabis card ~~[may not purchase: (a) more];~~
 2421 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:
 2422 (i) unprocessed cannabis [or] in a medicinal dosage form; and
 2423 (ii) a cannabis [products than the amounts designated in Subsection (2) in any one
 2424 ~~28-day period; or] product in a medicinal dosage form;~~
 2425 (b) may not purchase:
 2426 (i) more medical cannabis than described in Subsection (3)(a); or
 2427 ~~[(b)]~~ (ii) if the relevant qualified medical provider did not recommend [dosing
 2428 ~~parameters] directions of use and dosing guidelines, until the individual consults with the~~
 2429 ~~pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis~~
 2430 ~~products[-]; and~~

2431 (c) may not use a route of administration that the relevant qualified medical provider or
 2432 the pharmacy medical provider, in accordance with Subsection (4) or (5), has not
 2433 recommended.

2434 (4) If a qualified medical provider recommends treatment with medical cannabis or a
 2435 cannabis product but does not provide ~~[dosing parameters]~~ directions of use and dosing
 2436 guidelines:
 2437 (a) the qualified medical provider shall document in the recommendation:

2438 (i) an evaluation of the qualifying condition underlying the recommendation;
2439 (ii) prior treatment attempts with cannabis and cannabis products; and
2440 (iii) the patient's current medication list; and
2441 (b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal
2442 dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider
2443 shall:
2444 (i) review pertinent medical records, including the qualified medical provider
2445 documentation described in Subsection (4)(a); and
2446 (ii) unless the pertinent medical records show [~~dosing parameters~~] directions of use and
2447 dosing guidelines from a state central patient portal medical provider in accordance with
2448 Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting
2449 with the recommending qualified medical provider as needed, determine the best course of
2450 treatment through consultation with the cardholder regarding:
2451 (A) the patient's qualifying condition underlying the recommendation from the
2452 qualified medical provider;
2453 (B) indications for available treatments;
2454 (C) [~~dosing parameters~~] directions of use and dosing guidelines; and
2455 (D) potential adverse reactions.
2456 (5) (a) A state central patient portal medical provider may provide the consultation and
2457 make the determination described in Subsection (4)(b) for a medical cannabis patient
2458 cardholder regarding an electronic order that the state central patient portal facilitates.
2459 (b) The state central patient portal medical provider described in Subsection (5)(a)
2460 shall document the [~~dosing parameters~~] directions of use and dosing guidelines, determined
2461 under Subsection (5)(a) in the pertinent medical records.
2462 (6) A medical cannabis pharmacy shall:
2463 (a) (i) access the state electronic verification system before dispensing cannabis or a
2464 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
2465 where applicable, the associated patient has met the maximum amount of cannabis or cannabis

2466 products described in Subsection (2); and
2467 (ii) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
2468 maximum amount described in Subsection (2):
2469 (A) decline the sale; and
2470 (B) notify the qualified medical provider who made the underlying recommendation;
2471 (b) submit a record to the state electronic verification system each time the medical
2472 cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;
2473 (c) package any cannabis or cannabis product that is in a ~~[blister pack in a]~~ container
2474 that:
2475 (i) complies with Subsection [4-41a-602\(2\)](#) or, if applicable, [26-61a-102\(31\)\(a\)\(ii\)](#);
2476 (ii) is tamper-resistant and tamper-evident; and
2477 (iii) opaque; and
2478 (d) for a product that is a cube that is designed for ingestion through chewing or
2479 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2480 of over-consumption.
2481 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2482 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2483 intentionally designed or constructed to resemble a cigarette.
2484 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2485 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2486 individual's respiratory system.
2487 (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical
2488 cannabis pharmacy is allowed to sell under Subsection (1).
2489 (9) The department may impose a uniform fee on each medical cannabis cardholder
2490 transaction in a medical cannabis pharmacy in an amount that, subject to Subsection
2491 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).
2492 (10) A medical cannabis pharmacy may purchase and store medical cannabis devices
2493 regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter

2494 41a, Cannabis Production Establishments.

2495 Section 30. Section **26-61a-504** is amended to read:

2496 **26-61a-504. Inspections.**

2497 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
2498 treatment recommendation files and other records in accordance with this chapter, department
2499 rules, and the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
2500 104-191, 110 Stat. 1936, as amended.

2501 (2) The department or the Department of Agriculture and Food may inspect the records
2502 [~~and~~], facility, and inventory of a medical cannabis pharmacy at any time during business hours
2503 in order to determine if the medical cannabis pharmacy complies with this chapter and Title 4,
2504 Chapter 41a, Cannabis Production Establishments.

2505 (3) An inspection under this section may include:

2506 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, or other
2507 physical or electronic information, or any combination of the above;

2508 (b) questioning of any relevant individual; [~~or~~]

2509 (c) inspection of equipment, an instrument, a tool, or machinery, including a container
2510 or label[~~;~~];

2511 (d) random sampling of medical cannabis by the Department of Agriculture and Food
2512 to make the determinations described in Subsection 4-41a-701(2) in accordance with rules
2513 described in Section 4-41a-701; or

2514 (e) seizure of medical cannabis, medical cannabis devices, or educational material as
2515 evidence in a department investigation or inspection or in instances of compliance failure.

2516 (4) In making an inspection under this section, the department or the Department of
2517 Agriculture and Food may freely access any area and review and make copies of a book,
2518 record, paper, document, data, or other physical or electronic information, including financial
2519 data, sales data, shipping data, pricing data, and employee data.

2520 (5) Failure to provide the department [~~or the department's~~], the Department of
2521 Agriculture and Food, or the authorized agents of the department or the Department of

2522 Agriculture and Food immediate access to records and facilities during business hours in
2523 accordance with this section may result in:

2524 (a) the imposition of a civil monetary penalty that the department sets in accordance
2525 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2526 (b) license or registration suspension or revocation; or

2527 (c) an immediate cessation of operations under a cease and desist order that the
2528 department issues.

2529 (6) Notwithstanding any other provision of law, the department may temporarily store
2530 in any department facility the items the department seizes under Subsection (3)(e) until the
2531 department:

2532 (a) determines that sufficient compliance justifies the return of the seized items; or

2533 (b) disposes of the items in the same manner as a cannabis production establishment in
2534 accordance with Section [4-41a-405](#).

2535 Section 31. Section **26-61a-505** is amended to read:

2536 **26-61a-505. Advertising.**

2537 (1) Except as provided in [~~Subsections (2) and (3)~~] this section, a medical cannabis
2538 pharmacy may not advertise in any medium.

2539 (2) A medical cannabis pharmacy may advertise an employment opportunity at the
2540 medical cannabis pharmacy.

2541 [~~(2)~~] (3) Notwithstanding any municipal or county ordinance prohibiting signage, a
2542 medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy
2543 that:

2544 (a) includes only:

2545 (i) the medical cannabis pharmacy's name and hours of operation; and

2546 (ii) a green cross;

2547 (b) does not exceed four feet by five feet in size; and

2548 (c) complies with local ordinances regulating signage.

2549 [~~(3)~~] (4) (a) A medical cannabis pharmacy may maintain a website that includes

2550 information about:

- 2551 ~~[(a)]~~ (i) the location and hours of operation of the medical cannabis pharmacy;
- 2552 ~~[(b)]~~ (ii) a product or service available at the medical cannabis pharmacy;
- 2553 ~~[(c)]~~ (iii) personnel affiliated with the medical cannabis pharmacy;
- 2554 ~~[(d)]~~ (iv) best practices that the medical cannabis pharmacy upholds; and
- 2555 ~~[(e)]~~ (v) educational material related to the medical use of cannabis, as defined by the
- 2556 department.

2557 (b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2558 Administrative Rulemaking Act, to define the educational material described in Subsection
2559 (4)(a).

2560 (5) (a) A medical cannabis pharmacy may hold an educational event for the public or
2561 medical providers in accordance with this Subsection (5) and the rules described in Subsection
2562 (5)(c).

2563 (b) A medical cannabis pharmacy may not include in an educational event described in
2564 Subsection (5)(a):

2565 (i) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis
2566 Production Establishments;

2567 (ii) any gift items or merchandise other than educational materials, as those terms are
2568 defined by the department;

2569 (iii) any marketing for a specific product from the medical cannabis pharmacy or any
2570 other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic
2571 Act, 21 U.S.C. Sec. 301, et seq.; or

2572 (iv) a presenter other than the following:

2573 (A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2574 (B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
2575 Practice Act;

2576 (C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
2577 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2578 (D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
 2579 Assistant Act; or
 2580 (E) a state employee.
 2581 (c) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
 2582 Administrative Rulemaking Act, to define the elements of and restrictions on the educational
 2583 event described in Subsection (5)(a), including a minimum age of 21 years old for attendees.

2584 Section 32. Section **26-61a-506** is amended to read:

2585 **26-61a-506. Medical cannabis transportation.**

2586 (1) Only the following individuals may transport medical cannabis [~~in a medicinal~~
 2587 ~~dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device]~~
 2588 under this chapter:

2589 (a) a registered medical cannabis pharmacy agent;

2590 (b) a registered medical cannabis courier agent; [~~or~~]

2591 (c) a registered pharmacy medical provider; or

2592 [~~(c)~~] (d) a medical cannabis cardholder who is transporting a medical cannabis
 2593 treatment that the cardholder is authorized to transport.

2594 (2) Except for an individual with a valid medical cannabis card under this chapter who
 2595 is transporting a medical cannabis treatment that the cardholder is authorized to transport, an
 2596 individual described in Subsection (1) shall possess a transportation manifest that:

2597 (a) includes a unique identifier that links the cannabis[~~;~~] or cannabis product[~~;~~~~or~~
 2598 ~~medical cannabis device]~~ to a relevant inventory control system;

2599 (b) includes origin and destination information for the medical cannabis[~~;~~~~a cannabis~~
 2600 ~~product, or a medical cannabis device]~~ that the individual is transporting; and

2601 (c) identifies the departure and arrival times and locations of the individual
 2602 transporting the medical cannabis[~~;~~~~cannabis product, or medical cannabis device]~~.

2603 (3) (a) In addition to the requirements in Subsections (1) and (2), the department may
 2604 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
 2605 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative

2606 Rulemaking Act, requirements for transporting [~~cannabis in a medicinal dosage form, a~~
2607 ~~cannabis product in a medicinal dosage form, or a medical cannabis device~~] medical cannabis
2608 to ensure that the medical cannabis[~~, cannabis product, or medical cannabis device~~] remains
2609 safe for human consumption.

2610 (b) The transportation described in Subsection (1)(a) is limited to transportation
2611 between a medical cannabis pharmacy and:

2612 (i) another medical cannabis pharmacy; or

2613 (ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

2614 (4) (a) It is unlawful for [~~a registered medical cannabis pharmacy agent or a registered~~
2615 ~~medical cannabis courier agent~~] an individual described in Subsection (1) to make a transport
2616 described in this section with a manifest that does not meet the requirements of this section.

2617 (b) Except as provided in Subsection (4)(d), an [~~agent~~] individual who violates
2618 Subsection (4)(a) is:

2619 (i) guilty of an infraction; and

2620 (ii) subject to a \$100 fine.

2621 (c) An individual who is guilty of a violation described in Subsection (4)(b) is not
2622 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2623 underlying the violation described in Subsection (4)(b).

2624 (d) If the individual described in Subsection (4)(a) is transporting more medical
2625 ~~cannabis~~[~~, cannabis product, or medical cannabis devices~~] than the manifest identifies, except
2626 for a de minimis administrative error:

2627 (i) this chapter does not apply; and

2628 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2629 Substances Act.

2630 (5) An individual other than an individual described in Subsection (1) may transport a
2631 medical cannabis device within the state if the transport does not also contain medical
2632 cannabis.

2633 Section 33. Section **26-61a-507** is amended to read:

2634 **26-61a-507. Local control.**
2635 (1) The operation of a medical cannabis pharmacy:
2636 (a) shall be a permitted use:
2637 (i) in any zone, overlay, or district within the municipality or county except for a
2638 primarily residential zone; and
2639 (ii) on land that the municipality or county has not zoned; and
2640 (b) is subject to the land use regulations, as defined in Sections 10-9a-103 and
2641 17-27a-103, that apply in the underlying zone.
2642 (2) A municipality or county may not:
2643 (a) on the sole basis that the applicant or medical cannabis pharmacy violates federal
2644 law regarding the legal status of cannabis, deny or revoke:
2645 (i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to
2646 operate a medical cannabis pharmacy; or
2647 (ii) a business license to operate a medical cannabis pharmacy;
2648 (b) require a certain distance between a medical cannabis pharmacy and:
2649 (i) another medical cannabis pharmacy;
2650 (ii) a cannabis production establishment;
2651 (iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or
2652 (iv) an outlet, as that term is defined in Section 32B-1-202; or
2653 (c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use
2654 regulation against a medical cannabis pharmacy that was not in effect on the day on which the
2655 medical cannabis pharmacy submitted a complete land use application.
2656 (3) (a) A municipality or county may enact an ordinance that:
2657 ~~[(a)]~~ (i) is not in conflict with this chapter; and
2658 ~~[(b)]~~ (ii) governs the time, place, or manner of medical cannabis pharmacy operations
2659 in the municipality or county.
2660 (b) An ordinance that a municipality or county enacts under Subsection (3)(a) may not
2661 restrict the hours of operation from 7 a.m. to 10 p.m.

2662 (4) An applicant for a land use permit to operate a medical cannabis pharmacy shall
2663 comply with the land use requirements and application process described in:

2664 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act,
2665 including Section 10-9a-528; and

2666 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act,
2667 including Section 17-27a-525.

2668 Section 34. Section 26-61a-601 is amended to read:

2669 **26-61a-601. State central patient portal -- Department duties.**

2670 (1) On or before July 1, 2020, the department shall establish or contract to establish, in
2671 accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as
2672 described in this section.

2673 (2) The state central patient portal shall:

2674 (a) authenticate each user to ensure the user is a valid medical cannabis patient
2675 cardholder;

2676 (b) allow a medical cannabis patient cardholder to:

2677 (i) obtain and download the cardholder's medical cannabis card;

2678 (ii) review the cardholder's medical cannabis purchase history; and

2679 (iii) manage the cardholder's personal information, including withdrawing consent for
2680 the use of the cardholder's information for a study described in Subsection

2681 26-61a-201~~(+0)~~(11);

2682 (c) if the cardholder's qualified medical provider recommended the use of medical
2683 cannabis without providing directions of use and dosing [~~parameters~~] guidelines and the

2684 cardholder has not yet received the counseling or consultation required in Subsection

2685 26-61a-502(4):

2686 (i) alert the cardholder of the outstanding need for consultation; and

2687 (ii) provide the cardholder with access to the contact information for each state central
2688 patient portal medical provider and each pharmacy medical provider;

2689 (d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis

- 2690 order;
- 2691 (i) to a home delivery medical cannabis pharmacy for a medical cannabis shipment; or
- 2692 (ii) to a medical cannabis pharmacy for a medical cannabis cardholder to obtain in
- 2693 person from the pharmacy;
- 2694 (e) prohibit a patient from completing an electronic medical cannabis order described
- 2695 in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection
- 2696 [~~26-61a-501~~] 26-61a-502(2)(a) or (b);
- 2697 (f) provide educational information to medical cannabis patient cardholders regarding
- 2698 the state's medical cannabis laws and regulatory programs and other relevant information
- 2699 regarding medical cannabis; and
- 2700 (g) allow the patient to designate up to two caregivers who may receive a medical
- 2701 cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in
- 2702 accordance with this chapter.

