

MEDICAL CANNABIS ACT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions related to the production and distribution of medical cannabis.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the distinction between allowable hemp products and medical cannabis products based on tetrahydrocannabinol (THC) and THC analog concentration;
- ▶ requires certain retailers marketing a hemp or cannabinoid product to include a statement that the product is not cannabis or medical cannabis;
- ▶ requires the identification of any cannabinoids above a certain quantity in a cannabis product;
- ▶ identifies an unlawful act of distributing, selling, or marketing an industrial hemp product that contains a certain amount of THC or a THC analog;
- ▶ allows the Utah Department of Agriculture and Food (UDAF) to partner with research universities to provide cannabis testing laboratories;
- ▶ grants rulemaking authority to UDAF to establish performance standards for licensed independent cannabis testing laboratories;
- ▶ provides that certain licenses are non-transferable, and new owners of a licensed business are subject to a modified application process for a new license;
- ▶ prohibits the introduction of industrial hemp waste from outside the state into the

- 29 medical cannabis production stream;
- 30 ▶ provides rulemaking authority to UDAF to further define standards regarding labels,
31 packaging, and product forms that may appeal to children;
- 32 ▶ amends product labeling requirements;
- 33 ▶ clarifies that a sugar coating on certain cannabis product is not prohibited under
34 certain circumstances;
- 35 ▶ clarifies provisions related to the liquid suspension medicinal dosage form;
- 36 ▶ includes an aerosol as an approved medicinal dosage form;
- 37 ▶ expands medical cannabis pharmacy employee access to the electronic verification
38 system;
- 39 ▶ amends an exception for public employee protections;
- 40 ▶ removes a requirement for medical provider approval of a patient's caregiver
41 designation;
- 42 ▶ allows the Utah Department of Health (UDOH) to issue conditional medical
43 cannabis caregiver cards in relation to designating patients with a terminal illness;
- 44 ▶ amends provisions regarding designated caregivers to contemplate a caregiver being
45 designated by more than one medical cannabis cardholder;
- 46 ▶ allows UDOH to issue a conditional medical cannabis pharmacy license when a
47 license renewal process is not complete before the pharmacy's license expires;
- 48 ▶ requires medical cannabis pharmacy agents to complete certain continuing
49 education in federal health privacy laws;
- 50 ▶ removes a prohibition on medical cannabis pharmacies employing an individual
51 with a felony;
- 52 ▶ allows for the Cannabis Production Establishment Licensing Advisory Board to
53 review certain information in a closed meeting;
- 54 ▶ aligns the concept of unprofessional conduct between the various types of
55 recommending medical providers;

- 56 ▶ removes certain outdated dates; and
- 57 ▶ makes technical and conforming changes.

58 **Money Appropriated in this Bill:**

59 None

60 **Other Special Clauses:**

61 This bill provides a special effective date.

62 This bill provides a coordination clause.

63 **Utah Code Sections Affected:**

64 AMENDS:

- 65 4-41-102, as last amended by Laws of Utah 2020, Chapters 12 and 14
- 66 4-41-103.3, as enacted by Laws of Utah 2020, Chapter 14
- 67 4-41-103.4, as enacted by Laws of Utah 2020, Chapter 14
- 68 4-41-105, as last amended by Laws of Utah 2020, Chapter 14
- 69 4-41-402, as last amended by Laws of Utah 2020, Chapter 12
- 70 4-41a-102, as last amended by Laws of Utah 2021, Chapters 337 and 350
- 71 4-41a-201, as last amended by Laws of Utah 2021, Chapter 350
- 72 4-41a-203, as last amended by Laws of Utah 2021, Chapter 350
- 73 4-41a-501, as last amended by Laws of Utah 2021, Chapter 350
- 74 4-41a-502, as renumbered and amended by Laws of Utah 2018, Third Special Session,
- 75 Chapter 1
- 76 4-41a-602, as last amended by Laws of Utah 2021, Chapters 337 and 350
- 77 4-41a-603, as last amended by Laws of Utah 2021, Chapter 350
- 78 4-41a-701, as last amended by Laws of Utah 2021, Chapter 350
- 79 26-61a-102, as last amended by Laws of Utah 2021, Chapters 337 and 350
- 80 26-61a-103, as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350
- 81 26-61a-111, as last amended by Laws of Utah 2021, Chapter 344
- 82 26-61a-201, as last amended by Laws of Utah 2021, Chapters 17 and further amended

- 83 by Revisor Instructions, Laws of Utah 2021, Chapters 337, 337, and 350
- 84 **26-61a-202**, as last amended by Laws of Utah 2021, Chapters 17, 337, and 350
- 85 **26-61a-204**, as last amended by Laws of Utah 2021, Chapter 350
- 86 **26-61a-301**, as last amended by Laws of Utah 2021, Chapter 350
- 87 **26-61a-303**, as last amended by Laws of Utah 2021, Chapters 84 and 345
- 88 **26-61a-305**, as last amended by Laws of Utah 2021, Chapter 350
- 89 **26-61a-401**, as last amended by Laws of Utah 2021, Chapter 337
- 90 **26-61a-501**, as last amended by Laws of Utah 2021, Chapters 337 and 350
- 91 **26-61a-502**, as last amended by Laws of Utah 2021, Chapters 337, 350 and last
- 92 amended by Coordination Clause, Laws of Utah 2021, Chapter 350
- 93 **26-61a-604**, as last amended by Laws of Utah 2020, Chapter 354
- 94 **26-61a-606**, as last amended by Laws of Utah 2021, Chapter 350
- 95 **52-4-205**, as last amended by Laws of Utah 2021, Chapters 179 and 231
- 96 **58-5a-102**, as last amended by Laws of Utah 2021, Chapter 337
- 97 **58-31b-502**, as last amended by Laws of Utah 2021, Chapters 263 and 337
- 98 **58-70a-503**, as last amended by Laws of Utah 2021, Chapters 312 and 337

Utah Code Sections Affected by Coordination Clause:

- 100 **26-61a-505**, as last amended by Laws of Utah 2021, Chapter 350

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]~~

(a) contains one or more cannabinoids;

110 (b) contains less than ~~[0.3% tetrahydrocannabinol]~~ the cannabinoid product THC level,
111 by dry weight[-]; and

112 (c) after December 1, 2022, contains a combined amount of total THC and any THC
113 analog that does not exceed 10% of the total cannabinoid content.

114 (2) "Cannabinoid product THC level" means a combined concentration of total THC
115 and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a
116 result within a measurement of uncertainty that includes the combined concentration of 0.3%.

117 (3) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the cannabinoid identified
118 as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

119 ~~[(2)]~~ (4) "Industrial hemp" means any part of a cannabis plant, whether growing or not,
120 with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

121 ~~[(3)]~~ (5) "Industrial hemp certificate" means a certificate that the department issues to a
122 higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

123 ~~[(4)]~~ (6) "Industrial hemp certificate holder" means a person possessing an industrial
124 hemp certificate that the department issues under this chapter.

125 ~~[(5)]~~ (7) "Industrial hemp laboratory permit" means a permit that the department issues
126 to a laboratory qualified to test industrial hemp under the state hemp production plan.

127 ~~[(6)]~~ (8) "Industrial hemp producer license" means a license that the department issues
128 to a person for the purpose of cultivating or processing industrial hemp or an industrial hemp
129 product.

130 ~~[(7)]~~ (9) "Industrial hemp retailer permit" means a permit that the department issues to
131 a retailer who sells any industrial hemp product.

132 ~~[(8)]~~ (10) "Industrial hemp product" means a product derived from, or made by,
133 processing industrial hemp plants or industrial hemp parts.

134 ~~[(9)]~~ (11) "Laboratory permittee" means a person possessing an industrial hemp
135 laboratory permit that the department issues under this chapter.

136 ~~[(10)]~~ (12) "Licensee" means a person possessing an industrial hemp producer license

137 that the department issues under this chapter.

138 ~~[(11)]~~ (13) "Medicinal dosage form" means:

139 (a) a tablet;

140 (b) a capsule;

141 (c) a concentrated oil;

142 (d) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

143 (e) a sublingual preparation;

144 (f) a topical preparation;

145 (g) a transdermal preparation;

146 (h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
147 cuboid shape; or

148 (i) other preparations that the department approves.

149 ~~[(12)]~~ (14) "Non-compliant material" means:

150 (a) a hemp plant ~~[or hemp product]~~ that does not comply with this chapter, including a
151 cannabis plant ~~[or product that contains]~~ with a concentration of 0.3% tetrahydrocannabinol or
152 greater by dry weight~~[-]; and~~

153 (b) a cannabinoid product, chemical, or compound with a concentration that exceeds
154 the cannabinoid product THC level.

155 ~~[(13)]~~ (15) "Permittee" means a person possessing a permit that the department issues
156 under this chapter.

157 ~~[(14)]~~ (16) "Person" means:

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

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

162 ~~[(15)]~~ (17) "Research pilot program" means a program conducted by the department in
163 collaboration with at least one licensee to study methods of cultivating, processing, or

164 marketing industrial hemp.

165 ~~[(16)]~~ (18) "Retailer permittee" means a person possessing an industrial hemp retailer
166 permit that the department issues under this chapter.

167 ~~[(17)]~~ (19) "State hemp production plan" means a plan submitted by the state to, and
168 approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter
169 990.

170 (20) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol, the
171 cannabinoid identified as CAS# 1972-08-3.

172 (21) (a) "THC analog" means a substance that is structurally or pharmacologically
173 substantially similar to, or is represented as being similar to, delta-9-THC.

174 (b) "THC analog" does not include the following substances or the naturally occurring
175 acid forms of the following substances:

176 (i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

177 (ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

178 (iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

179 (iv) cannabidivanol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

180 (v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

181 (vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

182 (vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

183 (viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

184 (ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

185 (x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS#
186 31262-37-0.

187 (22) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined
188 amounts of delta-9-THC, tetrahydrocannabinolic acid, calculated as "total THC = delta-9-THC
189 + (THCA x 0.877)".

190 Section 2. Section **4-41-103.3** is amended to read:

191 **4-41-103.3. Industrial hemp retailer permit.**

192 (1) [~~A~~] Except as provided in Subsection (4), a retailer permittee of the department
193 may market or sell industrial hemp products.

194 (2) A person seeking an industrial hemp retailer permit shall provide to the department:

195 (a) the name of the person that is seeking to market or sell an industrial hemp product;

196 (b) the address of each location where the industrial hemp product will be sold; and

197 (c) written consent allowing a representative of the department to enter all premises

198 where the person is selling an industrial hemp product for the purpose of:

199 (i) conducting a physical inspection; or

200 (ii) ensuring compliance with the requirements of this chapter.

201 (3) The department may set a fee in accordance with Subsection 4-2-103(2) for the
202 application for an industrial hemp retailer permit.

203 (4) Any marketing for an industrial hemp product shall include a notice to consumers
204 that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in
205 Section 26-61a-102.

206 Section 3. Section 4-41-103.4 is amended to read:

207 **4-41-103.4. Industrial hemp laboratory permit.**

208 (1) The department or a laboratory permittee of the department may test industrial
209 hemp and industrial hemp products.

210 (2) The department or a laboratory permittee of the department may dispose of
211 non-compliant material.

212 (3) A laboratory seeking an industrial hemp laboratory permit shall:

213 (a) demonstrate to the department that:

214 (i) the laboratory and laboratory staff possess the professional certifications required by
215 department rule;

216 (ii) the laboratory has the ability to test industrial hemp and industrial hemp products
217 using the standards, methods, practices, and procedures required by department rule;

218 (iii) the laboratory has the ability to meet the department's minimum standards of
219 performance for detecting [~~delta-9 tetrahydrocannabinol (THC) concentration levels~~]
220 concentration levels of THC and any cannabinoid known to be present; and

221 (iv) the laboratory has a plan that complies with the department's rule for the safe
222 disposal of non-compliant material; and

223 (b) provide to the department written consent allowing a representative of the
224 department and local law enforcement to enter all premises where the laboratory tests,
225 processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the
226 purpose of:

- 227 (i) conducting a physical inspection; or
- 228 (ii) ensuring compliance with the requirements of this chapter.

229 (4) An individual who has been convicted of a drug-related felony within the last 10
230 years is not eligible to obtain a license under this chapter.

231 (5) The department may set a fee in accordance with Subsection 4-2-103(2) for the
232 application for an industrial hemp laboratory permit.

233 Section 4. Section 4-41-105 is amended to read:

234 **4-41-105. Unlawful acts.**

235 (1) It is unlawful for a person to cultivate, handle, process, or market living industrial
236 hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp
237 without the appropriate license or permit issued by the department under this chapter.

238 (2) It is unlawful for any person to distribute, sell, or market an industrial hemp
239 product or cannabinoid product:

240 (a) that is not registered with the department [~~pursuant to~~] under Section 4-41-104[~~7~~];

241 or

242 (b) with a cannabinoid concentration that exceeds the cannabinoid product THC level.

243 (3) The department may seize and destroy non-compliant material.

244 (4) Nothing in this chapter authorizes any person to violate federal law, regulation, or

245 any provision of this title.

246 Section 5. Section **4-41-402** is amended to read:

247 **4-41-402. Cannabinoid sales and use authorized.**

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

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

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

251 (2) The department shall keep a list of registered cannabinoid products that the
252 department has determined, in accordance with Section [4-41-403](#), are safe for human
253 consumption.

254 (3) (a) A person may sell or use a cannabinoid product that is in the list of registered
255 cannabinoid products described in Subsection (2).

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

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

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

261 (4) Any marketing for a cannabinoid product shall include a notice to consumers that
262 the product is hemp or CBD and is not cannabis or medical cannabis, as those terms are
263 defined in Section [26-61a-102](#).

264 Section 6. Section **4-41a-102** is amended to read:

265 **4-41a-102. Definitions.**

266 As used in this chapter:

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

269 (a) pesticides;

270 (b) heavy metals;

271 (c) solvents;

272 (d) microbial life;

273 (e) toxins; or

274 (f) foreign matter.

275 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in
276 Section 26-61-201.

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

278 (4) "Cannabis concentrate" means:

279 (a) the product of any chemical or physical process applied to naturally occurring
280 biomass that concentrates or isolates the cannabinoids contained in the biomass; and

281 (b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic
282 cannabinoid's purified state.

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

285 (6) "Cannabis cultivation facility" means a person that:

286 (a) possesses cannabis;

287 (b) grows or intends to grow cannabis; and

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

290 (7) "Cannabis cultivation facility agent" means an individual who:

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

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

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

294 (9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold
295 in a form that is recognizable as a portion of a cannabis plant.

296 (10) "Cannabis processing facility" means a person that:

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

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

299 (c) manufactures or intends to manufacture a cannabis product from unprocessed
300 cannabis or a cannabis extract; and

301 (d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a
302 medical cannabis research licensee.

303 (11) "Cannabis processing facility agent" means an individual who:

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

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

306 (12) "Cannabis product" means the same as that term is defined in Section [26-61a-102](#).

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

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

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

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

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

316 (16) "Community location" means a public or private elementary or secondary school,
317 a church, a public library, a public playground, or a public park.

318 (17) "Cultivation space" means, quantified in square feet, the horizontal area in which
319 a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the
320 cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other
321 plants in multiple levels.

322 [~~(18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid~~
323 ~~identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.~~]

324 [(19)] (18) "Department" means the Department of Agriculture and Food.

325 [(20)] (19) "Derivative cannabinoid" means any cannabinoid that has been intentionally

326 created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

327 [(21)] (20) "Family member" means a parent, step-parent, spouse, child, sibling,
328 step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law,
329 brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

330 [(22)] (21) (a) "Independent cannabis testing laboratory" means a person that:

331 (i) conducts a chemical or other analysis of cannabis or a cannabis product; or
332 (ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to
333 conduct a chemical or other analysis of the cannabis or cannabis product.

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

336 [(23)] (22) "Independent cannabis testing laboratory agent" means an individual who:

337 (a) is an employee of an independent cannabis testing laboratory; and
338 (b) holds a valid cannabis production establishment agent registration card.

339 [(24)] (23) "Industrial hemp waste" means:

340 (a) a cannabinoid [~~extract above 0.3% total THC derived from verified industrial hemp~~
341 biomass] concentrate; or

342 (b) [~~verified~~] industrial hemp biomass [~~with a total THC concentration of less than~~
343 ~~0.3% by dry weight~~].

344 [(25)] (24) "Inventory control system" means a system described in Section 4-41a-103.

345 [(26)] (25) "Licensing board" or "board" means the Cannabis Production Establishment
346 Licensing Advisory Board created in Section 4-41a-201.1.

347 [(27)] (26) "Medical cannabis" means the same as that term is defined in Section
348 26-61a-102.

349 [(28)] (27) "Medical cannabis card" means the same as that term is defined in Section
350 26-61a-102.

351 [(29)] (28) "Medical cannabis pharmacy" means the same as that term is defined in
352 Section 26-61a-102.

353 [~~(30)~~] (29) "Medical cannabis pharmacy agent" means the same as that term is defined
354 in Section 26-61a-102.

355 [~~(31)~~] (30) "Medical cannabis research license" means a license that the department
356 issues to a research university for the purpose of obtaining and possessing medical cannabis for
357 academic research.

358 [~~(32)~~] (31) "Medical cannabis research licensee" means a research university that the
359 department licenses to obtain and possess medical cannabis for academic research, in
360 accordance with Section 4-41a-901.

361 [~~(33)~~] (32) "Medical cannabis treatment" means the same as that term is defined in
362 Section 26-61a-102.

363 [~~(34)~~] (33) "Medicinal dosage form" means the same as that term is defined in Section
364 26-61a-102.

365 [~~(35)~~] (34) "Qualified medical provider" means the same as that term is defined in
366 Section 26-61a-102.

367 [~~(36)~~] (35) "Qualified Production Enterprise Fund" means the fund created in Section
368 4-41a-104.

369 [~~(37)~~] (36) "Recommending medical provider" means the same as that term is defined
370 in Section 26-61a-102.

371 [~~(38)~~] (37) "Research university" means the same as that term is defined in Section
372 53B-7-702 and a private, nonprofit college or university in the state that:

- 373 (a) is accredited by the Northwest Commission on Colleges and Universities;
- 374 (b) grants doctoral degrees; and
- 375 (c) has a laboratory containing or a program researching a schedule I controlled
376 substance described in Section 58-37-4.

377 [~~(39)~~] (38) "State electronic verification system" means the system described in Section
378 26-61a-103.

379 [~~(40)~~] (39) "Synthetic cannabinoid" means any cannabinoid that:

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

382 (b) is not a derivative cannabinoid.

383 ~~[(41)]~~ (40) "Tetrahydrocannabinol" or "THC" means ~~[a substance derived from~~
384 ~~cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA)]~~ the same
385 as that term is defined in Section 4-41-102.