2703 (3) The department may make rules in accordance with Title 63G, Chapter 3, Utah

2704 Administrative Rulemaking Act, to implement the state central patient portal.

2705 Section 35. Section **26-61a-603** is amended to read:

2706 **26-61a-603. Payment provider for electronic medical cannabis transactions.**

2707 (1) A cannabis production establishment [~~seeking to use a payment provider~~], a

2708 medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy

2709 seeking to use a payment provider shall submit to the Division of Finance and the state

2710 treasurer information regarding the payment provider the prospective licensee will use to

2711 conduct financial transactions related to medical cannabis, including:

- 2712 (a) the name and contact information of the payment provider;
- 2713 (b) the nature of the relationship between the establishment, pharmacy, or prospective
- 2714 pharmacy and the payment provider; and
- 2715 (c) for a prospective home delivery medical cannabis pharmacy, the processes the
- 2716 prospective licensee and the payment provider have in place to safely and reliably conduct
- 2717 financial transactions for medical cannabis shipments.

2718 (2) The Division of Finance shall, in consultation with the state treasurer:
2719 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
2720 make rules to establish standards for identifying payment providers that demonstrate the
2721 functional and technical ability to safely conduct financial transactions related to medical
2722 cannabis, including medical cannabis shipments;
2723 (b) review submissions the Division of Finance and the state treasurer receive under
2724 Subsection (1);
2725 (c) approve a payment provider that meets the standards described in Subsection (2)(a);
2726 and
2727 (d) establish a list of approved payment providers.
2728 (3) Any licensed cannabis production establishment, licensed medical cannabis
2729 pharmacy, or medical cannabis courier may use a payment provider that the Division of
2730 Finance approves, in consultation with the state treasurer, to conduct transactions related to the
2731 establishment's, pharmacy's, or courier's respective medical cannabis business.
2732 (4) If Congress passes legislation that allows a cannabis-related business to facilitate
2733 payments through or deposit funds in a financial institution, a cannabis production
2734 establishment or a medical cannabis pharmacy may facilitate payments through or deposit
2735 funds in a financial institution in addition to or instead of a payment provider that the Division
2736 of Finance approves, in consultation with the state treasurer, under this section.
2737 Section 36. Section **26-61a-605** is amended to read:
2738 **26-61a-605. Medical cannabis shipment transportation.**
2739 (1) The department shall ensure that each home delivery medical cannabis pharmacy is
2740 capable of delivering, directly or through a medical cannabis courier, medical cannabis
2741 shipments in a secure manner.
2742 (2) (a) A home delivery medical cannabis pharmacy may contract with a licensed
2743 medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical
2744 cannabis orders that the state central patient portal facilitates.
2745 (b) If a home delivery medical cannabis pharmacy enters into a contract described in

2746 Subsection (2)(a), the pharmacy shall:

2747 (i) impose security and personnel requirements on the medical cannabis courier
2748 sufficient to ensure the security and safety of medical cannabis shipments; and

2749 (ii) provide regular oversight of the medical cannabis courier.

2750 (3) Except for an individual with a valid medical cannabis card who transports a
2751 shipment the individual receives, an individual may not transport a medical cannabis shipment
2752 unless the individual is:

2753 (a) a registered pharmacy medical provider;

2754 [~~(a)~~] (b) a registered medical cannabis pharmacy agent; or

2755 [~~(b)~~] (c) a registered agent of the medical cannabis courier described in Subsection (2).

2756 (4) An individual transporting a medical cannabis shipment under Subsection (3) shall
2757 possess a transportation manifest that:

2758 (a) includes a unique identifier that links the medical cannabis shipment to a relevant
2759 inventory control system;

2760 (b) includes origin and destination information for the medical cannabis shipment the
2761 individual is transporting; and

2762 (c) indicates the departure and arrival times and locations of the individual transporting
2763 the medical cannabis shipment.

2764 (5) In addition to the requirements in Subsections (3) and (4), the department may
2765 establish by rule, in collaboration with the Division of Occupational and Professional Licensing
2766 and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative
2767 Rulemaking Act, requirements for transporting medical cannabis shipments that are related to
2768 safety for human consumption of cannabis or a cannabis product.

2769 (6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a
2770 manifest that does not meet the requirements of Subsection (4).

2771 (b) Except as provided in Subsection (6)(d), an individual who violates Subsection
2772 (6)(a) is:

2773 (i) guilty of an infraction; and

2774 (ii) subject to a \$100 fine.

2775 (c) An individual who is guilty of a violation described in Subsection (6)(b) is not
2776 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct
2777 underlying the violation described in Subsection (6)(b).

2778 (d) If the individual described in Subsection (6)(a) is transporting more cannabis,
2779 cannabis product, or medical cannabis devices than the manifest identifies, except for a de
2780 minimis administrative error:

2781 (i) this chapter does not apply; and

2782 (ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled
2783 Substances Act.

2784 Section 37. Section **41-6a-517** is amended to read:

2785 **41-6a-517. Definitions -- Driving with any measurable controlled substance in the**
2786 **body -- Penalties -- Arrest without warrant.**

2787 (1) As used in this section:

2788 (a) "Controlled substance" means the same as that term is defined in Section [58-37-2](#).

2789 (b) "Practitioner" means the same as that term is defined in Section [58-37-2](#).

2790 (c) "Prescribe" means the same as that term is defined in Section [58-37-2](#).

2791 (d) "Prescription" means the same as that term is defined in Section [58-37-2](#).

2792 [~~2~~ ~~In~~] (2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a
2793 violation of Section [41-6a-502](#), a person may not operate or be in actual physical control of a
2794 motor vehicle within this state if the person has any measurable controlled substance or
2795 metabolite of a controlled substance in the person's body.

2796 (b) Subsection (2)(a) does not apply to a person that has
2797 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's
2798 body.

2799 (3) It is an affirmative defense to prosecution under this section that the controlled
2800 substance was:

2801 (a) involuntarily ingested by the accused;

2802 (b) prescribed by a practitioner for use by the accused;

2803 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage

2804 form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical

2805 Cannabis Act; or

2806 (d) otherwise legally ingested.

2807 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B

2808 misdemeanor.

2809 (b) A person who violates this section is subject to conviction and sentencing under

2810 both this section and any applicable offense under Section 58-37-8.

2811 (5) A peace officer may, without a warrant, arrest a person for a violation of this

2812 section when the officer has probable cause to believe the violation has occurred, although not

2813 in the officer's presence, and if the officer has probable cause to believe that the violation was

2814 committed by the person.

2815 (6) The Driver License Division shall, if the person is 21 years of age or older on the

2816 date of arrest:

2817 (a) suspend, for a period of 120 days, the driver license of a person convicted under

2818 Subsection (2) of an offense committed on or after July 1, 2009; or

2819 (b) revoke, for a period of two years, the driver license of a person if:

2820 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2821 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

2822 and within a period of 10 years after the date of the prior violation.

2823 (7) The Driver License Division shall, if the person is 19 years of age or older but

2824 under 21 years of age on the date of arrest:

2825 (a) suspend, until the person is 21 years of age or for a period of one year, whichever is

2826 longer, the driver license of a person convicted under Subsection (2) of an offense committed

2827 on or after July 1, 2011; or

2828 (b) revoke, until the person is 21 years of age or for a period of two years, whichever is

2829 longer, the driver license of a person if:

2830 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2831 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

2832 and within a period of 10 years after the date of the prior violation.

2833 (8) The Driver License Division shall, if the person is under 19 years of age on the date

2834 of arrest:

2835 (a) suspend, until the person is 21 years of age, the driver license of a person convicted

2836 under Subsection (2) of an offense committed on or after July 1, 2009; or

2837 (b) revoke, until the person is 21 years of age, the driver license of a person if:

2838 (i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

2839 (ii) the current violation under Subsection (2) is committed on or after July 1, 2009,

2840 and within a period of 10 years after the date of the prior violation.

2841 (9) The Driver License Division shall subtract from any suspension or revocation

2842 period the number of days for which a license was previously suspended under Section

2843 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon

2844 which the record of conviction is based.

2845 (10) The Driver License Division shall:

2846 (a) deny, suspend, or revoke a person's license for the denial and suspension periods in

2847 effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was

2848 committed prior to July 1, 2009; or

2849 (b) deny, suspend, or revoke the operator's license of a person for the denial,

2850 suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

2851 (i) the person was 20 years of age or older but under 21 years of age at the time of

2852 arrest; and

2853 (ii) the conviction under Subsection (2) is for an offense that was committed on or after

2854 July 1, 2009, and prior to July 1, 2011.

2855 (11) A court that reported a conviction of a violation of this section for a violation that

2856 occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension

2857 period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period

2858 if the person:

2859 (a) completes at least six months of the license suspension;

2860 (b) completes a screening;

2861 (c) completes an assessment, if it is found appropriate by a screening under Subsection

2862 (11)(b);

2863 (d) completes substance abuse treatment if it is found appropriate by the assessment

2864 under Subsection (11)(c);

2865 (e) completes an educational series if substance abuse treatment is not required by the

2866 assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

2867 (f) has not been convicted of a violation of any motor vehicle law in which the person

2868 was involved as the operator of the vehicle during the suspension period imposed under

2869 Subsection (7)(a) or (8)(a);

2870 (g) has complied with all the terms of the person's probation or all orders of the court if

2871 not ordered to probation; and

2872 (h) (i) is 18 years of age or older and provides a sworn statement to the court that the

2873 person has not consumed a controlled substance not prescribed by a practitioner for use by the

2874 person or unlawfully consumed alcohol during the suspension period imposed under

2875 Subsection (7)(a) or (8)(a); or

2876 (ii) is under 18 years of age and has the person's parent or legal guardian provide an

2877 affidavit or other sworn statement to the court certifying that to the parent or legal guardian's

2878 knowledge the person has not consumed a controlled substance not prescribed by a practitioner

2879 for use by the person or unlawfully consumed alcohol during the suspension period imposed

2880 under Subsection (7)(a) or (8)(a).

2881 (12) If the court shortens a person's license suspension period in accordance with the

2882 requirements of Subsection (11), the court shall forward the order shortening the person's

2883 license suspension period prior to the completion of the suspension period imposed under

2884 Subsection (7)(a) or (8)(a) to the Driver License Division.

2885 (13) (a) The court shall notify the Driver License Division if a person fails to:

2886 (i) complete all court ordered screening and assessment, educational series, and
2887 substance abuse treatment; or

2888 (ii) pay all fines and fees, including fees for restitution and treatment costs.

2889 (b) Upon receiving the notification, the division shall suspend the person's driving
2890 privilege in accordance with Subsections 53-3-221(2) and (3).

2891 (14) The court:

2892 (a) shall order supervised probation in accordance with Section 41-6a-507 for a person
2893 convicted under Subsection (2); and

2894 (b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety
2895 program as defined in Section 41-6a-515.5 if the person is 21 years of age or older.

2896 (15) (a) A court that reported a conviction of a violation of this section to the Driver
2897 License Division may shorten the suspension period imposed under Subsection (6) before
2898 completion of the suspension period if the person is participating in or has successfully
2899 completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

2900 (b) If the court shortens a person's license suspension period in accordance with the
2901 requirements of this Subsection (15), the court shall forward to the Driver License Division the
2902 order shortening the person's suspension period.

2903 (c) The court shall notify the Driver License Division if a person fails to complete all
2904 requirements of a 24-7 sobriety program.

2905 (d) Upon receiving the notification described in Subsection (15)(c), the division shall
2906 suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

2907 Section 38. Section 52-4-205 is amended to read:

2908 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
2909 **meetings.**

2910 (1) A closed meeting described under Section 52-4-204 may only be held for:

2911 (a) except as provided in Subsection (3), discussion of the character, professional
2912 competence, or physical or mental health of an individual;

2913 (b) strategy sessions to discuss collective bargaining;

- 2914 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 2915 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 2916 including any form of a water right or water shares, if public discussion of the transaction
- 2917 would:
- 2918 (i) disclose the appraisal or estimated value of the property under consideration; or
- 2919 (ii) prevent the public body from completing the transaction on the best possible terms;
- 2920 (e) strategy sessions to discuss the sale of real property, including any form of a water
- 2921 right or water shares, if:
- 2922 (i) public discussion of the transaction would:
- 2923 (A) disclose the appraisal or estimated value of the property under consideration; or
- 2924 (B) prevent the public body from completing the transaction on the best possible terms;
- 2925 (ii) the public body previously gave public notice that the property would be offered for
- 2926 sale; and
- 2927 (iii) the terms of the sale are publicly disclosed before the public body approves the
- 2928 sale;
- 2929 (f) discussion regarding deployment of security personnel, devices, or systems;
- 2930 (g) investigative proceedings regarding allegations of criminal misconduct;
- 2931 (h) as relates to the Independent Legislative Ethics Commission, conducting business
- 2932 relating to the receipt or review of ethics complaints;
- 2933 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
- 2934 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);
- 2935 (j) as relates to the Independent Executive Branch Ethics Commission created in
- 2936 Section [63A-14-202](#), conducting business relating to an ethics complaint;
- 2937 (k) as relates to a county legislative body, discussing commercial information as
- 2938 defined in Section [59-1-404](#);
- 2939 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
- 2940 board of directors, discussing fiduciary or commercial information as defined in Section
- 2941 [53B-12-102](#);

2942 (m) deliberations, not including any information gathering activities, of a public body
2943 acting in the capacity of:

2944 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
2945 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

2946 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
2947 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

2948 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
2949 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
2950 Procurement Appeals Board;

2951 (n) the purpose of considering information that is designated as a trade secret, as
2952 defined in Section 13-24-2, if the public body's consideration of the information is necessary in
2953 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

2954 (o) the purpose of discussing information provided to the public body during the
2955 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
2956 the meeting:

2957 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
2958 disclosed to a member of the public or to a participant in the procurement process; and

2959 (ii) the public body needs to review or discuss the information in order to properly
2960 fulfill its role and responsibilities in the procurement process;

2961 (p) as relates to the governing board of a governmental nonprofit corporation, as that
2962 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
2963 as a trade secret, as that term is defined in Section 13-24-2, if:

2964 (i) public knowledge of the discussion would reasonably be expected to result in injury
2965 to the owner of the trade secret; and

2966 (ii) discussion of the information is necessary for the governing board to properly
2967 discharge the board's duties and conduct the board's business; or

2968 (q) a purpose for which a meeting is required to be closed under Subsection (2).