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

387 (42) "Total composite tetrahydrocannabinol" means all detectable forms of
388 tetrahydrocannabinol.

389 (43) "Total tetrahydrocannabinol" or "total THC" means the ~~[sum of the determined~~
390 ~~amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC =~~
391 ~~delta-9-THC + (THCA x 0.877)."]~~ same as that term is defined in Section 4-41-102.

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

393 **4-41a-201. Cannabis production establishment -- License.**

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

396 (2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4-41a-205, for a
397 licensing process that the department initiates after ~~[the effective date of this bill]~~ March 17,
398 2021, the department, through the licensing board, shall issue licenses in accordance with
399 Section 4-41a-201.1.

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

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

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

404 (C) timely and objectively evaluate applications;

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

406 (E) select applicants to receive a license.

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

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

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

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

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

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

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

422 (iii) an operating plan that:

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

424 (B) includes operating procedures that comply with this chapter and any law the
425 municipality or county in which the person is located adopts that is consistent with Section
426 4-41a-406; and

427 (C) the department or licensing board approves;

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

430 (A) \$100,000 for each cannabis cultivation facility for which the applicant applies; or
431 (B) \$50,000 for each cannabis processing facility or independent cannabis testing
432 laboratory for which the applicant applies;

433 (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the

434 department sets in accordance with Section 63J-1-504; and

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

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

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

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

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

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

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

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

455 (a) the applicant shall pay the department:

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

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

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

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

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

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

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

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

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

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

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

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

485 (i) a felony; or

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

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

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

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

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

496 (i) shall consult with the Department of Health regarding the applicant; and

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

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

501 (B) the licensing board finds multiple other factors, in addition to the existing license,
502 that support granting the new license.

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

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

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

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

510 (i) a felony; or

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

512 (d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
513 the time of application, or fails to supplement the information described in Subsection
514 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the

515 application within 14 calendar days after the licensee receives notice of the investigation or
516 adverse action; [~~or~~]

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

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

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

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

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

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

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

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

541 (b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a

542 license to an applicant is not subject to:

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

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

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

546 ~~[(a)]~~ (i) may not issue more than four licenses to operate an independent cannabis
547 testing laboratory;

548 ~~[(b)]~~ (ii) may operate or partner with a research university to operate an independent
549 cannabis testing laboratory;

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

553 ~~[(i)]~~ (A) the department issues at least two licenses to independent cannabis testing
554 laboratories; and

555 ~~[(ii)]~~ (B) the department has ensured that the licensed independent cannabis testing
556 laboratories have sufficient capacity to provide the testing necessary to support the state's
557 medical cannabis market; and

558 ~~[(d)]~~ (iv) after ceasing department or research university operations under Subsection
559 ~~[(14)(d)(ii)]~~ (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any
560 time if:

561 ~~[(i)]~~ (A) fewer than two licensed independent cannabis testing laboratories are
562 operating; or

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

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

568 (ii) A license that the department issues to an independent cannabis testing laboratory

569 is contingent upon substantial satisfaction of the performance standards described in
570 Subsection (14)(b)(i), as determined by the board.
571 (15) (a) A cannabis production establishment license is not transferrable or assignable.
572 (b) If the ownership of a cannabis production establishment changes by 50% or more:
573 (i) the cannabis production establishment shall submit a new application described in
574 Subsection (2)(b), subject to Subsection (2)(c);
575 (ii) within 30 days of the submission of the application, the board shall:
576 (A) conduct the application review described in Section 4-41a-201.1; and
577 (B) award a license to the cannabis production establishment for the remainder of the
578 term of the cannabis production establishment's license before the ownership change if the
579 cannabis production establishment meets the minimum standards for licensure and operation of
580 the cannabis production establishment described in this chapter; and
581 (iii) if the board approves the license application, notwithstanding Subsection (3), the
582 cannabis production establishment shall pay a license fee that the department sets in
583 accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the
584 application review.

585 Section 8. Section 4-41a-203 is amended to read:

586 **4-41a-203. Renewal.**

587 The department shall renew a license issued under Section 4-41a-201 every year if:

- 588 (1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;
589 (2) the board does not identify:

590 (a) a significant failure of compliance with this chapter or department rules in the
591 review described in Section 4-41a-201.1; or

592 (b) grounds for revocation described in Subsections 4-41a-201(9)(b) through ~~(f)~~ (g);

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

595 (4) if the cannabis production establishment changes the operating plan described in

596 Section 4-41a-204 that the department or licensing board approved under Subsection
597 4-41a-201(2)(b)(iii), the department approves the new operating plan.

598 Section 9. Section 4-41a-501 is amended to read:

599 **4-41a-501. Cannabis cultivation facility -- Operating requirements.**

600 (1) A cannabis cultivation facility shall ensure that any cannabis growing at the
601 cannabis cultivation facility is not visible from the ground level of the cannabis cultivation
602 facility perimeter.

603 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the
604 facility's inventory control system to identify:

605 (a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each
606 cannabis plant;

607 (b) each unique harvest of cannabis plants;

608 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a
609 cannabis processing facility, or an independent cannabis testing laboratory; and

610 (d) any excess, contaminated, or deteriorated cannabis of which the cannabis
611 cultivation facility disposes.

612 (3) A cannabis cultivation facility shall identify cannabis biomass as cannabis
613 byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

614 (4) A cannabis cultivation facility shall either:

615 (a) ensure that a cannabis processing facility chemically or physically processes
616 cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into
617 cannabis derivative products; or

618 (b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

619 (5) ~~[(a)-(i)]~~ A cannabis cultivation facility may not purchase or otherwise receive
620 industrial hemp waste ~~[unless the waste meets department cannabis testing standards, as~~
621 ~~determined by an independent cannabis testing laboratory, before the transfer of the waste to~~
622 ~~the cannabis cultivation facility], except under limited circumstances in which the department~~

623 determines there is a minimal risk of safety or security concern, as the department specifies in
624 rules that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative
625 Rulemaking Act.

626 [~~(ii) Upon receipt of the industrial hemp waste described in Subsection (5)(a)(i), the~~
627 ~~cannabis cultivation facility shall assign a unique identifier to the industrial hemp waste that is~~
628 ~~connected to the facility's inventory control system.]~~

629 [~~(iii) Industrial hemp waste described in this Subsection (5)(a) is considered to be~~
630 ~~cannabis for all testing and regulatory purposes of the department.]~~

631 [~~(b) Except as provided in Subsection (5)(a), a cannabis production establishment or~~
632 ~~agent may not receive industrial hemp waste for entry into the medical cannabis program.]~~

633 [~~(c) A cannabis cultivation facility may not produce more than 120 kilograms of~~
634 ~~cannabis concentrate from industrial hemp waste in a single license year.]~~

635 Section 10. Section **4-41a-502** is amended to read:

636 **4-41a-502. Cannabis -- Labeling and child-resistant packaging.**

637 (1) For any cannabis that a cannabis cultivation facility cultivates or otherwise
638 produces and subsequently ships to another cannabis production establishment, the facility
639 shall:

640 [~~(1)~~] (a) label the cannabis with a label that has a unique batch identification number
641 that is connected to the inventory control system; and

642 [~~(2)~~] (b) package the cannabis in a container that is:

643 [~~(a)~~] (i) tamper evident; and

644 [~~(b)~~] (ii) not appealing to children.

645 (2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
646 Administrative Rulemaking Act, to further define standards regarding containers that may
647 appeal to children under Subsection (1)(b)(ii).

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

649 **4-41a-602. Cannabis product -- Labeling and child-resistant packaging.**

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

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

653 (i) clearly and unambiguously states that the cannabis product or package contains
654 cannabis;

655 (ii) clearly displays the amount of total composite tetrahydrocannabinol [~~and~~],
656 cannabidiol, and any known cannabinoid described in Subsection 4-41a-701(4) in the labeled
657 container;

658 (iii) has a unique identification number that:

659 (A) is connected to the inventory control system; and

660 (B) identifies the unique cannabis product manufacturing process the cannabis
661 processing facility used to manufacture the cannabis product;

662 (iv) identifies the cannabinoid extraction process that the cannabis processing facility
663 used to create the cannabis product;

664 (v) does not display an image, word, or phrase that the facility knows or should know
665 appeals to children; and

666 (vi) discloses each active or potentially active ingredient, in order of prominence, and
667 possible allergen; and

668 (b) package the raw cannabis or cannabis product in a medicinal dosage form in a
669 container that:

670 (i) is tamper evident and tamper resistant;

671 (ii) does not appeal to children;

672 (iii) does not mimic a candy container;

673 (iv) complies with child-resistant effectiveness standards that the United States
674 Consumer Product Safety Commission establishes; and

675 (v) includes a warning label that states:

676 (A) for a container labeled before July 1, 2021, "WARNING: Cannabis has

677 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its
678 influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use
679 only as directed by a qualified medical provider."; or

680 (B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has
681 intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its
682 influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use
683 only as directed by a recommending medical provider."

684 (2) For any cannabis or cannabis product that the cannabis processing facility processes
685 into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular
686 cuboid shape, the facility shall:

687 (a) ensure that the label described in Subsection (1)(a) does not contain a photograph or
688 other image of the content of the container; and

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

691 (3) For any cannabis product that contains any derivative cannabinoid or synthetic
692 cannabinoid, the cannabis processing facility shall ensure that the label clearly:

693 (a) identifies each derivative cannabinoid or synthetic cannabinoid; and

694 (b) identifies that each derivative or synthetic cannabinoid is a derivative or synthetic
695 cannabinoid.