2969 (2) The following meetings shall be closed:

2970 (a) a meeting of the Health and Human Services Interim Committee to review a fatality
2971 review report described in Subsection [62A-16-301\(1\)\(a\)](#), and the responses to the report
2972 described in Subsections [62A-16-301\(2\)](#) and (4);

2973 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

2974 (i) review a fatality review report described in Subsection [62A-16-301\(1\)\(a\)](#), and the
2975 responses to the report described in Subsections [62A-16-301\(2\)](#) and (4); or

2976 (ii) review and discuss an individual case, as described in Subsection [62A-4a-207\(5\)](#);
2977 [and]

2978 (c) a meeting of a conservation district as defined in Section [17D-3-102](#) for the purpose
2979 of advising the Natural Resource Conservation Service of the United States Department of
2980 Agriculture on a farm improvement project if the discussed information is protected
2981 information under federal law[-]; and

2982 (d) a meeting of the Compassionate Use Board established in Section [26-61a-105](#) for
2983 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
2984 [26-61a-105](#).

2985 (3) In a closed meeting, a public body may not:

2986 (a) interview a person applying to fill an elected position;

2987 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
2988 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
2989 or

2990 (c) discuss the character, professional competence, or physical or mental health of the
2991 person whose name was submitted for consideration to fill a midterm vacancy or temporary
2992 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
2993 Temporary Absence in Elected Office.

2994 Section 39. Section [58-37-2](#) is amended to read:

2995 **58-37-2. Definitions.**

2996 (1) As used in this chapter:

2997 (a) "Administer" means the direct application of a controlled substance, whether by

2998 injection, inhalation, ingestion, or any other means, to the body of a patient or research subject
2999 by:

3000 (i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent;

3001 or

3002 (ii) the patient or research subject at the direction and in the presence of the
3003 practitioner.

3004 (b) "Agent" means an authorized person who acts on behalf of or at the direction of a
3005 manufacturer, distributor, or practitioner but does not include a motor carrier, public
3006 warehouseman, or employee of any of them.

3007 (c) "Consumption" means ingesting or having any measurable amount of a controlled
3008 substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a
3009 controlled substance.

3010 (d) "Continuing criminal enterprise" means any individual, sole proprietorship,
3011 partnership, corporation, business trust, association, or other legal entity, and any union or
3012 groups of individuals associated in fact although not a legal entity, and includes illicit as well
3013 as licit entities created or maintained for the purpose of engaging in conduct which constitutes
3014 the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled
3015 Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled
3016 Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d,
3017 Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar
3018 purposes, results, participants, victims, methods of commission, or otherwise are interrelated
3019 by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing
3020 unlawful conduct and be related either to each other or to the enterprise.

3021 (e) "Control" means to add, remove, or change the placement of a drug, substance, or
3022 immediate precursor under Section [58-37-3](#).

3023 (f) (i) "Controlled substance" means a drug or substance:

3024 (A) included in Schedules I, II, III, IV, or V of Section [58-37-4](#);

3025 (B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act,

3026 Title II, P.L. 91-513;

3027 (C) that is a controlled substance analog; or

3028 (D) listed in Section 58-37-4.2.

3029 (ii) "Controlled substance" does not include:

3030 (A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B,

3031 Alcoholic Beverage Control Act;

3032 (B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or

3033 prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine,

3034 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,

3035 transferred, or furnished as an over-the-counter medication without prescription; or

3036 (C) dietary supplements, vitamins, minerals, herbs, or other similar substances

3037 including concentrates or extracts, which:

3038 (I) are not otherwise regulated by law; and

3039 (II) may contain naturally occurring amounts of chemical or substances listed in this

3040 chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking

3041 Act.

3042 (g) (i) "Controlled substance analog" means:

3043 (A) a substance the chemical structure of which is substantially similar to the chemical

3044 structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance

3045 listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act,

3046 Title II, P.L. 91-513;

3047 (B) a substance which has a stimulant, depressant, or hallucinogenic effect on the

3048 central nervous system substantially similar to the stimulant, depressant, or hallucinogenic

3049 effect on the central nervous system of controlled substances listed in Schedules I and II of

3050 Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and

3051 II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

3052 (C) A substance which, with respect to a particular individual, is represented or

3053 intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system

3054 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central
3055 nervous system of controlled substances listed in Schedules I and II of Section 58-37-4,
3056 substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal
3057 Controlled Substances Act, Title II, P.L. 91-513.

3058 (ii) "Controlled substance analog" does not include:

3059 (A) a controlled substance currently scheduled in Schedules I through V of Section
3060 58-37-4;

3061 (B) a substance for which there is an approved new drug application;

3062 (C) a substance with respect to which an exemption is in effect for investigational use
3063 by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355,
3064 to the extent the conduct with respect to the substance is permitted by the exemption;

3065 (D) any substance to the extent not intended for human consumption before an
3066 exemption takes effect with respect to the substance;

3067 (E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or
3068 prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine,
3069 norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold,
3070 transferred, or furnished as an over-the-counter medication without prescription; or

3071 (F) dietary supplements, vitamins, minerals, herbs, or other similar substances
3072 including concentrates or extracts, which are not otherwise regulated by law, which may
3073 contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules
3074 adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

3075 (h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench,
3076 or plea, whether guilty or no contest, for any offense proscribed by:

3077 (A) Chapter 37, Utah Controlled Substances Act;

3078 (B) Chapter 37a, Utah Drug Paraphernalia Act;

3079 (C) Chapter 37b, Imitation Controlled Substances Act;

3080 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or

3081 (E) Chapter 37d, Clandestine Drug Lab Act; or

3082 (ii) for any offense under the laws of the United States and any other state which, if
3083 committed in this state, would be an offense under:

- 3084 (A) Chapter 37, Utah Controlled Substances Act;
- 3085 (B) Chapter 37a, Utah Drug Paraphernalia Act;
- 3086 (C) Chapter 37b, Imitation Controlled Substances Act;
- 3087 (D) Chapter 37c, Utah Controlled Substance Precursor Act; or
- 3088 (E) Chapter 37d, Clandestine Drug Lab Act.

3089 (i) "Counterfeit substance" means:

3090 (i) any controlled substance or container or labeling of any controlled substance that:

3091 (A) without authorization bears the trademark, trade name, or other identifying mark,
3092 imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser
3093 other than the person or persons who in fact manufactured, distributed, or dispensed the
3094 substance which falsely purports to be a controlled substance distributed by any other
3095 manufacturer, distributor, or dispenser; and

3096 (B) a reasonable person would believe to be a controlled substance distributed by an
3097 authorized manufacturer, distributor, or dispenser based on the appearance of the substance as
3098 described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled
3099 substance; or

3100 (ii) any substance other than under Subsection (1)(i)(i) that:

3101 (A) is falsely represented to be any legally or illegally manufactured controlled
3102 substance; and

3103 (B) a reasonable person would believe to be a legal or illegal controlled substance.

3104 (j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
3105 controlled substance or a listed chemical, whether or not an agency relationship exists.

3106 (k) "Department" means the Department of Commerce.

3107 (l) "Depressant or stimulant substance" means:

3108 (i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric
3109 acid;

- 3110 (ii) a drug which contains any quantity of:
- 3111 (A) amphetamine or any of its optical isomers;
- 3112 (B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or
- 3113 (C) any substance which the Secretary of Health and Human Services or the Attorney
- 3114 General of the United States after investigation has found and by regulation designated
- 3115 habit-forming because of its stimulant effect on the central nervous system;
- 3116 (iii) lysergic acid diethylamide; or
- 3117 (iv) any drug which contains any quantity of a substance which the Secretary of Health
- 3118 and Human Services or the Attorney General of the United States after investigation has found
- 3119 to have, and by regulation designated as having, a potential for abuse because of its depressant
- 3120 or stimulant effect on the central nervous system or its hallucinogenic effect.
- 3121 (m) "Dispense" means the delivery of a controlled substance by a pharmacist to an
- 3122 ultimate user pursuant to the lawful order or prescription of a practitioner, and includes
- 3123 distributing to, leaving with, giving away, or disposing of that substance as well as the
- 3124 packaging, labeling, or compounding necessary to prepare the substance for delivery.
- 3125 (n) "Dispenser" means a pharmacist who dispenses a controlled substance.
- 3126 (o) "Distribute" means to deliver other than by administering or dispensing a controlled
- 3127 substance or a listed chemical.
- 3128 (p) "Distributor" means a person who distributes controlled substances.
- 3129 (q) "Division" means the Division of Occupational and Professional Licensing created
- 3130 in Section [58-1-103](#).
- 3131 (r) (i) "Drug" means:
- 3132 (A) a substance recognized in the official United States Pharmacopoeia, Official
- 3133 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any
- 3134 supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or
- 3135 prevention of disease in humans or animals;
- 3136 (B) a substance that is required by any applicable federal or state law or rule to be
- 3137 dispensed by prescription only or is restricted to administration by practitioners only;

3138 (C) a substance other than food intended to affect the structure or any function of the
3139 body of humans or other animals; and

3140 (D) substances intended for use as a component of any substance specified in
3141 Subsections (1)(r)(i)(A), (B), and (C).

3142 (ii) "Drug" does not include dietary supplements.

3143 (s) "Drug dependent person" means any individual who unlawfully and habitually uses
3144 any controlled substance to endanger the public morals, health, safety, or welfare, or who is so
3145 dependent upon the use of controlled substances as to have lost the power of self-control with
3146 reference to the individual's dependency.

3147 (t) "Food" means:

3148 (i) any nutrient or substance of plant, mineral, or animal origin other than a drug as
3149 specified in this chapter, and normally ingested by human beings; and

3150 (ii) foods for special dietary uses as exist by reason of a physical, physiological,
3151 pathological, or other condition including but not limited to the conditions of disease,
3152 convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and
3153 overweight; uses for supplying a particular dietary need which exist by reason of age including
3154 but not limited to the ages of infancy and childbirth, and also uses for supplementing and for
3155 fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for
3156 use of a food. Any particular use of a food is a special dietary use regardless of the nutritional
3157 purposes.

3158 (u) "Immediate precursor" means a substance which the Attorney General of the United
3159 States has found to be, and by regulation designated as being, the principal compound used or
3160 produced primarily for use in the manufacture of a controlled substance, or which is an
3161 immediate chemical intermediary used or likely to be used in the manufacture of a controlled
3162 substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the
3163 controlled substance.

3164 (v) "Indian" means a member of an Indian tribe.

3165 (w) "Indian religion" means any religion:

3166 (i) the origin and interpretation of which is from within a traditional Indian culture or
3167 community; and

3168 (ii) which is practiced by Indians.

3169 (x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or
3170 community of Indians, including any Alaska Native village, which is legally recognized as
3171 eligible for and is consistent with the special programs, services, and entitlements provided by
3172 the United States to Indians because of their status as Indians.

3173 (y) "Manufacture" means the production, preparation, propagation, compounding, or
3174 processing of a controlled substance, either directly or indirectly by extraction from substances
3175 of natural origin, or independently by means of chemical synthesis or by a combination of
3176 extraction and chemical synthesis.

3177 (z) "Manufacturer" includes any person who packages, repackages, or labels any
3178 container of any controlled substance, except pharmacists who dispense or compound
3179 prescription orders for delivery to the ultimate consumer.

3180 (aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus,
3181 whether growing or not~~;~~the, including:

3182 (A) seeds ~~[of it, the]~~;

3183 (B) resin extracted from any part of the plant~~;~~and, including the resin extracted from
3184 the mature stalks;

3185 (C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant,
3186 ~~[its]~~ seeds, or resin~~[- The term]~~; and

3187 (D) any synthetic equivalents of the substances contained in the plant cannabis sativa
3188 or any other species of the genus cannabis which are chemically indistinguishable and
3189 pharmacologically active.

3190 (ii) "Marijuana" does not include:

3191 (A) the mature stalks of the plant~~;~~;

3192 (B) fiber produced from the stalks~~;~~;

3193 (C) oil or cake made from the seeds of the plant~~;~~;

3194 (D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture,
3195 salt, derivative, mixture, or preparation of the mature stalks, [except the resin extracted from
3196 them,] fiber, oil or cake[, or];

3197 (E) the sterilized seed of the plant which is incapable of germination[. Any synthetic
3198 equivalents of the substances contained in the plant cannabis sativa or any other species of the
3199 genus cannabis which are chemically indistinguishable and pharmacologically active are also
3200 included.]; or

3201 (F) any compound, mixture, or preparation approved by the federal Food and Drug
3202 Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
3203 that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal
3204 Controlled Substances Act, Title II, P.L. 91-513.

3205 (bb) "Money" means officially issued coin and currency of the United States or any
3206 foreign country.

3207 (cc) "Narcotic drug" means any of the following, whether produced directly or
3208 indirectly by extraction from substances of vegetable origin, or independently by means of
3209 chemical synthesis, or by a combination of extraction and chemical synthesis:

3210 (i) opium, coca leaves, and opiates;

3211 (ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or
3212 opiates;

3213 (iii) opium poppy and poppy straw; or

3214 (iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the
3215 substance, which is chemically identical with any of the substances referred to in Subsection
3216 (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or
3217 extracts of coca leaves which do not contain cocaine or ecgonine.

3218 (dd) "Negotiable instrument" means documents, containing an unconditional promise
3219 to pay a sum of money, which are legally transferable to another party by endorsement or
3220 delivery.

3221 (ee) "Opiate" means any drug or other substance having an addiction-forming or

3222 addiction-sustaining liability similar to morphine or being capable of conversion into a drug
3223 having addiction-forming or addiction-sustaining liability.

3224 (ff) "Opium poppy" means the plant of the species *papaver somniferum* L., except the
3225 seeds of the plant.

3226 (gg) "Person" means any corporation, association, partnership, trust, other institution or
3227 entity or one or more individuals.

3228 (hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after
3229 mowing.

3230 (ii) "Possession" or "use" means the joint or individual ownership, control, occupancy,
3231 holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection,
3232 or consumption, as distinguished from distribution, of controlled substances and includes
3233 individual, joint, or group possession or use of controlled substances. For a person to be a
3234 possessor or user of a controlled substance, it is not required that the person be shown to have
3235 individually possessed, used, or controlled the substance, but it is sufficient if it is shown that
3236 the person jointly participated with one or more persons in the use, possession, or control of
3237 any substances with knowledge that the activity was occurring, or the controlled substance is
3238 found in a place or under circumstances indicating that the person had the ability and the intent
3239 to exercise dominion and control over it.

3240 (jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian,
3241 pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or
3242 otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use
3243 in teaching or chemical analysis a controlled substance in the course of professional practice or
3244 research in this state.

3245 (kk) "Prescribe" means to issue a prescription:

3246 (i) orally or in writing; or

3247 (ii) by telephone, facsimile transmission, computer, or other electronic means of
3248 communication as defined by division rule.

3249 (ll) "Prescription" means an order issued:

3250 (i) by a licensed practitioner, in the course of that practitioner's professional practice or
3251 by collaborative pharmacy practice agreement; and

3252 (ii) for a controlled substance or other prescription drug or device for use by a patient
3253 or an animal.

3254 (mm) "Production" means the manufacture, planting, cultivation, growing, or
3255 harvesting of a controlled substance.

3256 (nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of
3257 property.

3258 (oo) "State" means the state of Utah.

3259 (pp) "Ultimate user" means any person who lawfully possesses a controlled substance
3260 for the person's own use, for the use of a member of the person's household, or for
3261 administration to an animal owned by the person or a member of the person's household.

3262 (2) If a term used in this chapter is not defined, the definition and terms of Title 76,
3263 Utah Criminal Code, shall apply.

3264 Section 40. Section ~~58-37-3.7~~ is amended to read:

3265 **58-37-3.7. Medical cannabis decriminalization.**

3266 (1) As used in this section:

3267 (a) "Cannabis" means the same as that term is defined in Section [26-61a-102](#).

3268 (b) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

3269 (c) "Legal dosage limit" means the same as that term is defined in Section [26-61a-102](#).

3270 ~~[(e)]~~ (d) "Medical cannabis card" means the same as that term is defined in Section
3271 [26-61a-102](#).

3272 ~~[(d)]~~ (e) "Medical cannabis device" means the same as that term is defined in Section
3273 [26-61a-102](#).

3274 ~~[(e)]~~ "Medical cannabis pharmacy" means the same as that term is defined in Section
3275 [26-61a-102](#).]

3276 (f) "Medicinal dosage form" means the same as that term is defined in Section
3277 [26-61a-102](#).

3278 (g) "Nonresident patient" means the same as that term is defined in Section
3279 26-61a-102.

3280 [~~(g) "Qualified medical provider" means the same as that term is defined in Section~~
3281 ~~26-61a-102.~~]

3282 (h) "Qualifying condition" means the same as that term is defined in Section
3283 26-61a-102.

3284 (i) "Tetrahydrocannabinol" means the same as that term is defined in Section
3285 58-37-3.9.

3286 (2) Before January 1, 2021, an individual is not guilty under this chapter for the use or
3287 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

3288 (a) at the time of the arrest or citation, the individual:

3289 (i) (A) had been diagnosed with a qualifying condition; and

3290 (B) had a pre-existing provider-patient relationship with an advanced practice
3291 registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed
3292 under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58,
3293 Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under
3294 Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness
3295 described in Subsection (2)(a)(i)(A) could benefit from the use in question;

3296 (ii) for possession, was:

3297 (A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who
3298 is a minor; or

3299 (B) the spouse of an individual described in Subsection (2)(a)(i); or

3300 (iii) (A) for possession, was a medical cannabis cardholder; or

3301 (B) for use, was a medical cannabis patient cardholder or a minor with a qualifying
3302 condition under the supervision of a medical cannabis guardian cardholder; and

3303 (b) (i) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
3304 tetrahydrocannabinol [~~was in a medicinal dosage form in one of the following amounts: (i) no~~
3305 ~~more than 56 grams by weight of unprocessed cannabis; or (ii) an amount of cannabis products~~

3306 ~~that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.] is one~~
3307 ~~of the following in an amount that does not exceed the legal dosage limit:~~

3308 (A) unprocessed cannabis in a medicinal dosage form; or

3309 (B) a cannabis product in a medicinal dosage form; and

3310 (ii) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
3311 medical cannabis device.

3312 (3) ~~[An individual]~~ A nonresident patient is not guilty under this chapter for the use or
3313 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this
3314 chapter if: ~~[(a) at the time of the arrest or citation, the individual: (i) was not a resident of Utah~~
3315 ~~or has been a resident of Utah for less than 45 days; (ii) had a currently valid medical cannabis~~
3316 ~~card or the equivalent of a medical cannabis card under the laws of another state, district,~~
3317 ~~territory, commonwealth, or insular possession of the United States; and (iii) had been~~
3318 ~~diagnosed with a qualifying condition as described in Section 26-61a-104; and (b) the~~
3319 ~~marijuana or tetrahydrocannabinol is in a medicinal dosage form in one of the following~~
3320 ~~amounts:]~~

3321 ~~[(i) no more than 113 grams by weight of unprocessed cannabis; or]~~

3322 ~~[(ii) an amount of cannabis products that contains, in total, no more than 20 grams of~~
3323 ~~total composite tetrahydrocannabinol.]~~

3324 (a) for use or possession of marijuana or tetrahydrocannabinol, the marijuana or
3325 tetrahydrocannabinol is one of the following in an amount that does not exceed the legal
3326 dosage limit:

3327 (i) unprocessed cannabis in a medicinal dosage form; or

3328 (ii) a cannabis product in a medicinal dosage form; and

3329 (b) for use or possession of marijuana drug paraphernalia, the paraphernalia is a
3330 medical cannabis device.

3331 (4) (a) There is a rebuttable presumption against an allegation of use or possession of
3332 marijuana or tetrahydrocannabinol if:

3333 (i) an individual fails a drug test based on the presence of tetrahydrocannabinol in the

3334 sample; and

3335 (ii) the individual provides evidence that the individual possessed or used cannabidiol
3336 or a cannabidiol product.

3337 (b) The presumption described in Subsection (4)(a) may be rebutted with evidence that
3338 the individual purchased or possessed marijuana or tetrahydrocannabinol that is not authorized
3339 under:

3340 (i) Section 4-41-402; or

3341 (ii) Title 26, Chapter 61a, Utah Medical Cannabis Act.

3342 Section 41. Section 58-37-3.9 is amended to read:

3343 **58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying**
3344 **illness.**

3345 (1) As used in this section:

3346 (a) "Cannabis" means marijuana.

3347 (b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

3348 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

3349 (d) "Medical cannabis cardholder" means the same as that term is defined in Section
3350 26-61a-102.

3351 (e) "Medical cannabis device" means the same as that term is defined in Section
3352 26-61a-102.

3353 (f) "Medicinal dosage form" means the same as that term is defined in Section
3354 26-61a-102.

3355 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic
3356 description as described in Subsection 58-37-4(2)(a)(iii)(AA).

3357 (2) Notwithstanding any other provision of law, except as otherwise provided in this
3358 section:

3359 (a) an individual is not guilty of a violation of this title for the following conduct if the
3360 individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis
3361 Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

3362 (i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing,
3363 selling, or offering to sell cannabis or a cannabis product; or

3364 (ii) possessing cannabis or a cannabis product with the intent to engage in the conduct
3365 described in Subsection (2)(a)(i); and

3366 (b) an individual is not guilty of a violation of this title regarding drug paraphernalia if
3367 the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments,
3368 and Title 26, Chapter 61a, Utah Medical Cannabis Act:

3369 (i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis
3370 device; or

3371 (ii) possesses a medical cannabis device with the intent to engage in any of the conduct
3372 described in Subsection (2)(b)(i).

3373 (3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or
3374 heating of medical cannabis.

3375 (b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical
3376 cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking
3377 or combustion of cannabis.

3378 (c) A medical cannabis cardholder or a nonresident patient who smokes cannabis or
3379 engages in any other conduct described in Subsection (3)(b):

3380 (i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah
3381 Medical Cannabis Act; and

3382 (ii) is [~~subject to charges under this chapter~~]₂ for the use or possession of marijuana,
3383 tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection
3384 (3)(b)[-]:

3385 (A) for the first offense, guilty of an infraction and subject to a fine of up to \$100; and

3386 (B) for a second or subsequent offense, subject to charges under this chapter.

3387 (4) An individual who is assessed a penalty or convicted of a crime under Title 4,
3388 Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical
3389 Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a

3390 penalty described in this chapter for:

3391 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis
3392 product; or

3393 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

3394 Section 42. Section **58-37-4** is amended to read:

3395 **58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings**
3396 **required -- Specific substances included in schedules.**

3397 (1) There are established five schedules of controlled substances known as Schedules I,
3398 II, III, IV, and V which consist of substances listed in this section.

3399 (2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by
3400 the official name, common or usual name, chemical name, or brand name designated:

3401 (a) Schedule I:

3402 (i) Unless specifically excepted or unless listed in another schedule, any of the
3403 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
3404 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
3405 chemical designation:

3406 (A) Acetyl-alpha-methylfentanyl

3407 (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

3408 (B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

3409 (C) Acetylmethadol;

3410 (D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

3411 (E) Allylprodine;

3412 (F) Alphacetylmethadol, except levo-alphacetylmethadol also known as

3413 levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

3414 (G) Alphameprodine;

3415 (H) Alphamethadol;

3416 (I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]

3417 propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

- 3418 (J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
3419 piperidinyl]-N-phenylpropanamide);
3420 (K) Benzylpiperazine;
3421 (L) Benzethidine;
3422 (M) Betacetylmethadol;
3423 (N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-
3424 piperidinyl]-N-phenylpropanamide);
3425 (O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2-
3426 phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;
3427 (P) Betameprodine;
3428 (Q) Betamethadol;
3429 (R) Betaprodine;
3430 (S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);
3431 (T) Clonitazene;
3432 (U) Cyclopropyl fentanyl
3433 (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide);
3434 (V) Dextromoramide;
3435 (W) Diampromide;
3436 (X) Diethylthiambutene;
3437 (Y) Difenoxin;
3438 (Z) Dimenoxadol;
3439 (AA) Dimepheptanol;
3440 (BB) Dimethylthiambutene;
3441 (CC) Dioxaphetyl butyrate;
3442 (DD) Dipipanone;
3443 (EE) Ethylmethylthiambutene;
3444 (FF) Etizolam
3445 (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno[2,3-e]1,4-diazepine);

- 3446 (GG) Etonitazene;
- 3447 (HH) Etoxeridine;
- 3448 (II) Furanyl fentanyl (N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]
- 3449 furan-2-carboxamide);
- 3450 (JJ) Furethidine;
- 3451 (KK) Hydroxypethidine;
- 3452 (LL) Ketobemidone;
- 3453 (MM) Levomoramide;
- 3454 (NN) Levophenacetylmorphan;
- 3455 (OO) Methoxyacetyl fentanyl
- 3456 (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);
- 3457 (PP) Morpheridine;
- 3458 (QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- 3459 (RR) Noracymethadol;
- 3460 (SS) Norlevorphanol;
- 3461 (TT) Normethadone;
- 3462 (UU) Norpipanone;
- 3463 (VV) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4- piperidinyl]
- 3464 propanamide);
- 3465 (WW) Para-fluoroisobutyryl fentanyl
- 3466 (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);
- 3467 (XX) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- 3468 (YY) Phenadoxone;
- 3469 (ZZ) Phenampromide;
- 3470 (AAA) Phenomorphan;
- 3471 (BBB) Phenoperidine;
- 3472 (CCC) Piritramide;
- 3473 (DDD) Proheptazine;

- 3474 (EEE) Properidine;
- 3475 (FFF) Propiram;
- 3476 (GGG) Racemoramide;
- 3477 (HHH) Tetrahydrofuran fentanyl
- 3478 (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);
- 3479 (III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]- propanamide;
- 3480 (JJJ) Tilidine;
- 3481 (KKK) Trimeperidine;
- 3482 (LLL) 3-methylfentanyl, including the optical and geometric isomers
- 3483 (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]- N-phenylpropanamide);
- 3484 (MMM) 3-methylthiofentanyl
- 3485 (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
- 3486 (NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also
- 3487 known as U-47700; and
- 3488 (OOO) 4-cyano CUMYL-BUTINACA.
- 3489 (ii) Unless specifically excepted or unless listed in another schedule, any of the
- 3490 following opium derivatives, their salts, isomers, and salts of isomers when the existence of the
- 3491 salts, isomers, and salts of isomers is possible within the specific chemical designation:
- 3492 (A) Acetorphine;
- 3493 (B) Acetyldihydrocodeine;
- 3494 (C) Benzylmorphine;
- 3495 (D) Codeine methylbromide;
- 3496 (E) Codeine-N-Oxide;
- 3497 (F) Cyprenorphine;
- 3498 (G) Desomorphine;
- 3499 (H) Dihydromorphine;
- 3500 (I) Drotebanol;
- 3501 (J) Etorphine (except hydrochloride salt);

- 3502 (K) Heroin;
- 3503 (L) Hydromorphenol;
- 3504 (M) Methyldesorphine;
- 3505 (N) Methylhydromorphine;
- 3506 (O) Morphine methylbromide;
- 3507 (P) Morphine methylsulfonate;
- 3508 (Q) Morphine-N-Oxide;
- 3509 (R) Myrophine;
- 3510 (S) Nicocodeine;
- 3511 (T) Nicomorphine;
- 3512 (U) Normorphine;
- 3513 (V) Pholcodine; and
- 3514 (W) Thebacon.
- 3515 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 3516 compound, mixture, or preparation which contains any quantity of the following hallucinogenic
- 3517 substances, or which contains any of their salts, isomers, and salts of isomers when the
- 3518 existence of the salts, isomers, and salts of isomers is possible within the specific chemical
- 3519 designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position,
- 3520 and geometric isomers:
- 3521 (A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase;
- 3522 α -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; α -ET; and AET;
- 3523 (B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names:
- 3524 4-bromo-2,5-dimethoxy- α -methylphenethylamine; 4-bromo-2,5-DMA;
- 3525 (C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names:
- 3526 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;
- 3527 (D) 2,5-dimethoxyamphetamine, some trade or other names:
- 3528 2,5-dimethoxy- α -methylphenethylamine; 2,5-DMA;
- 3529 (E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

- 3530 (F) 4-methoxyamphetamine, some trade or other names:
- 3531 4-methoxy- α -methylphenethylamine; paramethoxyamphetamine, PMA;
- 3532 (G) 5-methoxy-3,4-methylenedioxyamphetamine;
- 3533 (H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names:
- 3534 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM"; and "STP";
- 3535 (I) 3,4-methylenedioxy amphetamine;
- 3536 (J) 3,4-methylenedioxymethamphetamine (MDMA);
- 3537 (K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-
- 3538 alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;
- 3539 (L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as
- 3540 N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;
- 3541 (M) 3,4,5-trimethoxy amphetamine;
- 3542 (N) Bufotenine, some trade and other names:
- 3543 3-(β -Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,
- 3544 N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- 3545 (O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;
- 3546 (P) Dimethyltryptamine, some trade or other names: DMT;
- 3547 (Q) Ibogaine, some trade and other names:
- 3548 7-Ethyl-6,6 β ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino
- 3549 [5,4-b] indole; Tabernanthe iboga;
- 3550 (R) Lysergic acid diethylamide;
- 3551 (S) Marijuana;
- 3552 (T) Mescaline;
- 3553 (U) Parahexyl, some trade or other names:
- 3554 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;
- 3555 (V) Peyote, meaning all parts of the plant presently classified botanically as
- 3556 *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from
- 3557 any part of such plant, and every compound, manufacture, salts, derivative, mixture, or

- 3558 preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));
- 3559 (W) N-ethyl-3-piperidyl benzilate;
- 3560 (X) N-methyl-3-piperidyl benzilate;
- 3561 (Y) Psilocybin;
- 3562 (Z) Psilocyn;
- 3563 (AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis
- 3564 (cannabis plant), as well as synthetic equivalents of the substances contained in the cannabis
- 3565 plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives,
- 3566 and their isomers with similar chemical structure and pharmacological activity to those
- 3567 substances contained in the plant, such as the following: $\Delta 1$ cis or trans tetrahydrocannabinol,
- 3568 and their optical isomers $\Delta 6$ cis or trans tetrahydrocannabinol, and their optical isomers $\Delta 3,4$
- 3569 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these
- 3570 substances is not internationally standardized, compounds of these structures, regardless of
- 3571 numerical designation of atomic positions covered;
- 3572 (BB) Ethylamine analog of phencyclidine, some trade or other names:
- 3573 N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine,
- 3574 N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;
- 3575 (CC) Pyrrolidine analog of phencyclidine, some trade or other names:
- 3576 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;
- 3577 (DD) Thiophene analog of phencyclidine, some trade or other names:
- 3578 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP; and
- 3579 (EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.
- 3580 (iv) Unless specifically excepted or unless listed in another schedule, any material
- 3581 compound, mixture, or preparation which contains any quantity of the following substances
- 3582 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 3583 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 3584 specific chemical designation:
- 3585 (A) Mecloqualone; and