696 (4) ~~[The]~~ In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
697 Act, the department:

698 (a) shall make rules ~~[in accordance with Title 63G, Chapter 3, Utah Administrative~~
699 ~~Rulemaking Act]~~ to establish:

700 ~~[(a)]~~ (i) a standard labeling format that:

701 ~~[(i)]~~ (A) complies with the requirements of this section; and

702 ~~[(ii)]~~ (B) ensures inclusion of a pharmacy label; and

703 ~~[(b)]~~ (ii) additional requirements on packaging for cannabis and cannabis products to

704 ensure safety and product quality[-]; and

705 (b) may make rules to further define standards regarding images, words, phrases, or
706 containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

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

708 **4-41a-603. Cannabis product -- Product quality.**

709 (1) A cannabis processing facility:

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

711 (i) the facility knows or should know appeals to children;

712 (ii) is designed to mimic or could be mistaken for a candy product; or

713 (iii) for a cannabis product used in vaporization, includes a candy-like flavor or another
714 flavor that the facility knows or should know appeals to children; and

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

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

719 (3) A cannabis processing facility shall isolate derivative cannabinoids and synthetic
720 cannabinoids to a purity of greater than 95%, as determined by an independent cannabis testing
721 laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

722 (4) The department shall [~~adopt by rule~~] make rules, in accordance with Title 63G,
723 Chapter 3, Utah Administrative Rulemaking Act, to:

724 (a) adopt human safety standards for the manufacturing of cannabis products that are
725 consistent with best practices for the use of cannabis[-]; and

726 (b) further define standards regarding products that may appeal to children under
727 Subsection (1)(a).

728 (5) Nothing in this section prohibits a sugar coating on a gelatinous cube, gelatinous
729 rectangular cuboid, or lozenge to mask the product's taste, subject to the limitations on form
730 and appearance described in Subsections (1)(a) and (4)(b).

731 Section 13. Section **4-41a-701** is amended to read:

732 **4-41a-701. Cannabis and cannabis product testing.**

733 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
734 department may make rules to:

735 (a) determine required adulterant tests for a cannabis plant product, cannabis
736 concentrate, or cannabis product;

737 (b) determine the amount of any adulterant that is safe for human consumption;

738 (c) establish protocols for a recall of cannabis or a cannabis product by a cannabis
739 production establishment; or

740 (d) allow the propagation of testing results forward to derived product if the processing
741 steps the cannabis production establishment uses to produce the product are unlikely to change
742 the results of the test.

743 (2) The department may require testing for a toxin if:

744 (a) the department receives information indicating the potential presence of a toxin; or

745 (b) the department's inspector has reason to believe a toxin may be present based on the
746 inspection of a facility.

747 (3) (a) A cannabis production establishment may not:

748 (i) incorporate cannabis concentrate into a cannabis derivative product until an
749 independent cannabis testing laboratory tests the cannabis concentrate in accordance with
750 department rule; or

751 (ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an
752 independent cannabis testing laboratory tests a representative sample of the cannabis or
753 cannabis product in accordance with department rule.

754 (b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for
755 sale unless an independent cannabis testing laboratory has tested a representative sample of the
756 cannabis or cannabis product in accordance with department rule.

757 (4) Before the sale of a cannabis product, an independent cannabis testing laboratory

758 shall identify and quantify any cannabinoid known to be present in a cannabis product.

759 [~~(4)~~] (5) The department shall establish by rule, in accordance with Title 63G, Chapter
760 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for
761 the testing of cannabis and cannabis products by independent cannabis testing laboratories.

762 [~~(5)~~] (6) The department may require an independent cannabis testing laboratory to
763 participate in a proficiency evaluation that the department conducts or that an organization that
764 the department approves conducts.

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

766 **26-61a-102. Definitions.**

767 As used in this chapter:

768 (1) "Active tetrahydrocannabinol" means [~~Delta-8-THC, Delta-9-THC~~] THC, any THC
769 analog, and tetrahydrocannabinolic acid.

770 (2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in
771 Section 26-61-201.

772 (3) "Cannabis" means marijuana.

773 (4) "Cannabis cultivation facility" means the same as that term is defined in Section
774 4-41a-102.

775 (5) "Cannabis processing facility" means the same as that term is defined in Section
776 4-41a-102.

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

778 (a) is intended for human use; and

779 (b) contains cannabis or any tetrahydrocannabinol or THC analog in a total
780 concentration of 0.3% or greater on a dry weight basis.

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

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

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

787 (10) "Community location" means a public or private elementary or secondary school,
788 a church, a public library, a public playground, or a public park.

789 (11) "Conditional medical cannabis card" means an electronic medical cannabis card
790 that the department issues in accordance with Subsection [26-61a-201\(1\)\(b\)](#) to allow an
791 applicant for a medical cannabis card to access medical cannabis during the department's
792 review of the application.

793 (12) "Controlled substance database" means the controlled substance database created
794 in Section [58-37f-201](#).

795 [~~(13) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:~~]

796 [~~(a) is similar to Delta-9-THC with a lower psychotropic potency; and]~~

797 [~~(b) interacts with the CB1 receptor of the nervous system.]~~

798 [~~(14) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary~~
799 ~~psychotropic cannabinoid in cannabis.]~~

800 [~~(15)~~] (13) "Department" means the Department of Health.

801 [~~(16)~~] (14) "Designated caregiver" means:

802 (a) an individual:

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

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

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

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

809 [~~(17)~~] (15) "Directions of use" means recommended routes of administration for a
810 medical cannabis treatment and suggested usage guidelines.

811 [~~(18)~~] (16) "Dosing guidelines" means a quantity range and frequency of administration

812 for a recommended treatment of medical cannabis.

813 ~~[(19)]~~ (17) "Financial institution" means a bank, trust company, savings institution, or
814 credit union, chartered and supervised under state or federal law.

815 ~~[(20)]~~ (18) "Home delivery medical cannabis pharmacy" means a medical cannabis
816 pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical
817 cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders
818 that the state central patient portal facilitates.

819 ~~[(21)]~~ (19) "Inventory control system" means the system described in Section
820 4-41a-103.

821 ~~[(22)]~~ (20) "Legal dosage limit" means an amount that:

822 (a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the
823 relevant recommending medical provider or the state central patient portal or pharmacy
824 medical provider, in accordance with Subsection 26-61a-502(4) or (5), recommends; and

825 (b) may not exceed:

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

827 (ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total,
828 greater than 20 grams of active tetrahydrocannabinol.

829 ~~[(23)]~~ (21) "Legal use termination date" means a date on the label of a container of
830 unprocessed cannabis flower:

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

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

834 ~~[(24)]~~ (22) "Limited medical provider" means an individual who:

835 (a) meets the recommending qualifications; and

836 (b) has no more than 15 patients with a valid medical cannabis patient card or
837 provisional patient card as a result of the individual's recommendation, in accordance with
838 Subsection 26-61a-106(1)(b).

839 ~~[(25)]~~ (23) "Marijuana" means the same as that term is defined in Section [58-37-2](#).

840 ~~[(26)]~~ (24) "Medical cannabis" means cannabis in a medicinal dosage form or a
841 cannabis product in a medicinal dosage form.

842 ~~[(27)]~~ (25) "Medical cannabis card" means a medical cannabis patient card, a medical
843 cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis
844 card.

845 ~~[(28)]~~ (26) "Medical cannabis cardholder" means:

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

847 (b) a facility or assigned employee, described in Subsection ~~[(16)]~~(14)(b), only:

848 (i) within the scope of the facility's or assigned employee's performance of the role of a
849 medical cannabis patient cardholder's caregiver designation under Subsection
850 [26-61a-202](#)(1)(b); and

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

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

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

854 (C) the relation of the individual presenting the documentation to the caregiver
855 designation.

856 ~~[(29)]~~ (27) "Medical cannabis caregiver card" means an electronic document that a
857 cardholder may print or store on an electronic device or a physical card or document that:

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

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

861 ~~[(30)]~~ (28) "Medical cannabis courier" means a courier that:

862 (a) the department licenses in accordance with Section [26-61a-604](#); and

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

865 ~~[(31)]~~ (29) "Medical cannabis courier agent" means an individual who:

- 866 (a) is an employee of a medical cannabis courier; and
- 867 (b) who holds a valid medical cannabis courier agent registration card.
- 868 [~~(32)~~] (30) (a) "Medical cannabis device" means a device that an individual uses to
- 869 ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal
- 870 dosage form.
- 871 (b) "Medical cannabis device" does not include a device that:
- 872 (i) facilitates cannabis combustion; or
- 873 (ii) an individual uses to ingest substances other than cannabis.
- 874 [~~(33)~~] (31) "Medical cannabis guardian card" means an electronic document that a
- 875 cardholder may print or store on an electronic device or a physical card or document that:
- 876 (a) the department issues to the parent or legal guardian of a minor with a qualifying
- 877 condition; and
- 878 (b) is connected to the electronic verification system.
- 879 [~~(34)~~] (32) "Medical cannabis patient card" means an electronic document that a
- 880 cardholder may print or store on an electronic device or a physical card or document that:
- 881 (a) the department issues to an individual with a qualifying condition; and
- 882 (b) is connected to the electronic verification system.
- 883 [~~(35)~~] (33) "Medical cannabis pharmacy" means a person that:
- 884 (a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a
- 885 medicinal dosage form from a cannabis processing facility or another medical cannabis
- 886 pharmacy or a medical cannabis device; or
- 887 (ii) possesses medical cannabis or a medical cannabis device; and
- 888 (b) sells or intends to sell medical cannabis or a medical cannabis device to a medical
- 889 cannabis cardholder.
- 890 [~~(36)~~] (34) "Medical cannabis pharmacy agent" means an individual who:
- 891 (a) is an employee of a medical cannabis pharmacy; and
- 892 (b) who holds a valid medical cannabis pharmacy agent registration card.