- 3586 (B) Methaqualone.
- 3587 (v) Any material, compound, mixture, or preparation containing any quantity of the
3588 following substances having a stimulant effect on the central nervous system, including their
3589 salts, isomers, and salts of isomers:
- 3590 (A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or
3591 4,5-dihydro-5-phenyl-2-oxazolamine;
- 3592 (B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone,
3593 alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;
- 3594 (C) Fenethylamine;
- 3595 (D) Methcathinone, some other names: 2-(methylamino)-propionophenone;
3596 alpha-(methylamino)propionophenone; 2-(methylamino)-1-phenylpropan-1-one;
3597 alpha-N-methylaminopropionophenone; monomethylpropion; ephedrone; N-methylcathinone;
3598 methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of
3599 optical isomers;
- 3600 (E) (\pm)cis-4-methylaminorex ((\pm)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);
- 3601 (F) N-ethylamphetamine; and
- 3602 (G) N,N-dimethylamphetamine, also known as
3603 N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.
- 3604 (vi) Any material, compound, mixture, or preparation which contains any quantity of
3605 the following substances, including their optical isomers, salts, and salts of isomers, subject to
3606 temporary emergency scheduling:
- 3607 (A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and
3608 (B) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).
- 3609 (vii) Unless specifically excepted or unless listed in another schedule, any material,
3610 compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate
3611 (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.
- 3612 (b) Schedule II:
- 3613 (i) Unless specifically excepted or unless listed in another schedule, any of the

3614 following substances whether produced directly or indirectly by extraction from substances of
3615 vegetable origin, or independently by means of chemical synthesis, or by a combination of
3616 extraction and chemical synthesis:

3617 (A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or
3618 opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone,
3619 and their respective salts, but including:

3620 (I) Raw opium;

3621 (II) Opium extracts;

3622 (III) Opium fluid;

3623 (IV) Powdered opium;

3624 (V) Granulated opium;

3625 (VI) Tincture of opium;

3626 (VII) Codeine;

3627 (VIII) Ethylmorphine;

3628 (IX) Etorphine hydrochloride;

3629 (X) Hydrocodone;

3630 (XI) Hydromorphone;

3631 (XII) Metopon;

3632 (XIII) Morphine;

3633 (XIV) Oxycodone;

3634 (XV) Oxymorphone; and

3635 (XVI) Thebaine;

3636 (B) Any salt, compound, derivative, or preparation which is chemically equivalent or
3637 identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these
3638 substances may not include the isoquinoline alkaloids of opium;

3639 (C) Opium poppy and poppy straw;

3640 (D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and
3641 any salt, compound, derivative, or preparation which is chemically equivalent or identical with

3642 any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives,
3643 and salts of isomers and derivatives, whether derived from the coca plant or synthetically
3644 produced, except the substances may not include decocainized coca leaves or extraction of coca
3645 leaves, which extractions do not contain cocaine or ecgonine; and

3646 (E) Concentrate of poppy straw, which means the crude extract of poppy straw in either
3647 liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

3648 (ii) Unless specifically excepted or unless listed in another schedule, any of the
3649 following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and
3650 ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific
3651 chemical designation, except dextrorphan and levopropoxyphene:

3652 (A) Alfentanil;

3653 (B) Alphaprodine;

3654 (C) Anileridine;

3655 (D) Bezitramide;

3656 (E) Bulk dextropropoxyphene (nondosage forms);

3657 (F) Carfentanil;

3658 (G) Dihydrocodeine;

3659 (H) Diphenoxylate;

3660 (I) Fentanyl;

3661 (J) Isomethadone;

3662 (K) Levo-alpha-acetylmethadol, some other names: levo-alpha-acetylmethadol,
3663 levomethadyl acetate, or LAAM;

3664 (L) Levomethorphan;

3665 (M) Levorphanol;

3666 (N) Metazocine;

3667 (O) Methadone;

3668 (P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

3669 (Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic

- 3670 acid;
- 3671 (R) Pethidine (meperidine);
- 3672 (S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- 3673 (T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- 3674 (U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- 3675 (V) Phenazocine;
- 3676 (W) Piminodine;
- 3677 (X) Racemethorphan;
- 3678 (Y) Racemorphan;
- 3679 (Z) Remifentanyl; and
- 3680 (AA) Sufentanyl.
- 3681 (iii) Unless specifically excepted or unless listed in another schedule, any material,
- 3682 compound, mixture, or preparation which contains any quantity of the following substances
- 3683 having a stimulant effect on the central nervous system:
- 3684 (A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
- 3685 (B) Methamphetamine, its salts, isomers, and salts of its isomers;
- 3686 (C) Phenmetrazine and its salts; and
- 3687 (D) Methylphenidate.
- 3688 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 3689 compound, mixture, or preparation which contains any quantity of the following substances
- 3690 having a depressant effect on the central nervous system, including its salts, isomers, and salts
- 3691 of isomers when the existence of the salts, isomers, and salts of isomers is possible within the
- 3692 specific chemical designation:
- 3693 (A) Amobarbital;
- 3694 (B) Glutethimide;
- 3695 (C) Pentobarbital;
- 3696 (D) Phencyclidine;
- 3697 (E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and

3698 1-piperidinocyclohexanecarbonitrile (PCC); and
3699 (F) Secobarbital.
3700 (v) (A) Unless specifically excepted or unless listed in another schedule, any material,
3701 compound, mixture, or preparation which contains any quantity of Phenylacetone.
3702 (B) Some of these substances may be known by trade or other names:
3703 phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.
3704 (vi) Nabilone, another name for nabilone:
3705 (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,
3706 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.
3707 (vii) A drug product or preparation that contains any component of marijuana,
3708 including tetrahydrocannabinol, and is approved by the United States Food and Drug
3709 Administration and scheduled by the Drug Enforcement Administration in Schedule II of the
3710 federal Controlled Substances Act, Title II, P.L. 91-513.
3711 (c) Schedule III:
3712 (i) Unless specifically excepted or unless listed in another schedule, any material,
3713 compound, mixture, or preparation which contains any quantity of the following substances
3714 having a stimulant effect on the central nervous system, including its salts, isomers whether
3715 optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers,
3716 and salts of isomers is possible within the specific chemical designation:
3717 (A) Those compounds, mixtures, or preparations in dosage unit form containing any
3718 stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were
3719 listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the
3720 Code of Federal Regulations, and any other drug of the quantitative composition shown in that
3721 list for those drugs or which is the same except that it contains a lesser quantity of controlled
3722 substances;
3723 (B) Benzphetamine;
3724 (C) Chlorphentermine;
3725 (D) Clortermine; and

- 3726 (E) Phendimetrazine.
- 3727 (ii) Unless specifically excepted or unless listed in another schedule, any material,
3728 compound, mixture, or preparation which contains any quantity of the following substances
3729 having a depressant effect on the central nervous system:
- 3730 (A) Any compound, mixture, or preparation containing amobarbital, secobarbital,
3731 pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients
3732 which are not listed in any schedule;
- 3733 (B) Any suppository dosage form containing amobarbital, secobarbital, or
3734 pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug
3735 Administration for marketing only as a suppository;
- 3736 (C) Any substance which contains any quantity of a derivative of barbituric acid or any
3737 salt of any of them;
- 3738 (D) Chlorhexadol;
- 3739 (E) Buprenorphine;
- 3740 (F) Any drug product containing gamma hydroxybutyric acid, including its salts,
3741 isomers, and salts of isomers, for which an application is approved under the federal Food,
3742 Drug, and Cosmetic Act, Section 505;
- 3743 (G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine:
3744 \pm -2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;
- 3745 (H) Lysergic acid;
- 3746 (I) Lysergic acid amide;
- 3747 (J) Methyprylon;
- 3748 (K) Sulfondiethylmethane;
- 3749 (L) Sulfonethylmethane;
- 3750 (M) Sulfonmethane; and
- 3751 (N) Tiletamine and zolazepam or any of their salts, some trade or other names for a
3752 tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine:
3753 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam:

3754 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one,
3755 flupyrzapon.

3756 (iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a
3757 U.S. Food and Drug Administration approved drug product, some other names for dronabinol:
3758 (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or
3759 (-)-delta-9-(trans)-tetrahydrocannabinol.

3760 (iv) Nalorphine.

3761 (v) Unless specifically excepted or unless listed in another schedule, any material,
3762 compound, mixture, or preparation containing limited quantities of any of the following
3763 narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

3764 (A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
3765 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of
3766 opium;

3767 (B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90
3768 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
3769 therapeutic amounts;

3770 (C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
3771 than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline
3772 alkaloid of opium;

3773 (D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more
3774 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3775 recognized therapeutic amounts;

3776 (E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90
3777 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized
3778 therapeutic amounts;

3779 (F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more
3780 than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3781 recognized therapeutic amounts;

3782 (G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not
3783 more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in
3784 recognized therapeutic amounts; and

3785 (H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with
3786 one or more active, non-narcotic ingredients in recognized therapeutic amounts.

3787 (vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids
3788 including any of the following or any isomer, ester, salt, or derivative of the following that
3789 promotes muscle growth:

3790 (A) Boldenone;

3791 (B) Chlorotestosterone (4-chlortestosterone);

3792 (C) Clostebol;

3793 (D) Dehydrochlormethyltestosterone;

3794 (E) Dihydrotestosterone (4-dihydrotestosterone);

3795 (F) Drostanolone;

3796 (G) Ethylestrenol;

3797 (H) Fluoxymesterone;

3798 (I) Formebolone (formebolone);

3799 (J) Mesterolone;

3800 (K) Methandienone;

3801 (L) Methandranone;

3802 (M) Methandriol;

3803 (N) Methandrostenolone;

3804 (O) Methenolone;

3805 (P) Methyltestosterone;

3806 (Q) Mibolerone;

3807 (R) Nandrolone;

3808 (S) Norethandrolone;

3809 (T) Oxandrolone;

3810 (U) Oxymesterone;

3811 (V) Oxymetholone;

3812 (W) Stanolone;

3813 (X) Stanozolol;

3814 (Y) Testolactone;

3815 (Z) Testosterone; and

3816 (AA) Trenbolone.

3817 (vii) Anabolic steroids expressly intended for administration through implants to cattle
3818 or other nonhuman species, and approved by the Secretary of Health and Human Services for
3819 use, may not be classified as a controlled substance.

3820 (viii) A drug product or preparation that contains any component of marijuana,
3821 including tetrahydrocannabinol, and is approved by the United States Food and Drug
3822 Administration and scheduled by the Drug Enforcement Administration in Schedule III of the
3823 federal Controlled Substances Act, Title II, P.L. 91-513.

3824 (ix) Nabiximols.

3825 (d) Schedule IV:

3826 (i) Unless specifically excepted or unless listed in another schedule, any material,
3827 compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not
3828 less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

3829 (ii) Unless specifically excepted or unless listed in another schedule, any material,
3830 compound, mixture, or preparation which contains any quantity of the following substances,
3831 including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and
3832 salts of isomers is possible within the specific chemical designation:

3833 (A) Alprazolam;

3834 (B) Barbital;

3835 (C) Bromazepam;

3836 (D) Butorphanol;

3837 (E) Camazepam;

- 3838 (F) Carisoprodol;
- 3839 (G) Chloral betaine;
- 3840 (H) Chloral hydrate;
- 3841 (I) Chlordiazepoxide;
- 3842 (J) Clobazam;
- 3843 (K) Clonazepam;
- 3844 (L) Clorazepate;
- 3845 (M) Clotiazepam;
- 3846 (N) Cloxazolam;
- 3847 (O) Delorazepam;
- 3848 (P) Diazepam;
- 3849 (Q) Dichloralphenazone;
- 3850 (R) Estazolam;
- 3851 (S) Ethchlorvynol;
- 3852 (T) Ethinamate;
- 3853 (U) Ethyl loflazepate;
- 3854 (V) Fludiazepam;
- 3855 (W) Flunitrazepam;
- 3856 (X) Flurazepam;
- 3857 (Y) Halazepam;
- 3858 (Z) Haloxazolam;
- 3859 (AA) Ketazolam;
- 3860 (BB) Loprazolam;
- 3861 (CC) Lorazepam;
- 3862 (DD) Lormetazepam;
- 3863 (EE) Mebutamate;
- 3864 (FF) Medazepam;
- 3865 (GG) Meprobamate;

- 3866 (HH) Methohexital;
- 3867 (II) Methylphenobarbital (mephobarbital);
- 3868 (JJ) Midazolam;
- 3869 (KK) Nimetazepam;
- 3870 (LL) Nitrazepam;
- 3871 (MM) Nordiazepam;
- 3872 (NN) Oxazepam;
- 3873 (OO) Oxazolam;
- 3874 (PP) Paraldehyde;
- 3875 (QQ) Pentazocine;
- 3876 (RR) Petrichloral;
- 3877 (SS) Phenobarbital;
- 3878 (TT) Pinazepam;
- 3879 (UU) Prazepam;
- 3880 (VV) Quazepam;
- 3881 (WW) Temazepam;
- 3882 (XX) Tetrazepam;
- 3883 (YY) Tramadol;
- 3884 (ZZ) Triazolam;
- 3885 (AAA) Zaleplon; and
- 3886 (BBB) Zolpidem.
- 3887 (iii) Any material, compound, mixture, or preparation of fenfluramine which contains
- 3888 any quantity of the following substances, including its salts, isomers whether optical, position,
- 3889 or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of
- 3890 isomers is possible.
- 3891 (iv) Unless specifically excepted or unless listed in another schedule, any material,
- 3892 compound, mixture, or preparation which contains any quantity of the following substances
- 3893 having a stimulant effect on the central nervous system, including its salts, isomers whether

3894 optical, position, or geometric isomers, and salts of the isomers when the existence of the salts,
3895 isomers, and salts of isomers is possible within the specific chemical designation:

3896 (A) Cathine ((+)-norpseudoephedrine);

3897 (B) Diethylpropion;

3898 (C) Fencamfamine;

3899 (D) Fenproporex;

3900 (E) Mazindol;

3901 (F) Mefenorex;

3902 (G) Modafinil;

3903 (H) Pemoline, including organometallic complexes and chelates thereof;

3904 (I) Phentermine;

3905 (J) Pipradrol;

3906 (K) Sibutramine; and

3907 (L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

3908 (v) Unless specifically excepted or unless listed in another schedule, any material,

3909 compound, mixture, or preparation which contains any quantity of dextropropoxyphene

3910 (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

3911 (vi) A drug product or preparation that contains any component of marijuana and is

3912 approved by the United States Food and Drug Administration and scheduled by the Drug

3913 Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II,

3914 P.L. 91-513.

3915 (e) Schedule V:

3916 (i) Any compound, mixture, or preparation containing any of the following limited

3917 quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid,

3918 which includes one or more non-narcotic active medicinal ingredients in sufficient proportion

3919 to confer upon the compound, mixture, or preparation valuable medicinal qualities other than

3920 those possessed by the narcotic drug alone:

3921 (A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

3922 (B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100
3923 grams;

3924 (C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100
3925 grams;

3926 (D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of
3927 atropine sulfate per dosage unit;

3928 (E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

3929 (F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of
3930 atropine sulfate per dosage unit; and

3931 (G) unless specifically exempted or excluded or unless listed in another schedule, any
3932 material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant
3933 effect on the central nervous system, including its salts, isomers, and salts of isomers.

3934 (ii) A drug product or preparation that contains any component of marijuana, including
3935 cannabidiol, and is approved by the United States Food and Drug Administration and
3936 scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled
3937 Substances Act, Title II, P.L. 91-513.

3938 Section 43. Section **58-37-8** is amended to read:

3939 **58-37-8. Prohibited acts -- Penalties.**

3940 (1) Prohibited acts A -- Penalties and reporting:

3941 (a) Except as authorized by this chapter, it is unlawful for a person to knowingly and
3942 intentionally:

3943 (i) produce, manufacture, or dispense, or to possess with intent to produce,
3944 manufacture, or dispense, a controlled or counterfeit substance;

3945 (ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or
3946 arrange to distribute a controlled or counterfeit substance;

3947 (iii) possess a controlled or counterfeit substance with intent to distribute; or

3948 (iv) engage in a continuing criminal enterprise where:

3949 (A) the person participates, directs, or engages in conduct that results in a violation of

3950 Chapters 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b,
3951 Imitation Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d,
3952 Clandestine Drug Lab Act, that is a felony; and

3953 (B) the violation is a part of a continuing series of two or more violations of Chapters
3954 37, Utah Controlled Substances Act, 37a, Utah Drug Paraphernalia Act, 37b, Imitation
3955 Controlled Substances Act, 37c, Utah Controlled Substance Precursor Act, or 37d, Clandestine
3956 Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons
3957 with respect to whom the person occupies a position of organizer, supervisor, or any other
3958 position of management.

3959 (b) A person convicted of violating Subsection (1)(a) with respect to:

3960 (i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled
3961 substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second
3962 degree felony, punishable by imprisonment for not more than 15 years, and upon a second or
3963 subsequent conviction is guilty of a first degree felony;

3964 (ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or
3965 marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and
3966 upon a second or subsequent conviction is guilty of a second degree felony; or

3967 (iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a
3968 class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree
3969 felony.

3970 (c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may
3971 be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of
3972 fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the
3973 person or in the person's immediate possession during the commission or in furtherance of the
3974 offense, the court shall additionally sentence the person convicted for a term of one year to run
3975 consecutively and not concurrently; and the court may additionally sentence the person
3976 convicted for an indeterminate term not to exceed five years to run consecutively and not
3977 concurrently.

3978 (d) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree
3979 felony punishable by imprisonment for an indeterminate term of not less than seven years and
3980 which may be for life. Imposition or execution of the sentence may not be suspended, and the
3981 person is not eligible for probation.

3982 (e) The Administrative Office of the Courts shall report to the Division of
3983 Occupational and Professional Licensing the name, case number, date of conviction, and if
3984 known, the date of birth of each person convicted of violating Subsection (1)(a).

3985 (2) Prohibited acts B -- Penalties and reporting:

3986 (a) It is unlawful:

3987 (i) for a person knowingly and intentionally to possess or use a controlled substance
3988 analog or a controlled substance, unless it was obtained under a valid prescription or order,
3989 directly from a practitioner while acting in the course of the person's professional practice, or as
3990 otherwise authorized by this chapter;

3991 (ii) for an owner, tenant, licensee, or person in control of a building, room, tenement,
3992 vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied
3993 by persons unlawfully possessing, using, or distributing controlled substances in any of those
3994 locations; or

3995 (iii) for a person knowingly and intentionally to possess an altered or forged
3996 prescription or written order for a controlled substance.

3997 (b) A person convicted of violating Subsection (2)(a)(i) with respect to:

3998 (i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony;

3999 or

4000 (ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty
4001 of a class A misdemeanor on a first or second conviction, and on a third or subsequent
4002 conviction is guilty of a third degree felony.

4003 (c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a
4004 conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater
4005 penalty than provided in this Subsection (2).

4006 (d) A person who violates Subsection (2)(a)(i) with respect to all other controlled
4007 substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section
4008 58-37-4.2, or marijuana, is guilty of a class B misdemeanor. Upon a third conviction the
4009 person is guilty of a class A misdemeanor, and upon a fourth or subsequent conviction the
4010 person is guilty of a third degree felony.

4011 (e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior
4012 boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a
4013 public jail or other place of confinement shall be sentenced to a penalty one degree greater than
4014 provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as
4015 listed in:

4016 (i) Subsection (2)(b), the person may be sentenced to imprisonment for an
4017 indeterminate term as provided by law, and:

4018 (A) the court shall additionally sentence the person convicted to a term of one year to
4019 run consecutively and not concurrently; and

4020 (B) the court may additionally sentence the person convicted for an indeterminate term
4021 not to exceed five years to run consecutively and not concurrently; and

4022 (ii) Subsection (2)(d), the person may be sentenced to imprisonment for an
4023 indeterminate term as provided by law, and the court shall additionally sentence the person
4024 convicted to a term of six months to run consecutively and not concurrently.

4025 (f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

4026 (i) on a first conviction, guilty of a class B misdemeanor;

4027 (ii) on a second conviction, guilty of a class A misdemeanor; and

4028 (iii) on a third or subsequent conviction, guilty of a third degree felony.

4029 (g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not
4030 amounting to a violation of Section 76-5-207:

4031 (i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's
4032 body any measurable amount of a controlled substance, except for
4033 11-nor-9-carboxy-tetrahydrocannabinol; and

4034 (ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined
4035 in Section [76-5-207](#) in a negligent manner, causing serious bodily injury as defined in Section
4036 [76-1-601](#) or the death of another[-]; or

4037 (B) if the controlled substance is marijuana, operates a motor vehicle as defined in
4038 Section [76-5-207](#) in a criminally negligent manner, causing serious bodily injury as defined in
4039 Section [76-1-601](#) or the death of another.

4040 (h) A person who violates Subsection (2)(g) by having in the person's body:

4041 (i) a controlled substance classified under Schedule I, other than those described in
4042 Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second
4043 degree felony;

4044 (ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or
4045 equivalents described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(S\)](#) or (AA), or a substance listed in
4046 Section [58-37-4.2](#) is guilty of a third degree felony; or

4047 (iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A
4048 misdemeanor.

4049 (i) A person is guilty of a separate offense for each victim suffering serious bodily
4050 injury or death as a result of the person's negligent driving in violation of Subsection (2)(g)
4051 whether or not the injuries arise from the same episode of driving.

4052 (j) The Administrative Office of the Courts shall report to the Division of Occupational
4053 and Professional Licensing the name, case number, date of conviction, and if known, the date
4054 of birth of each person convicted of violating Subsection (2)(a).

4055 (3) Prohibited acts C -- Penalties:

4056 (a) It is unlawful for a person knowingly and intentionally:

4057 (i) to use in the course of the manufacture or distribution of a controlled substance a
4058 license number which is fictitious, revoked, suspended, or issued to another person or, for the
4059 purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a
4060 manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized
4061 person;

4062 (ii) to acquire or obtain possession of, to procure or attempt to procure the
4063 administration of, to obtain a prescription for, to prescribe or dispense to a person known to be
4064 attempting to acquire or obtain possession of, or to procure the administration of a controlled
4065 substance by misrepresentation or failure by the person to disclose receiving a controlled
4066 substance from another source, fraud, forgery, deception, subterfuge, alteration of a
4067 prescription or written order for a controlled substance, or the use of a false name or address;

4068 (iii) to make a false or forged prescription or written order for a controlled substance,
4069 or to utter the same, or to alter a prescription or written order issued or written under the terms
4070 of this chapter; or

4071 (iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to
4072 print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or
4073 device of another or any likeness of any of the foregoing upon any drug or container or labeling
4074 so as to render a drug a counterfeit controlled substance.

4075 (b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A
4076 misdemeanor.

4077 (ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third
4078 degree felony.

4079 (c) A violation of Subsection (3)(a)(iv) is a third degree felony.

4080 (4) Prohibited acts D -- Penalties:

4081 (a) Notwithstanding other provisions of this section, a person not authorized under this
4082 chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is
4083 upon conviction subject to the penalties and classifications under this Subsection (4) if the trier
4084 of fact finds the act is committed:

4085 (i) in a public or private elementary or secondary school or on the grounds of any of
4086 those schools during the hours of 6 a.m. through 10 p.m.;

4087 (ii) in a public or private vocational school or postsecondary institution or on the
4088 grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

4089 (iii) in or on the grounds of a preschool or child-care facility during the preschool's or

4090 facility's hours of operation;

4091 (iv) in a public park, amusement park, arcade, or recreation center when the public or
4092 amusement park, arcade, or recreation center is open to the public;

4093 (v) in or on the grounds of a house of worship as defined in Section 76-10-501;

4094 (vi) in or on the grounds of a library when the library is open to the public;

4095 (vii) within an area that is within 100 feet of any structure, facility, or grounds included
4096 in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

4097 (viii) in the presence of a person younger than 18 years of age, regardless of where the
4098 act occurs; or

4099 (ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or
4100 distribution of a substance in violation of this section to an inmate or on the grounds of a
4101 correctional facility as defined in Section 76-8-311.3.

4102 (b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony
4103 and shall be imprisoned for a term of not less than five years if the penalty that would
4104 otherwise have been established but for this Subsection (4) would have been a first degree
4105 felony.

4106 (ii) Imposition or execution of the sentence may not be suspended, and the person is
4107 not eligible for probation.

4108 (c) If the classification that would otherwise have been established would have been
4109 less than a first degree felony but for this Subsection (4), a person convicted under this
4110 Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that
4111 offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

4112 (d) (i) If the violation is of Subsection (4)(a)(ix):

4113 (A) the person may be sentenced to imprisonment for an indeterminate term as
4114 provided by law, and the court shall additionally sentence the person convicted for a term of
4115 one year to run consecutively and not concurrently; and

4116 (B) the court may additionally sentence the person convicted for an indeterminate term
4117 not to exceed five years to run consecutively and not concurrently; and

4118 (ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with
4119 the mental state required for the commission of an offense, directly or indirectly solicits,
4120 requests, commands, coerces, encourages, or intentionally aids another person to commit a
4121 violation of Subsection (4)(a)(ix).

4122 (e) It is not a defense to a prosecution under this Subsection (4) that:

4123 (i) the actor mistakenly believed the individual to be 18 years of age or older at the
4124 time of the offense or was unaware of the individual's true age; or

4125 (ii) the actor mistakenly believed that the location where the act occurred was not as
4126 described in Subsection (4)(a) or was unaware that the location where the act occurred was as
4127 described in Subsection (4)(a).

4128 (5) A violation of this chapter for which no penalty is specified is a class B
4129 misdemeanor.

4130 (6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of
4131 guilty or no contest to a violation or attempted violation of this section or a plea which is held
4132 in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction,
4133 even if the charge has been subsequently reduced or dismissed in accordance with the plea in
4134 abeyance agreement.

4135 (b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a
4136 conviction that is:

4137 (i) from a separate criminal episode than the current charge; and

4138 (ii) from a conviction that is separate from any other conviction used to enhance the
4139 current charge.

4140 (7) A person may be charged and sentenced for a violation of this section,
4141 notwithstanding a charge and sentence for a violation of any other section of this chapter.

4142 (8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu
4143 of, a civil or administrative penalty or sanction authorized by law.

4144 (b) When a violation of this chapter violates a federal law or the law of another state,
4145 conviction or acquittal under federal law or the law of another state for the same act is a bar to

4146 prosecution in this state.

4147 (9) In any prosecution for a violation of this chapter, evidence or proof that shows a
4148 person or persons produced, manufactured, possessed, distributed, or dispensed a controlled
4149 substance or substances, is prima facie evidence that the person or persons did so with
4150 knowledge of the character of the substance or substances.

4151 (10) This section does not prohibit a veterinarian, in good faith and in the course of the
4152 veterinarian's professional practice only and not for humans, from prescribing, dispensing, or
4153 administering controlled substances or from causing the substances to be administered by an
4154 assistant or orderly under the veterinarian's direction and supervision.

4155 (11) Civil or criminal liability may not be imposed under this section on:

4156 (a) a person registered under this chapter who manufactures, distributes, or possesses
4157 an imitation controlled substance for use as a placebo or investigational new drug by a
4158 registered practitioner in the ordinary course of professional practice or research; or

4159 (b) a law enforcement officer acting in the course and legitimate scope of the officer's
4160 employment.

4161 (12) (a) Civil or criminal liability may not be imposed under this section on any Indian,
4162 as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide
4163 traditional ceremonial purposes in connection with the practice of a traditional Indian religion
4164 as defined in Section 58-37-2.

4165 (b) In a prosecution alleging violation of this section regarding peyote as defined in
4166 Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported
4167 by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a
4168 traditional Indian religion.

4169 (c) (i) The defendant shall provide written notice of intent to claim an affirmative
4170 defense under this Subsection (12) as soon as practicable, but not later than 10 days before
4171 trial.

4172 (ii) The notice shall include the specific claims of the affirmative defense.

4173 (iii) The court may waive the notice requirement in the interest of justice for good

4174 cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

4175 (d) The defendant shall establish the affirmative defense under this Subsection (12) by
4176 a preponderance of the evidence. If the defense is established, it is a complete defense to the
4177 charges.

4178 (13) (a) It is an affirmative defense that the person produced, possessed, or
4179 administered a controlled substance listed in Section 58-37-4.2 if the person was:

4180 (i) engaged in medical research; and

4181 (ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

4182 (b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed
4183 a controlled substance listed in Section 58-37-4.2.

4184 (14) It is an affirmative defense that the person possessed, in the person's body, a
4185 controlled substance listed in Section 58-37-4.2 if:

4186 (a) the person was the subject of medical research conducted by a holder of a valid
4187 license to possess controlled substances under Section 58-37-6; and

4188 (b) the substance was administered to the person by the medical researcher.

4189 (15) The application of any increase in penalty under this section to a violation of
4190 Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This
4191 Subsection (15) takes precedence over any conflicting provision of this section.

4192 (16) (a) It is an affirmative defense to an allegation of the commission of an offense
4193 listed in Subsection (16)(b) that the person:

4194 (i) reasonably believes that the person or another person is experiencing an overdose
4195 event due to the ingestion, injection, inhalation, or other introduction into the human body of a
4196 controlled substance or other substance;

4197 (ii) reports in good faith the overdose event to a medical provider, an emergency
4198 medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911
4199 emergency call system, or an emergency dispatch system, or the person is the subject of a
4200 report made under this Subsection (16);

4201 (iii) provides in the report under Subsection (16)(a)(ii) a functional description of the

4202 actual location of the overdose event that facilitates responding to the person experiencing the
4203 overdose event;

4204 (iv) remains at the location of the person experiencing the overdose event until a
4205 responding law enforcement officer or emergency medical service provider arrives, or remains
4206 at the medical care facility where the person experiencing an overdose event is located until a
4207 responding law enforcement officer arrives;

4208 (v) cooperates with the responding medical provider, emergency medical service
4209 provider, and law enforcement officer, including providing information regarding the person
4210 experiencing the overdose event and any substances the person may have injected, inhaled, or
4211 otherwise introduced into the person's body; and

4212 (vi) is alleged to have committed the offense in the same course of events from which
4213 the reported overdose arose.