893 [~~(37)~~] (35) "Medical cannabis pharmacy agent registration card" means a registration
894 card issued by the department that authorizes an individual to act as a medical cannabis
895 pharmacy agent.

896 [~~(38)~~] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a
897 medical cannabis product that a home delivery medical cannabis pharmacy or a medical
898 cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an
899 electronic medical cannabis order that the state central patient portal facilitates.

900 [~~(39)~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a
901 cannabis product in a medicinal dosage form, or a medical cannabis device.

902 [~~(40)~~] (38) (a) "Medicinal dosage form" means:

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

905 (A) a tablet;

906 (B) a capsule;

907 (C) a concentrated liquid or viscous oil;

908 (D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

909 (E) a topical preparation;

910 (F) a transdermal preparation;

911 (G) a sublingual preparation;

912 (H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or
913 rectangular cuboid shape; [or]

914 (I) a resin or wax; or

915 (J) an aerosol; or

916 (ii) for unprocessed cannabis flower, a container described in Section [4-41a-602](#) that:

917 (A) contains cannabis flowers in a quantity that varies by no more than 10% from the
918 stated weight at the time of packaging;

919 (B) at any time the medical cannabis cardholder transports or possesses the container in

920 public, is contained within an opaque bag or box that the medical cannabis pharmacy provides;
921 and

922 (C) is labeled with the container's content and weight, the date of purchase, the legal
923 use termination date, and after December 31, 2020, a barcode that provides information
924 connected to an inventory control system; and

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

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

927 (i) the medical cannabis cardholder has recently removed from the container described
928 in Subsection ~~[(40)]~~ (38)(a)(ii) for use; and

929 (ii) does not exceed the quantity described in Subsection ~~[(40)]~~ (38)(a)(ii).

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

931 (i) any unprocessed cannabis flower outside of the container described in Subsection
932 ~~[(40)]~~ (38)(a)(ii), except as provided in Subsection ~~[(40)]~~ (38)(b);

933 (ii) any unprocessed cannabis flower in a container described in Subsection ~~[(40)]~~
934 (38)(a)(ii) after the legal use termination date; ~~[or]~~

935 (iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis
936 on a nail or other metal object that is heated by a flame, including a blowtorch~~[-]; or~~

937 (iv) a liquid suspension that is branded as a beverage.

938 ~~[(41)]~~ (39) "Nonresident patient" means an individual who:

939 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

940 (b) has a currently valid medical cannabis card or the equivalent of a medical cannabis
941 card under the laws of another state, district, territory, commonwealth, or insular possession of
942 the United States; and

943 (c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

944 ~~[(42)]~~ (40) "Payment provider" means an entity that contracts with a cannabis
945 production establishment or medical cannabis pharmacy to facilitate transfers of funds between
946 the establishment or pharmacy and other businesses or individuals.

947 ~~[(43)]~~ (41) "Pharmacy medical provider" means the medical provider required to be on
948 site at a medical cannabis pharmacy under Section 26-61a-403.

949 ~~[(44)]~~ (42) "Provisional patient card" means a card that:

950 (a) the department issues to a minor with a qualifying condition for whom:

951 (i) a recommending medical provider has recommended a medical cannabis treatment;

952 and

953 (ii) the department issues a medical cannabis guardian card to the minor's parent or

954 legal guardian; and

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

956 ~~[(45)]~~ (43) "Qualified medical provider" means an individual:

957 (a) who meets the recommending qualifications; and

958 (b) whom the department registers to recommend treatment with cannabis in a

959 medicinal dosage form under Section 26-61a-106.

960 ~~[(46)]~~ (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in

961 Section 26-61a-109.

962 ~~[(47)]~~ (45) "Qualifying condition" means a condition described in Section 26-61a-104.

963 ~~[(48)]~~ (46) "Recommend" or "recommendation" means, for a recommending medical
964 provider, the act of suggesting the use of medical cannabis treatment, which:

965 (a) certifies the patient's eligibility for a medical cannabis card; and

966 (b) may include, at the recommending medical provider's discretion, directions of use,
967 with or without dosing guidelines.

968 ~~[(49)]~~ (47) "Recommending medical provider" means a qualified medical provider or a

969 limited medical provider.

970 ~~[(50)]~~ (48) "Recommending qualifications" means that an individual:

971 (a) (i) has the authority to write a prescription;

972 (ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah

973 Controlled Substances Act; and

974 (iii) possesses the authority, in accordance with the individual's scope of practice, to
975 prescribe a Schedule II controlled substance; and

976 (b) is licensed as:

977 (i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

978 (ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice
979 Act;

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

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

983 ~~[(51)]~~ (49) "State central patient portal" means the website the department creates, in
984 accordance with Section [26-61a-601](#), to facilitate patient safety, education, and an electronic
985 medical cannabis order.

986 ~~[(52)]~~ (50) "State central patient portal medical provider" means a physician or
987 pharmacist that the department employs in relation to the state central patient portal to consult
988 with medical cannabis cardholders in accordance with Section [26-61a-602](#).

989 ~~[(53)]~~ (51) "State electronic verification system" means the system described in Section
990 [26-61a-103](#).

991 ~~[(54)]~~ (52) "Tetrahydrocannabinol" or "THC" means a substance derived from
992 cannabis or a synthetic equivalent as described in Subsection [58-37-4\(2\)\(a\)\(iii\)\(AA\)](#).

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

994 ~~[(55)]~~ (54) "Valid form of photo identification" means any of the following forms of
995 identification that is either current or has expired within the previous six months:

996 (a) a valid state-issued driver license or identification card;

997 (b) a valid United States federal-issued photo identification, including:

998 (i) a United States passport;

999 (ii) a United States passport card;

1000 (iii) a United States military identification card; or

1001 (iv) a permanent resident card or alien registration receipt card; or

1002 (c) a passport that another country issued.

1003 Section 15. Section **26-61a-103** is amended to read:

1004 **26-61a-103. Electronic verification system.**

1005 (1) The Department of Agriculture and Food, the department, the Department of Public
1006 Safety, and the Division of Technology Services shall:

1007 (a) enter into a memorandum of understanding in order to determine the function and
1008 operation of the state electronic verification system in accordance with Subsection (2);

1009 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah
1010 Procurement Code, to develop a request for proposals for a third-party provider to develop and
1011 maintain the state electronic verification system in coordination with the Division of
1012 Technology Services; and

1013 (c) select a third-party provider who:

1014 (i) meets the requirements contained in the request for proposals issued under
1015 Subsection (1)(b); and

1016 (ii) may not have any commercial or ownership interest in a cannabis production
1017 establishment or a medical cannabis pharmacy.

1018 (2) The Department of Agriculture and Food, the department, the Department of Public
1019 Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020,
1020 the state electronic verification system described in Subsection (1):

1021 (a) allows an individual to apply for a medical cannabis patient card or, if applicable, a
1022 medical cannabis guardian card, provided that the card may not become active until:

1023 (i) the relevant qualified medical provider completes the associated medical cannabis
1024 recommendation; or

1025 (ii) for a medical cannabis card related to a limited medical provider's
1026 recommendation, the medical cannabis pharmacy completes the recording described in
1027 Subsection (2)(d);

- 1028 (b) allows an individual to apply to renew a medical cannabis patient card or a medical
1029 cannabis guardian card in accordance with Section 26-61a-201;
- 1030 (c) allows a qualified medical provider, or an employee described in Subsection (3)
1031 acting on behalf of the qualified medical provider, to:
- 1032 (i) access dispensing and card status information regarding a patient:
- 1033 (A) with whom the qualified medical provider has a provider-patient relationship; and
1034 (B) for whom the qualified medical provider has recommended or is considering
1035 recommending a medical cannabis card;
- 1036 (ii) electronically recommend, after an initial face-to-face visit with a patient described
1037 in Subsection 26-61a-201(4)(b)(a)(iii), treatment with cannabis in a medicinal dosage form or
1038 a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;
1039 and
- 1040 (iii) electronically renew a recommendation to a medical cannabis patient cardholder or
1041 medical cannabis guardian cardholder:
- 1042 (A) using telehealth services, for the qualified medical provider who originally
1043 recommended a medical cannabis treatment during a face-to-face visit with the patient; or
1044 (B) during a face-to-face visit with the patient, for a qualified medical provider who
1045 did not originally recommend the medical cannabis treatment during a face-to-face visit~~[- and].~~
- 1046 ~~[(iv) notate a determination of physical difficulty or undue hardship, described in~~
1047 ~~Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;]~~
- 1048 (d) beginning on the earlier of September 1, 2021, or the date on which the electronic
1049 verification system is functionally capable of facility medical cannabis pharmacy recording,
1050 allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in
1051 accordance with Subsection 26-61a-501~~[(H)]~~(10)(a), to [record]:
- 1052 (i) access the electronic verification system to review the history within the system of a
1053 patient with whom the provider or agent is interacting, limited to read-only access for medical
1054 cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge

1055 authorizes add and edit access;