4214 (b) The offenses referred to in Subsection (16)(a) are:

4215 (i) the possession or use of less than 16 ounces of marijuana;

4216 (ii) the possession or use of a scheduled or listed controlled substance other than
4217 marijuana; and

4218 (iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b,
4219 Imitation Controlled Substances Act.

4220 (c) As used in this Subsection (16) and in Section [76-3-203.11](#), "good faith" does not
4221 include seeking medical assistance under this section during the course of a law enforcement
4222 agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

4223 (17) If any provision of this chapter, or the application of any provision to any person
4224 or circumstances, is held invalid, the remainder of this chapter shall be given effect without the
4225 invalid provision or application.

4226 (18) A legislative body of a political subdivision may not enact an ordinance that is
4227 less restrictive than any provision of this chapter.

4228 (19) If a minor who is under 18 years of age is found by a court to have violated this
4229 section, the court may order the minor to complete:

- 4230 (a) a screening as defined in Section 41-6a-501;
- 4231 (b) an assessment as defined in Section 41-6a-501 if the screening indicates an
- 4232 assessment to be appropriate; and
- 4233 (c) an educational series as defined in Section 41-6a-501 or substance use disorder
- 4234 treatment as indicated by an assessment.

4235 Section 44. Section 58-67-304 is amended to read:

4236 **58-67-304. License renewal requirements.**

4237 (1) As a condition precedent for license renewal, each licensee shall, during each

4238 two-year licensure cycle or other cycle defined by division rule:

4239 (a) complete qualified continuing professional education requirements in accordance

4240 with the number of hours and standards defined by division rule made in collaboration with the

4241 board;

4242 (b) appoint a contact person for access to medical records and an alternate contact

4243 person for access to medical records in accordance with Subsection 58-67-302(1)(j);

4244 (c) if the licensee practices medicine in a location with no other persons licensed under

4245 this chapter, provide some method of notice to the licensee's patients of the identity and

4246 location of the contact person and alternate contact person for the licensee; and

4247 (d) if the licensee is an associate physician licensed under Section 58-67-302.8,

4248 successfully complete the educational methods and programs described in Subsection

4249 58-67-807(4).

4250 (2) If a renewal period is extended or shortened under Section 58-67-303, the

4251 continuing education hours required for license renewal under this section are increased or

4252 decreased proportionally.

4253 (3) An application to renew a license under this chapter shall:

4254 (a) require a physician to answer the following question: "Do you perform elective

4255 abortions in Utah in a location other than a hospital?"; and

4256 (b) immediately following the question, contain the following statement: "For purposes

4257 of the immediately preceding question, elective abortion means an abortion other than one of

4258 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
4259 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
4260 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
4261 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
4262 the woman is pregnant as a result of rape or incest."

4263 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
4264 to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3,
4265 Abortion, if a physician responds positively to the question described in Subsection (3)(a), the
4266 division shall, within 30 days after the day on which it renews the physician's license under this
4267 chapter, inform the Department of Health in writing:

4268 (a) of the name and business address of the physician; and

4269 (b) that the physician responded positively to the question described in Subsection
4270 (3)(a).

4271 (5) The division shall accept and apply toward the hour requirement in Subsection
4272 (1)(a) any continuing education that a physician completes in accordance with Sections
4273 [26-61a-106](#)[;] and [26-61a-403](#)[, and ~~[26-61a-602](#)~~].

4274 Section 45. Section ~~58-68-304~~ is amended to read:

4275 **58-68-304. License renewal requirements.**

4276 (1) As a condition precedent for license renewal, each licensee shall, during each
4277 two-year licensure cycle or other cycle defined by division rule:

4278 (a) complete qualified continuing professional education requirements in accordance
4279 with the number of hours and standards defined by division rule in collaboration with the
4280 board;

4281 (b) appoint a contact person for access to medical records and an alternate contact
4282 person for access to medical records in accordance with Subsection [58-68-302](#)(1)(j);

4283 (c) if the licensee practices osteopathic medicine in a location with no other persons
4284 licensed under this chapter, provide some method of notice to the licensee's patients of the
4285 identity and location of the contact person and alternate contact person for access to medical

4286 records for the licensee in accordance with Subsection 58-68-302(1)(k); and

4287 (d) if the licensee is an associate physician licensed under Section 58-68-302.5,
4288 successfully complete the educational methods and programs described in Subsection
4289 58-68-807(4).

4290 (2) If a renewal period is extended or shortened under Section 58-68-303, the
4291 continuing education hours required for license renewal under this section are increased or
4292 decreased proportionally.

4293 (3) An application to renew a license under this chapter shall:

4294 (a) require a physician to answer the following question: "Do you perform elective
4295 abortions in Utah in a location other than a hospital?"; and

4296 (b) immediately following the question, contain the following statement: "For purposes
4297 of the immediately preceding question, elective abortion means an abortion other than one of
4298 the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is
4299 necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of
4300 substantial and irreversible impairment of a major bodily function of a woman, an abortion of a
4301 fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where
4302 the woman is pregnant as a result of rape or incest."

4303 (4) In order to assist the Department of Health in fulfilling its responsibilities relating
4304 to the licensing of an abortion clinic, if a physician responds positively to the question
4305 described in Subsection (3)(a), the division shall, within 30 days after the day on which it
4306 renews the physician's license under this chapter, inform the Department of Health in writing:

4307 (a) of the name and business address of the physician; and

4308 (b) that the physician responded positively to the question described in Subsection
4309 (3)(a).

4310 (5) The division shall accept and apply toward the hour requirement in Subsection
4311 (1)(a) any continuing education that a physician completes in accordance with Sections
4312 26-61a-106[;] and 26-61a-403[, and ~~26-61a-602~~].

4313 Section 46. Section 76-10-101 is amended to read:

4314 **76-10-101. Definitions.**

4315 As used in this part:

4316 (1) "Cigar" means a product that contains nicotine, is intended to be burned under
4317 ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in
4318 any substance containing tobacco, other than any roll of tobacco that is a cigarette as described
4319 in Subsection (2).

4320 (2) "Cigarette" means a product that contains nicotine, is intended to be burned under
4321 ordinary conditions of use, and consists of:

4322 (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

4323 (b) any roll of tobacco wrapped in any substance containing tobacco which, because of
4324 its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to
4325 be offered to, or purchased by, consumers as a cigarette described in Subsection (2)(a).

4326 (3) (a) "Electronic cigarette" means an electronic cigarette product, as defined in
4327 Section [59-14-802](#).

4328 (b) "Electronic cigarette" does not mean a medical cannabis device, as that term is
4329 defined in Section [26-61a-102](#).

4330 (4) "Place of business" includes:

4331 (a) a shop;

4332 (b) a store;

4333 (c) a factory;

4334 (d) a public garage;

4335 (e) an office;

4336 (f) a theater;

4337 (g) a recreation hall;

4338 (h) a dance hall;

4339 (i) a poolroom;

4340 (j) a café;

4341 (k) a cafeteria;

- 4342 (l) a cabaret;
- 4343 (m) a restaurant;
- 4344 (n) a hotel;
- 4345 (o) a lodging house;
- 4346 (p) a streetcar;
- 4347 (q) a bus;
- 4348 (r) an interurban or railway passenger coach;
- 4349 (s) a waiting room; and
- 4350 (t) any other place of business.

4351 (5) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other
4352 lighted smoking equipment.

4353 Section 47. Section **76-10-528** is amended to read:

4354 **76-10-528. Carrying a dangerous weapon while under influence of alcohol or**
4355 **drugs unlawful.**

4356 (1) It is a class B misdemeanor for any person to carry a dangerous weapon while
4357 under the influence of:

4358 (a) alcohol as determined by the person's blood or breath alcohol concentration in
4359 accordance with Subsections [41-6a-502\(1\)\(a\)](#) through (c); or

4360 (b) a controlled substance as defined in Section [58-37-2](#).

4361 (2) This section does not apply to:

4362 (a) a person carrying a dangerous weapon that is either securely encased, as defined in
4363 this part, or not within such close proximity and in such a manner that it can be retrieved and
4364 used as readily as if carried on the person;

4365 (b) any person who uses or threatens to use force in compliance with Section [76-2-402](#);
4366 [~~or~~]

4367 (c) any person carrying a dangerous weapon in the person's residence or the residence
4368 of another with the consent of the individual who is lawfully in possession[~~[-];~~ or

4369 (d) a person under the influence of cannabis or a cannabis product, as those terms are

4370 defined in Section 26-61a-102, if the person's use of the cannabis or cannabis product complies
4371 with Title 26, Chapter 61a, Utah Medical Cannabis Act.

4372 (3) It is not a defense to prosecution under this section that the person:

4373 (a) is licensed in the pursuit of wildlife of any kind; or

4374 (b) has a valid permit to carry a concealed firearm.

4375 Section 48. Section **77-40-103 (Superseded 05/01/20)** is amended to read:

4376 **77-40-103 (Superseded 05/01/20). Expungement procedure overview.**

4377 The process for the expungement of records under this chapter regarding the arrest,
4378 investigation, detention, and conviction of a petitioner is as follows:

4379 (1) The petitioner shall apply to the bureau for a certificate of eligibility for
4380 expungement and pay the application fee established by the department.

4381 (2) Once the eligibility process is complete, the bureau shall notify the petitioner.

4382 (3) If the petitioner is qualified to receive a certificate of eligibility for expungement,
4383 the petitioner shall pay the issuance fee established by the department.

4384 (4) The petitioner shall file the certificate of eligibility with a petition for expungement
4385 in the court in which the proceedings occurred. If there were no court proceedings, or the court
4386 no longer exists, the petition may be filed in the district court where the arrest occurred. If a
4387 certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original
4388 certificate until the proceedings are concluded. If the original certificate is filed with the
4389 petition, the clerk or the court shall scan it and return it to the petitioner or the petitioner's
4390 attorney, who shall keep it until the proceedings are concluded.

4391 (5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive
4392 a certificate of eligibility for expungement, the petitioner may file a petition without a
4393 certificate to obtain expungement for a record of conviction related to cannabis possession if
4394 the petition demonstrates that:

4395 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
4396 conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

4397 (b) the possession of cannabis in question was in a form and an amount to medicinally

4398 treat the condition described in Subsection (5)(a).

4399 ~~[(5)]~~ (6) The petitioner shall deliver a copy of the petition and certificate to the
4400 prosecutorial office that handled the court proceedings. If there were no court proceedings, the
4401 copy of the petition and certificate shall be delivered to the county attorney's office in the
4402 jurisdiction where the arrest occurred.

4403 ~~[(6)]~~ (7) If an objection to the petition is filed by the prosecutor or victim, a hearing
4404 shall be set by the court and the prosecutor and victim notified of the date.

4405 ~~[(7)]~~ (8) If the court requests a response from Adult Probation and Parole and a
4406 response is received, the petitioner may file a written reply to the response within 15 days of
4407 receipt of the response.

4408 ~~[(8)]~~ (9) An expungement may be granted without a hearing if no objection is received.

4409 ~~[(9)]~~ (10) Upon receipt of an order of expungement, the petitioner shall deliver copies
4410 to all government agencies in possession of records relating to the expunged matter.

4411 Section 49. Section **77-40-103 (Effective 05/01/20)** is amended to read:

4412 **77-40-103 (Effective 05/01/20). Petition for expungement procedure overview.**

4413 The process for a petition for the expungement of records under this chapter regarding
4414 the arrest, investigation, detention, and conviction of a petitioner is as follows:

4415 (1) The petitioner shall apply to the bureau for a certificate of eligibility for
4416 expungement and pay the application fee established by the department.

4417 (2) Once the eligibility process is complete, the bureau shall notify the petitioner.

4418 (3) If the petitioner is qualified to receive a certificate of eligibility for expungement,
4419 the petitioner shall pay the issuance fee established by the department.

4420 (4) (a) The petitioner shall file the certificate of eligibility with a petition for
4421 expungement in the court in which the proceedings occurred.

4422 (b) If there were no court proceedings, or the court no longer exists, the petitioner may
4423 file the petition in the district court where the arrest occurred.

4424 (c) If a petitioner files a certificate of eligibility electronically, the petitioner or the
4425 petitioner's attorney shall keep the original certificate until the proceedings are concluded.

4426 (d) If the petitioner files the original certificate of eligibility with the petition, the clerk
4427 or the court shall scan and return the original certificate to the petitioner or the petitioner's
4428 attorney, who shall keep the original certificate until the proceedings are concluded.

4429 (5) Notwithstanding Subsections (3) and (4), if the petitioner is not qualified to receive
4430 a certificate of eligibility for expungement, the petitioner may file a petition without a
4431 certificate to obtain expungement for a record of conviction related to cannabis possession if
4432 the petition demonstrates that:

4433 (a) the petitioner had, at the time of the relevant arrest or citation leading to the
4434 conviction, a qualifying condition, as that term is defined in Section [26-61a-102](#); and

4435 (b) the possession of cannabis in question was in a form and an amount to medicinally
4436 treat the condition described in Subsection (5)(a).

4437 [~~5~~] (6) (a) The petitioner shall deliver a copy of the petition and certificate of
4438 eligibility to the prosecutorial office that handled the court proceedings.

4439 (b) If there were no court proceedings, the petitioner shall deliver the copy of the
4440 petition and certificate to the county attorney's office in the jurisdiction where the arrest
4441 occurred.

4442 [~~6~~] (7) If the prosecutor or the victim files an objection to the petition, the court shall
4443 set a hearing and notify the prosecutor and the victim of the date set for the hearing.

4444 [~~7~~] (8) If the court requests a response from Adult Probation and Parole and a
4445 response is received, the petitioner may file a written reply to the response within 15 days of
4446 receipt of the response.

4447 [~~8~~] (9) A court may grant an expungement without a hearing if no objection is
4448 received.

4449 [~~9~~] (10) Upon receipt of an order of expungement, the petitioner shall deliver copies
4450 to all government agencies in possession of records relating to the expunged matter.

4451 Section 50. Section **77-40-107 (Superseded 05/01/20)** is amended to read:

4452 **77-40-107 (Superseded 05/01/20). Petition for expungement -- Prosecutorial**
4453 **responsibility -- Hearing -- Standard of proof -- Exception.**

4454 (1) The petitioner shall file a petition for expungement and, except as provided in
4455 Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section
4456 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the
4457 certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original
4458 certificate until the proceedings are concluded. If the original certificate is filed with the
4459 petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's
4460 attorney, who shall keep it until the proceedings are concluded.

4461 (2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting
4462 attorney shall provide notice of the expungement request by first-class mail to the victim at the
4463 most recent address of record on file.

4464 (b) The notice shall:

4465 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
4466 to the petition;

4467 (ii) state that the victim has a right to object to the expungement; and

4468 (iii) provide instructions for registering an objection with the court.