1056 ~~[(†)]~~ (ii) record a patient's recommendation from a limited medical provider, including
1057 any directions of use, dosing guidelines, or caregiver indications from the limited medical
1058 provider; and

1059 ~~[(†)]~~ (iii) record a limited medical provider's renewal of the provider's previous
1060 recommendation;

1061 (e) connects with:

1062 (i) an inventory control system that a medical cannabis pharmacy uses to track in real
1063 time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a
1064 medicinal dosage form, or a medical cannabis device, including:

1065 (A) the time and date of each purchase;

1066 (B) the quantity and type of cannabis, cannabis product, or medical cannabis device
1067 purchased;

1068 (C) any cannabis production establishment, any medical cannabis pharmacy, or any
1069 medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis
1070 device; and

1071 (D) the personally identifiable information of the medical cannabis cardholder who
1072 made the purchase; and

1073 (ii) any commercially available inventory control system that a cannabis production
1074 establishment utilizes in accordance with Section [4-41a-103](#) to use data that the Department of
1075 Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah
1076 Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to
1077 track and confirm compliance;

1078 (f) provides access to:

1079 (i) the department to the extent necessary to carry out the department's functions and
1080 responsibilities under this chapter;

1081 (ii) the Department of Agriculture and Food to the extent necessary to carry out the

1082 functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter
1083 41a, Cannabis Production Establishments; and

1084 (iii) the Division of Occupational and Professional Licensing to the extent necessary to
1085 carry out the functions and responsibilities related to the participation of the following in the
1086 recommendation and dispensing of medical cannabis:

1087 (A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1088 (B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

1089 (C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1090 Practice Act;

1091 (D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1092 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1093 (E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant
1094 Act;

1095 (g) provides access to and interaction with the state central patient portal;

1096 (h) communicates dispensing information from a record that a medical cannabis
1097 pharmacy submits to the state electronic verification system under Subsection

1098 [26-61a-502\(6\)\(a\)\(ii\)](#) to the controlled substance database;

1099 (i) provides access to state or local law enforcement:

1100 (i) during a law enforcement encounter, without a warrant, using the individual's driver
1101 license or state ID, only for the purpose of determining if the individual subject to the law
1102 enforcement encounter has a valid medical cannabis card; or

1103 (ii) after obtaining a warrant; and

1104 (j) creates a record each time a person accesses the system that identifies the person
1105 who accesses the system and the individual whose records the person accesses.

1106 (3) (a) Beginning on the earlier of September 1, 2021, or the date on which the
1107 electronic verification system is functionally capable of allowing employee access under this
1108 Subsection (3), an employee of a qualified medical provider may access the electronic

1109 verification system for a purpose described in Subsection (2)(c) on behalf of the qualified
1110 medical provider if:

1111 (i) the qualified medical provider has designated the employee as an individual
1112 authorized to access the electronic verification system on behalf of the qualified medical
1113 provider;

1114 (ii) the qualified medical provider provides written notice to the department of the
1115 employee's identity and the designation described in Subsection (3)(a)(i); and

1116 (iii) the department grants to the employee access to the electronic verification system.

1117 (b) An employee of a business that employs a qualified medical provider may access
1118 the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the
1119 qualified medical provider if:

1120 (i) the qualified medical provider has designated the employee as an individual
1121 authorized to access the electronic verification system on behalf of the qualified medical
1122 provider;

1123 (ii) the qualified medical provider and the employing business jointly provide written
1124 notice to the department of the employee's identity and the designation described in Subsection
1125 (3)(b)(i); and

1126 (iii) the department grants to the employee access to the electronic verification system.

1127 (4) (a) As used in this Subsection (4), "prescribing provider" means:

1128 (i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

1129 (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse
1130 Practice Act;

1131 (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or
1132 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

1133 (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician
1134 Assistant Act.

1135 (b) Beginning on the earlier of September 1, 2021, or the date on which the electronic

1136 verification system is functionally capable of allowing provider access under this Subsection
1137 (4), a prescribing provider may access information in the electronic verification system
1138 regarding a patient the prescribing provider treats.

1139 (5) The department may release limited data that the system collects for the purpose of:

1140 (a) conducting medical and other department approved research;

1141 (b) providing the report required by Section 26-61a-703; and

1142 (c) other official department purposes.

1143 (6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
1144 Administrative Rulemaking Act, to establish:

1145 (a) the limitations on access to the data in the state electronic verification system as
1146 described in this section; and

1147 (b) standards and procedures to ensure accurate identification of an individual
1148 requesting information or receiving information in this section.

1149 (7) (a) Any person who knowingly and intentionally releases any information in the
1150 state electronic verification system in violation of this section is guilty of a third degree felony.

1151 (b) Any person who negligently or recklessly releases any information in the state
1152 electronic verification system in violation of this section is guilty of a class C misdemeanor.

1153 (8) (a) Any person who obtains or attempts to obtain information from the state
1154 electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

1155 (b) Any person who obtains or attempts to obtain information from the state electronic
1156 verification system for a purpose other than a purpose this chapter authorizes is guilty of a third
1157 degree felony.

1158 (9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and
1159 intentionally use, release, publish, or otherwise make available to any other person information
1160 obtained from the state electronic verification system for any purpose other than a purpose
1161 specified in this section.

1162 (b) Each separate violation of this Subsection (9) is:

- 1163 (i) a third degree felony; and
1164 (ii) subject to a civil penalty not to exceed \$5,000.
- 1165 (c) The department shall determine a civil violation of this Subsection (9) in
1166 accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- 1167 (d) Civil penalties assessed under this Subsection (9) shall be deposited into the
1168 General Fund.
- 1169 (e) This Subsection (9) does not prohibit a person who obtains information from the
1170 state electronic verification system under Subsection (2)(a), (c), or (f) from:
- 1171 (i) including the information in the person's medical chart or file for access by a person
1172 authorized to review the medical chart or file;
- 1173 (ii) providing the information to a person in accordance with the requirements of the
1174 Health Insurance Portability and Accountability Act of 1996; or
- 1175 (iii) discussing or sharing that information about the patient with the patient.
- 1176 Section 16. Section **26-61a-111** is amended to read:
- 1177 **26-61a-111. Nondiscrimination for medical care or government employment --**
1178 **Notice to prospective and current public employees -- No effect on private employers.**
- 1179 (1) For purposes of medical care, including an organ or tissue transplant, a patient's
1180 use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis
1181 product in a medicinal dosage form:
- 1182 (a) is considered the equivalent of the authorized use of any other medication used at
1183 the discretion of a physician; and
- 1184 (b) does not constitute the use of an illicit substance or otherwise disqualify an
1185 individual from needed medical care.
- 1186 (2) (a) Notwithstanding any other provision of law and except as provided in
1187 Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical
1188 cannabis in accordance with this chapter or Section [58-37-3.7](#) in the same way the state or
1189 political subdivision treats employee use of any prescribed controlled substance.

1190 (b) A state or political subdivision employee who has a valid medical cannabis card is
1191 not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test
1192 due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or
1193 otherwise adversely affected in the employee's job performance due to the use of medical
1194 cannabis.

1195 (c) Subsections (2)(a) and (b) do not apply:

1196 (i) where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a
1197 federal security clearance, or any other federal background determination required for the
1198 employee's position~~[-or]~~;

1199 (ii) if the employee's position is dependent on a license or peace officer certification
1200 that is subject to federal regulations~~[-]~~, including 18 U.S.C. Sec. 922(g)(3); or

1201 (iii) if an employee described in Subsections 34A-2-102(1)(h)(ii) through (vi) uses
1202 medical cannabis during the 12 hours immediately preceding the employee's shift or during the
1203 employee's shift.

1204 (3) (a) (i) A state employer or a political subdivision employer shall take the action
1205 described in Subsection (3)(a)(ii) before:

1206 (A) giving to a current employee an assignment or duty that arises from or directly
1207 relates to an obligation under this chapter; or

1208 (B) hiring a prospective employee whose assignments or duties would include an
1209 assignment or duty that arises from or directly relates to an obligation under this chapter.

1210 (ii) The employer described in Subsection (3)(a)(i) shall give the employee or
1211 prospective employee described in Subsection (3)(a)(i) a written notice that notifies the
1212 employee or prospective employee:

1213 (A) that the employee's or prospective employee's job duties may require the employee
1214 or prospective employee to engage in conduct which is in violation of the criminal laws of the
1215 United States; and

1216 (B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i),

1217 although the employee or prospective employee is entitled to the protections of Title 67,
1218 Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to
1219 carry out an assignment or duty that may be a violation of the criminal laws of the United
1220 States with respect to the manufacture, sale, or distribution of cannabis.

1221 (b) The Division of Human Resource Management shall create, revise, and publish the
1222 form of the notice described in Subsection (3)(a).

1223 (c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice
1224 described in Subsection (3)(a) may not:

1225 (i) claim in good faith that the employee's actions violate or potentially violate the laws
1226 of the United States with respect to the manufacture, sale, or distribution of cannabis; or

1227 (ii) refuse to carry out a directive that the employee reasonably believes violates the
1228 criminal laws of the United States with respect to the manufacture, sale, or distribution of
1229 cannabis.

1230 (d) An employer may not take retaliatory action as defined in Section 67-19a-101
1231 against a current employee who refuses to sign the notice described in Subsection (3)(a).

1232 (4) Nothing in this section requires a private employer to accommodate the use of
1233 medical cannabis or affects the ability of a private employer to have policies restricting the use
1234 of medical cannabis by applicants or employees.

1235 Section 17. Section 26-61a-201 is amended to read:

1236 **26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card --**
1237 **Conditional medical cannabis card -- Application -- Fees -- Studies.**

1238 (1) (a) The department shall, within 15 days after the day on which an individual who
1239 satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in
1240 accordance with this section or Section 26-61a-202:

1241 (i) issue a medical cannabis patient card to an individual described in Subsection
1242 (2)(a);

1243 (ii) issue a medical cannabis guardian card to an individual described in Subsection

1244 (2)(b);

1245 (iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

1246 (iv) issue a medical cannabis caregiver card to an individual described in Subsection

1247 [26-61a-202](#)(4).

1248 (b) (i) Beginning on the earlier of September 1, 2021, or the date on which the

1249 electronic verification system is functionally capable of facilitating a conditional medical

1250 cannabis card under this Subsection (1)(b), upon the entry of a recommending medical

1251 provider's medical cannabis recommendation for a patient in the state electronic verification

1252 system, either by the provider or the provider's employee or by a medical cannabis pharmacy

1253 medical provider or medical cannabis pharmacy in accordance with Subsection

1254 [26-61a-501](#)~~(H)~~(10)(a), the department shall issue to the patient an electronic conditional

1255 medical cannabis card, in accordance with this Subsection (1)(b).

1256 (ii) A conditional medical cannabis card is valid for the lesser of:

1257 (A) 60 days; or

1258 (B) the day on which the department completes the department's review and issues a

1259 medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card

1260 application, or revokes the conditional medical cannabis card under Subsection (8).

1261 (iii) The department may issue a conditional medical cannabis card to an individual

1262 applying for a medical cannabis patient card for which approval of the Compassionate Use

1263 Board is not required.

1264 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and

1265 obligations under law applicable to a holder of the medical cannabis card for which the

1266 individual applies and for which the department issues the conditional medical cannabis card.

1267 (2) (a) An individual is eligible for a medical cannabis patient card if:

1268 (i) (A) the individual is at least 21 years old; or

1269 (B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate

1270 Use Board under Section [26-61a-105](#), and the Compassionate Use Board recommends

1271 department approval of the petition;

1272 (ii) the individual is a Utah resident;

1273 (iii) the individual's recommending medical provider recommends treatment with

1274 medical cannabis in accordance with Subsection (4);

1275 (iv) the individual signs an acknowledgment stating that the individual received the

1276 information described in Subsection ~~[(8)](9)~~; and

1277 (v) the individual pays to the department a fee in an amount that, subject to Subsection

1278 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

1279 (b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

1280 (A) is at least 18 years old;

1281 (B) is a Utah resident;

1282 (C) is the parent or legal guardian of a minor for whom the minor's qualified medical

1283 provider recommends a medical cannabis treatment, the individual petitions the Compassionate

1284 Use Board under Section [26-61a-105](#), and the Compassionate Use Board recommends

1285 department approval of the petition;

1286 (D) the individual signs an acknowledgment stating that the individual received the

1287 information described in Subsection (9);

1288 (E) pays to the department a fee in an amount that, subject to Subsection

1289 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#), plus the cost of the

1290 criminal background check described in Section [26-61a-203](#); and

1291 (F) the individual has not been convicted of a misdemeanor or felony drug distribution

1292 offense under either state or federal law, unless the individual completed any imposed sentence

1293 six months or more before the day on which the individual applies for a medical cannabis

1294 guardian card.

1295 (ii) The department shall notify the Department of Public Safety of each individual that

1296 the department registers for a medical cannabis guardian card.

1297 (c) (i) A minor is eligible for a provisional patient card if:

- 1298 (A) the minor has a qualifying condition;
- 1299 (B) the minor's qualified medical provider recommends a medical cannabis treatment
1300 to address the minor's qualifying condition;
- 1301 (C) one of the minor's parents or legal guardians petitions the Compassionate Use
1302 Board under Section 26-61a-105, and the Compassionate Use Board recommends department
1303 approval of the petition; and
- 1304 (D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card
1305 under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a
1306 medical cannabis caregiver card under Section 26-61a-202.
- 1307 (ii) The department shall automatically issue a provisional patient card to the minor
1308 described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis
1309 guardian card to the minor's parent or legal guardian.
- 1310 (d) Beginning on the earlier of September 1, 2021, or the date on which the electronic
1311 verification system is functionally capable of servicing the designation, if the parent or legal
1312 guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a
1313 medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may
1314 designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that
1315 the minor has adequate and safe access to the recommended medical cannabis treatment.
- 1316 (3) (a) An individual who is eligible for a medical cannabis card described in
1317 Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the
1318 department:
- 1319 (i) through an electronic application connected to the state electronic verification
1320 system;
- 1321 (ii) with the recommending medical provider; and
- 1322 (iii) with information including:
- 1323 (A) the applicant's name, gender, age, and address;
- 1324 (B) the number of the applicant's valid form of photo identification;

1325 (C) for a medical cannabis guardian card, the name, gender, and age of the minor
1326 receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card;
1327 and

1328 (D) for a provisional patient card, the name of the minor's parent or legal guardian who
1329 holds the associated medical cannabis guardian card.

1330 (b) The department shall ensure that a medical cannabis card the department issues
1331 under this section contains the information described in Subsection (3)(a)(iii).

1332 (c) (i) If a recommending medical provider determines that, because of age, illness, or
1333 disability, a medical cannabis patient cardholder requires assistance in administering the
1334 medical cannabis treatment that the recommending medical provider recommends, the
1335 recommending medical provider may indicate the cardholder's need in the state electronic
1336 verification system, either directly or, for a limited medical provider, through the order
1337 described in Subsections 26-61a-106(1)(c) and (d).

1338 (ii) If a recommending medical provider makes the indication described in Subsection
1339 (3)(c)(i):

1340 (A) the department shall add a label to the relevant medical cannabis patient card
1341 indicating the cardholder's need for assistance;

1342 (B) any adult who is 18 years old or older and who is physically present with the
1343 cardholder at the time the cardholder needs to use the recommended medical cannabis
1344 treatment may handle the medical cannabis treatment and any associated medical cannabis
1345 device as needed to assist the cardholder in administering the recommended medical cannabis
1346 treatment; and

1347 (C) an individual of any age who is physically present with the cardholder in the event
1348 of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle
1349 the medical cannabis treatment and any associated medical cannabis device as needed to assist
1350 the cardholder in administering the recommended medical cannabis treatment.

1351 (iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

- 1352 (A) ingest or inhale medical cannabis;
- 1353 (B) possess, transport, or handle medical cannabis or a medical cannabis device outside
1354 of the immediate area where the cardholder is present or with an intent other than to provide
1355 assistance to the cardholder; or
- 1356 (C) possess, transport, or handle medical cannabis or a medical cannabis device when
1357 the cardholder is not in the process of being dosed with medical cannabis.
- 1358 (4) To recommend a medical cannabis treatment to a patient or to renew a
1359 recommendation, a recommending medical provider shall:
- 1360 (a) before recommending or renewing a recommendation for medical cannabis in a
1361 medicinal dosage form or a cannabis product in a medicinal dosage form:
- 1362 (i) verify the patient's and, for a minor patient, the minor patient's parent or legal
1363 guardian's valid form of identification described in Subsection (3)(a);
- 1364 (ii) review any record related to the patient and, for a minor patient, the patient's parent
1365 or legal guardian in:
- 1366 (A) for a qualified medical provider, the state electronic verification system; and
1367 (B) the controlled substance database created in Section [58-37f-201](#); and
- 1368 (iii) consider the recommendation in light of the patient's qualifying condition and
1369 history of medical cannabis and controlled substance use during an initial face-to-face visit
1370 with the patient; and
- 1371 (b) state in the recommending medical provider's recommendation that the patient:
- 1372 (i) suffers from a qualifying condition, including the type of qualifying condition; and
1373 (ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis
1374 product in a medicinal dosage form.
- 1375 (5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the
1376 department issues under this section is valid for the lesser of:
- 1377 (i) an amount of time that the recommending medical provider determines; or
1378 (ii) (A) six months for the first issuance, and, except as provided in Subsection

1379 (5)(a)(ii)(B), for a renewal; or

1380 (B) for a renewal, one year if, after at least one year following the issuance of the
1381 original medical cannabis card, the recommending medical provider determines that the patient
1382 has been stabilized on the medical cannabis treatment and a one-year renewal period is
1383 justified.

1384 (b) (i) A medical cannabis card that the department issues in relation to a terminal
1385 illness described in Section 26-61a-104 [~~does not expire~~] expires after one year.

1386 (ii) The recommending medical provider may revoke a recommendation that the
1387 provider made in relation to a terminal illness described in Section 26-61a-104 if the medical
1388 cannabis cardholder no longer has the terminal illness.

1389 (6) (a) A medical cannabis patient card or a medical cannabis guardian card is
1390 renewable if:

1391 (i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or
1392 (b); or

1393 (ii) the cardholder received the medical cannabis card through the recommendation of
1394 the Compassionate Use Board under Section 26-61a-105.

1395 (b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

1396 (i) using the application process described in Subsection (3); or

1397 (ii) through phone or video conference with the recommending medical provider who
1398 made the recommendation underlying the card, at the qualifying medical provider's discretion.

1399 (c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall
1400 pay to the department a renewal fee in an amount that:

1401 (i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section
1402 63J-1-504; and

1403 (ii) may not exceed the cost of the relatively lower administrative burden of renewal in
1404 comparison to the original application process.