4469 (3) The prosecuting attorney and the victim, if applicable, may respond to the petition
4470 by filing a recommendation or objection with the court within 35 days after receipt of the
4471 petition.

4472 (4) (a) The court may request a written response to the petition from the Division of
4473 Adult Probation and Parole within the Department of Corrections.

4474 (b) If requested, the response prepared by the Division of Adult Probation and Parole
4475 shall include:

4476 (i) the reasons probation was terminated; and

4477 (ii) certification that the petitioner has completed all requirements of sentencing and
4478 probation or parole.

4479 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
4480 the petitioner and the prosecuting attorney.

4481 (5) The petitioner may respond in writing to any objections filed by the prosecutor or

4482 the victim and the response prepared by the Division of Adult Probation and Parole within 14
4483 days after receipt.

4484 (6) (a) If the court receives an objection concerning the petition from any party, the
4485 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
4486 date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the
4487 hearing.

4488 (b) The petitioner, the prosecuting attorney, the victim, and any other person who has
4489 relevant information about the petitioner may testify at the hearing.

4490 (c) The court shall review the petition, the certificate of eligibility, and any written
4491 responses submitted regarding the petition.

4492 (7) If no objection is received within 60 days from the date the petition for
4493 expungement is filed with the court, the expungement may be granted without a hearing.

4494 (8) The court shall issue an order of expungement if the court finds by clear and
4495 convincing evidence that:

4496 (a) the petition and, except as provided under Subsection 77-40-103(5), certificate of
4497 eligibility are sufficient;

4498 (b) the statutory requirements have been met;

4499 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
4500 without condition, the prosecutor provided written consent and has not filed and does not
4501 intend to refile related charges;

4502 (d) if the petitioner seeks expungement of drug possession offenses allowed under
4503 Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is
4504 successfully managing any substance addiction; ~~[and]~~

4505 (e) if the petitioner seeks expungement without a certificate of eligibility for
4506 expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis
4507 possession:

4508 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
4509 conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

4510 (ii) the possession of cannabis in question was in a form and an amount to medicinally
4511 treat the condition described in Subsection (8)(e)(i); and

4512 [~~(e)~~] (f) it is not contrary to the interests of the public to grant the expungement.

4513 (9) (a) If the court denies a petition described in Subsection (8)(c) because the
4514 prosecutor intends to refile charges, the person seeking expungement may again apply for a
4515 certificate of eligibility if charges are not refiled within 180 days of the day on which the court
4516 denies the petition.

4517 (b) A prosecutor who opposes an expungement of a case dismissed without prejudice
4518 or without condition shall have a good faith basis for the intention to refile the case.

4519 (c) A court shall consider the number of times that good faith basis of intention to
4520 refile by the prosecutor is presented to the court in making the court's determination to grant
4521 the petition for expungement described in Subsection (8)(c).

4522 (10) A court may not expunge a conviction of an offense for which a certificate of
4523 eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

4524 Section 51. Section 77-40-107 (Effective 05/01/20) is amended to read:

4525 **77-40-107 (Effective 05/01/20). Petition for expungement -- Prosecutorial**
4526 **responsibility -- Hearing -- Standard of proof -- Exception.**

4527 (1) (a) The petitioner shall file a petition for expungement and, except as provided in
4528 Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section
4529 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency.

4530 (b) If the petitioner files the certificate of eligibility electronically, the petitioner or the
4531 petitioner's attorney shall keep the original certificate until the proceedings are concluded.

4532 (c) If the petitioner files the original certificate of eligibility with the petition, the clerk
4533 of the court shall scan and return the original certificate to the petitioner or the petitioner's
4534 attorney, who shall keep the original certificate until the proceedings are concluded.

4535 (2) (a) Upon receipt of a petition for expungement of a conviction, the prosecuting
4536 attorney shall provide notice of the expungement request by first-class mail to the victim at the
4537 most recent address of record on file.

- 4538 (b) The notice shall:
- 4539 (i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable
- 4540 to the petition;
- 4541 (ii) state that the victim has a right to object to the expungement; and
- 4542 (iii) provide instructions for registering an objection with the court.
- 4543 (3) The prosecuting attorney and the victim, if applicable, may respond to the petition
- 4544 by filing a recommendation or objection with the court within 35 days after receipt of the
- 4545 petition.
- 4546 (4) (a) The court may request a written response to the petition from the Division of
- 4547 Adult Probation and Parole within the Department of Corrections.
- 4548 (b) If requested, the response prepared by the Division of Adult Probation and Parole
- 4549 shall include:
- 4550 (i) the reasons probation was terminated; and
- 4551 (ii) certification that the petitioner has completed all requirements of sentencing and
- 4552 probation or parole.
- 4553 (c) The Division of Adult Probation and Parole shall provide a copy of the response to
- 4554 the petitioner and the prosecuting attorney.
- 4555 (5) The petitioner may respond in writing to any objections filed by the prosecutor or
- 4556 the victim and the response prepared by the Division of Adult Probation and Parole within 14
- 4557 days after receipt.
- 4558 (6) (a) (i) If the court receives an objection concerning the petition from any party, the
- 4559 court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the
- 4560 date set for the hearing.
- 4561 (ii) The prosecuting attorney shall notify the victim of the date set for the hearing.
- 4562 (b) The petitioner, the prosecuting attorney, the victim, and any other individual who
- 4563 has relevant information about the petitioner may testify at the hearing.
- 4564 (c) The court shall review the petition, the certificate of eligibility, and any written
- 4565 responses submitted regarding the petition.

4566 (7) If no objection is received within 60 days from the date the petition for
4567 expungement is filed with the court, the expungement may be granted without a hearing.

4568 (8) The court shall issue an order of expungement if the court finds by clear and
4569 convincing evidence that:

4570 (a) the petition and, except as provided in Subsection 77-40-103(5), certificate of
4571 eligibility are sufficient;

4572 (b) the statutory requirements have been met;

4573 (c) if the petitioner seeks expungement after a case is dismissed without prejudice or
4574 without condition, the prosecutor provided written consent and has not filed and does not
4575 intend to refile related charges;

4576 (d) if the petitioner seeks expungement of drug possession offenses allowed under
4577 Subsection 77-40-105(6), the petitioner is not illegally using controlled substances and is
4578 successfully managing any substance addiction; [~~and~~]

4579 (e) if the petitioner seeks expungement without a certificate of eligibility for
4580 expungement under Subsection 77-40-103(5) for a record of conviction related to cannabis
4581 possession:

4582 (i) the petitioner had, at the time of the relevant arrest or citation leading to the
4583 conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

4584 (ii) the possession of cannabis in question was in a form and an amount to medicinally
4585 treat the condition described in Subsection (8)(e)(i); and

4586 [~~e~~] (f) it is not contrary to the interests of the public to grant the expungement.

4587 (9) (a) If the court denies a petition described in Subsection (8)(c) because the
4588 prosecutor intends to refile charges, the individual seeking expungement may again apply for a
4589 certificate of eligibility if charges are not refiled within 180 days of the day on which the court
4590 denies the petition.

4591 (b) A prosecutor who opposes an expungement of a case dismissed without prejudice
4592 or without condition shall have a good faith basis for the intention to refile the case.

4593 (c) A court shall consider the number of times that good faith basis of intention to

4594 refile by the prosecutor is presented to the court in making the court's determination to grant
4595 the petition for expungement described in Subsection (8)(c).

4596 (10) A court may not expunge a conviction of an offense for which a certificate of
4597 eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

4598 Section 52. Section 78A-2-231 is amended to read:

4599 **78A-2-231. Consideration of lawful use or possession of medical cannabis.**

4600 (1) As used in this section:

4601 (a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

4602 (b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

4603 ~~(b)~~ (c) "Dosing ~~[parameters]~~ guidelines" means the same as that term is defined in
4604 Section 26-61a-102.

4605 ~~(e)~~ (d) "Medical cannabis" means the same as that term is defined in Section
4606 26-61a-102.

4607 ~~(d)~~ (e) "Medical cannabis card" means the same as that term is defined in Section
4608 26-61a-102.

4609 ~~(e)~~ (f) "Medical cannabis device" means the same as that term is defined in Section
4610 26-61a-102.

4611 ~~(f)~~ (g) "Qualified medical provider" means the same as that term is defined in Section
4612 26-61a-102.

4613 (2) In any judicial proceeding in which a judge, panel, jury, or court commissioner
4614 makes a finding, determination, or otherwise considers an individual's possession or use of
4615 medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or
4616 court commissioner may not consider or treat the individual's possession or use any differently
4617 than the lawful possession or use of any prescribed controlled substance if:

4618 (a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production
4619 Establishments;

4620 (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

4621 (c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah

4622 Medical Cannabis Act; and

4623 (ii) the individual reasonably complies with the directions of use and dosing
4624 [~~parameters~~] guidelines determined by the individual's qualified medical provider or through a
4625 consultation described in Subsection 26-61a-502(4) or (5).

4626 (3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in
4627 abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of
4628 Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain
4629 from the use or possession of medical cannabis, a cannabis product, or a medical cannabis
4630 device, either directly or through a general prohibition on violating federal law, without an
4631 exception related to medical cannabis use, if the individual's use or possession complies with:

4632 (a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

4633 (b) Subsection 58-37-3.7(2) or (3).

4634 Section 53. Section 78A-6-115 is amended to read:

4635 **78A-6-115. Hearings -- Record -- County attorney or district attorney**
4636 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**
4637 **evidence -- Medical cannabis.**

4638 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result
4639 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall
4640 also be made unless dispensed with by the court.

4641 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,
4642 Government Records Access and Management Act, a record of a proceeding made under
4643 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for
4644 good cause.

4645 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the
4646 court shall:

4647 (A) provide notice to all subjects of the record that a request for release of the record
4648 has been made; and

4649 (B) allow sufficient time for the subjects of the record to respond before making a

4650 finding on the petition.

4651 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the
4652 court's jurisdiction over the subjects of the proceeding ended more than 12 months before the
4653 request.

4654 (iv) For purposes of this Subsection (1)(b):

4655 (A) "record of a proceeding" does not include documentary materials of any type
4656 submitted to the court as part of the proceeding, including items submitted under Subsection
4657 (4)(a); and

4658 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal
4659 guardian, the Division of Child and Family Services, and any other party to the proceeding.

4660 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a
4661 prosecution district, the district attorney shall represent the state in any proceeding in a minor's
4662 case.

4663 (b) Subject to the attorney general's prosecutorial discretion in civil enforcement
4664 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and
4665 Family Services, and this chapter, relating to:

4666 (i) protection or custody of an abused, neglected, or dependent child; and

4667 (ii) petitions for termination of parental rights.

4668 (c) The attorney general shall represent the Division of Child and Family Services in
4669 actions involving a minor who is not adjudicated as abused or neglected, but who is receiving
4670 in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be
4671 construed to affect the responsibility of the county attorney or district attorney to represent the
4672 state in those matters, in accordance with Subsection (2)(a).

4673 (3) The board may adopt special rules of procedure to govern proceedings involving
4674 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings
4675 involving offenses under Section 78A-6-606 are governed by that section regarding suspension
4676 of driving privileges.

4677 (4) (a) For the purposes of determining proper disposition of the minor in dispositional

4678 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and
4679 in hearings upon petitions for termination of parental rights, written reports and other material
4680 relating to the minor's mental, physical, and social history and condition may be received in
4681 evidence and may be considered by the court along with other evidence. The court may require
4682 that the person who wrote the report or prepared the material appear as a witness if the person
4683 is reasonably available.

4684 (b) For the purpose of determining proper disposition of a minor alleged to be or
4685 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division
4686 under Section 78A-6-315 may be received in evidence and may be considered by the court
4687 along with other evidence. The court may require any person who participated in preparing the
4688 dispositional report to appear as a witness, if the person is reasonably available.

4689 (5) (a) In an abuse, neglect, or dependency proceeding occurring after the
4690 commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under
4691 Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or
4692 their counsel any information which the party:

4693 (i) plans to report to the court at the proceeding; or

4694 (ii) could reasonably expect would be requested of the party by the court at the
4695 proceeding.

4696 (b) The disclosure required under Subsection (5)(a) shall be made:

4697 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than
4698 five days before the proceeding;

4699 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in
4700 accordance with Utah Rules of Civil Procedure; and

4701 (iii) for all other proceedings, no less than five days before the proceeding.

4702 (c) If a party to a proceeding obtains information after the deadline in Subsection
4703 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the
4704 party certifies to the court that the information was obtained after the deadline.

4705 (d) Subsection (5)(a) does not apply to:

4706 (i) pretrial hearings; and
 4707 (ii) the frequent, periodic review hearings held in a dependency drug court case to
 4708 assess and promote the parent's progress in substance use disorder treatment.

4709 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court
 4710 may, in its discretion, consider evidence of statements made by a child under eight years of age
 4711 to a person in a trust relationship.

4712 (7) (a) As used in this Subsection (7):

4713 (i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

4714 (ii) "Directions of use" means the same as that term is defined in Section 26-61a-102.

4715 ~~[(ii)]~~ (iii) "Dosing [~~parameters~~] guidelines" means the same as that term is defined in
 4716 Section 26-61a-102.

4717 ~~[(iii)]~~ (iv) "Medical cannabis" means the same as that term is defined in Section
 4718 26-61a-102.

4719 ~~[(iv)]~~ (v) "Medical cannabis cardholder" means the same as that term is defined in
 4720 Section 26-61a-102.

4721 ~~[(v)]~~ (vi) "Qualified medical provider" means the same as that term is defined in
 4722 Section 26-61a-102.

4723 (b) In any child welfare proceeding in which the court makes a finding, determination,
 4724 or otherwise considers an individual's possession or use of medical cannabis, a cannabis
 4725 product, or a medical cannabis device, the court may not consider or treat the individual's
 4726 possession or use any differently than the lawful possession or use of any prescribed controlled
 4727 substance if:

4728 (i) the individual's use or possession complies with~~[(i)]~~ Title 4, Chapter 41a, Cannabis
 4729 Production Establishments;

4730 (ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

4731 (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah
 4732 Medical Cannabis Act; and

4733 (B) the individual reasonably complies with the directions of use and dosing

4734 [parameters] guidelines determined by the individual's qualified medical provider or through a
4735 consultation described in Subsection 26-61a-502(4) or (5).

4736 (c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse
4737 or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child,
4738 if:

4739 (i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or
4740 guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act,
4741 and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably
4742 deviates from the directions of use and dosing [parameters] guidelines determined by the
4743 parent's or guardian's qualified medical provider or through a consultation described in
4744 Subsection 26-61a-502(4) or (5); or

4745 (B) before January 1, 2021, the parent's or guardian's possession or use complies with
4746 Subsection 58-37-3.7(2) or (3); and

4747 (ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise
4748 had cannabis introduced to the child's body; or

4749 (B) there is no evidence showing a nexus between the parent's or guardian's use of
4750 medical cannabis or a cannabis product and behavior that would separately constitute abuse or
4751 neglect of the child.

4752 Section 54. **Effective date.**

4753 If approved by two-thirds of all the members elected to each house, this bill takes effect
4754 upon approval by the governor, or the day following the constitutional time limit of Utah
4755 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
4756 the date of veto override.