1405 (d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional

1406 patient card renews automatically at the time the minor's parent or legal guardian renews the
1407 parent or legal guardian's associated medical cannabis guardian card.

1408 (7) (a) A cardholder under this section shall carry the cardholder's valid medical
1409 cannabis card with the patient's name.

1410 (b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may
1411 purchase, in accordance with this chapter and the recommendation underlying the card,
1412 cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a
1413 medical cannabis device.

1414 (ii) A cardholder under this section may possess or transport, in accordance with this
1415 chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a
1416 cannabis product in a medicinal dosage form, or a medical cannabis device.

1417 (iii) To address the qualifying condition underlying the medical cannabis treatment
1418 recommendation:

1419 (A) a medical cannabis patient cardholder or a provisional patient cardholder may use
1420 cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form,
1421 or a medical cannabis device; and

1422 (B) a medical cannabis guardian cardholder may assist the associated provisional
1423 patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis
1424 product in a medicinal dosage form, or a medical cannabis device.

1425 ~~[(c) If a licensed medical cannabis pharmacy is not operating within the state after~~
1426 ~~January 1, 2021, a cardholder under this section:]~~

1427 ~~[(i) may possess:]~~

1428 ~~[(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;]~~

1429 ~~[(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form;~~

1430 ~~and]~~

1431 ~~[(C) marijuana drug paraphernalia; and]~~

1432 ~~[(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).]~~

1433 (8) The department may revoke a medical cannabis card that the department issues
1434 under this section if the cardholder:

1435 (a) violates this chapter; or

1436 (b) is convicted under state or federal law of:

1437 (i) a felony; or

1438 (ii) after March 17, 2021, a misdemeanor for drug distribution.

1439 (9) The department shall establish by rule, in accordance with Title 63G, Chapter 3,
1440 Utah Administrative Rulemaking Act, a process to provide information regarding the following
1441 to an individual receiving a medical cannabis card:

1442 (a) risks associated with medical cannabis treatment;

1443 (b) the fact that a condition's listing as a qualifying condition does not suggest that
1444 medical cannabis treatment is an effective treatment or cure for that condition, as described in
1445 Subsection [26-61a-104\(1\)](#); and

1446 (c) other relevant warnings and safety information that the department determines.

1447 (10) The department may establish procedures by rule, in accordance with Title 63G,
1448 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance
1449 provisions of this section.

1450 (11) (a) On or before September 1, 2021, the department shall establish by rule, in
1451 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow
1452 an individual from another state to register with the department in order to purchase medical
1453 cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual
1454 is visiting the state.

1455 (b) The department may only provide the registration process described in Subsection
1456 (11)(a):

1457 (i) to a nonresident patient; and

1458 (ii) for no more than two visitation periods per calendar year of up to 21 calendar days
1459 per visitation period.

1460 (12) (a) A person may submit to the department a request to conduct a research study
1461 using medical cannabis cardholder data that the state electronic verification system contains.

1462 (b) The department shall review a request described in Subsection (12)(a) to determine
1463 whether an institutional review board, as that term is defined in Section 26-61-102, could
1464 approve the research study.

1465 (c) At the time an individual applies for a medical cannabis card, the department shall
1466 notify the individual:

1467 (i) of how the individual's information will be used as a cardholder;

1468 (ii) that by applying for a medical cannabis card, unless the individual withdraws
1469 consent under Subsection (12)(d), the individual consents to the use of the individual's
1470 information for external research; and

1471 (iii) that the individual may withdraw consent for the use of the individual's
1472 information for external research at any time, including at the time of application.

1473 (d) An applicant may, through the medical cannabis card application, and a medical
1474 cannabis cardholder may, through the state central patient portal, withdraw the applicant's or
1475 cardholder's consent to participate in external research at any time.

1476 (e) The department may release, for the purposes of a study described in this
1477 Subsection (12), information about a cardholder under this section who consents to participate
1478 under Subsection (12)(c).

1479 (f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of
1480 consent:

1481 (i) applies to external research that is initiated after the withdrawal of consent; and

1482 (ii) does not apply to research that was initiated before the withdrawal of consent.

1483 (g) The department may establish standards for a medical research study's validity, by
1484 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1485 (13) The department shall record the issuance or revocation of a medical cannabis card
1486 under this section in the controlled substance database.

1487 Section 18. Section **26-61a-202** is amended to read:

1488 **26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal --**
1489 **Revocation.**

1490 (1) (a) [(†)] A cardholder described in Section **26-61a-201** may designate, through the
1491 state central patient portal, up to two individuals, or an individual and a facility in accordance
1492 with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

1493 [~~(ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic~~
1494 ~~verification system reflects a recommending medical provider's indication that the provider~~
1495 ~~determines that, due to physical difficulty or undue hardship, including concerns of distance to~~
1496 ~~a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis~~
1497 ~~treatment that the recommending medical provider recommends.]~~

1498 (b) (i) Beginning on the earlier of September 1, 2021, or the date on which the
1499 electronic verification system is functionally capable of servicing the designation, a cardholder
1500 described in Section **26-61a-201** who is a patient in one of the following types of facilities may
1501 designate the facility as one of the caregivers described in Subsection (1)(a):

1502 (A) an assisted living facility, as that term is defined in Section **26-21-2**;

1503 (B) a nursing care facility, as that term is defined in Section **26-21-2**; or

1504 (C) a general acute hospital, as that term is defined in Section **26-21-2**.

1505 (ii) A facility may assign one or more employees to assist patients with medical
1506 cannabis treatment under the caregiver designation described in this Subsection (1)(b).

1507 (iii) The department shall make rules to regulate the practice of facilities and facility
1508 employees serving as designated caregivers under this Subsection (1)(b).

1509 (c) A parent or legal guardian described in Subsection **26-61a-201**(2)(d), in
1510 consultation with the minor and the minor's qualified medical provider, may designate, through
1511 the state central patient portal, up to two individuals to serve as a designated caregiver for the
1512 minor, if the department determines that the parent or legal guardian is not eligible for a
1513 medical cannabis guardian card under Section **26-61a-201**.

1514 (d) (i) Beginning on the earlier of September 1, 2022, or the date on which the
1515 electronic verification system is functionally capable of facilitating a conditional medical
1516 cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation
1517 under Subsection (1) by a patient with a terminal illness described in Section 26-61a-104, the
1518 department shall issue to the designated caregiver an electronic conditional medical cannabis
1519 caregiver card, in accordance with this Subsection (1)(d).

1520 (ii) A conditional medical cannabis caregiver card is valid for the lesser of:

1521 (A) 60 days; or

1522 (B) the day on which the department completes the department's review and issues a
1523 medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis
1524 caregiver card application, or revokes the conditional medical cannabis caregiver card under
1525 Subsection (8).

1526 (iii) The department may issue a conditional medical cannabis card to an individual
1527 applying for a medical cannabis patient card for which approval of the Compassionate Use
1528 Board is not required.

1529 (iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and
1530 obligations under law applicable to a holder of the medical cannabis card for which the
1531 individual applies and for which the department issues the conditional medical cannabis card.

1532 (2) An individual that the department registers as a designated caregiver under this
1533 section and a facility described in Subsection (1)(b):

1534 (a) for an individual designated caregiver, may carry a valid medical cannabis caregiver
1535 card;

1536 (b) in accordance with this chapter, may purchase, possess, transport, or assist the
1537 patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal
1538 dosage form, or a medical cannabis device on behalf of the designating medical cannabis
1539 cardholder;

1540 (c) may not charge a fee to an individual to act as the individual's designated caregiver

1541 or for a service that the designated caregiver provides in relation to the role as a designated
1542 caregiver; and

1543 (d) may accept reimbursement from the designating medical cannabis cardholder for
1544 direct costs the designated caregiver incurs for assisting with the designating cardholder's
1545 medicinal use of cannabis[; ~~and~~].

1546 [~~(e) if a licensed medical cannabis pharmacy is not operating within the state after~~
1547 ~~January 1, 2021:~~]

1548 [~~(i) may possess up to the legal dosage limit of:~~]

1549 [~~(A) unprocessed medical cannabis in a medicinal dosage form; and~~]

1550 [~~(B) a cannabis product in a medicinal dosage form;~~]

1551 [~~(ii) may possess marijuana drug paraphernalia; and~~]

1552 [~~(iii) is not subject to prosecution for the possession described in Subsection (2)(c)(i).]~~

1553 (3) (a) The department shall:

1554 (i) within 15 days after the day on which an individual submits an application in
1555 compliance with this section, issue a medical cannabis card to the applicant if the applicant:

1556 (A) is designated as a caregiver under Subsection (1);

1557 (B) is eligible for a medical cannabis caregiver card under Subsection (4); and

1558 (C) complies with this section; and

1559 (ii) notify the Department of Public Safety of each individual that the department
1560 registers as a designated caregiver.

1561 (b) The department shall ensure that a medical cannabis caregiver card contains the
1562 information described in [~~Subsection~~] Subsections (5)(b) and (3)(c)(i).

1563 (c) If a cardholder described in Section 26-61a-201 designates an individual as a
1564 caregiver who already holds a medical cannabis caregiver card, the individual with the medical
1565 cannabis caregiver card:

1566 (i) shall report to the department the information required of applicants under
1567 Subsection (5)(b) regarding the new designation;

1568 (ii) if the individual makes the report described in Subsection (3)(c)(i), is not required
1569 to file an application for another medical cannabis caregiver card;

1570 (iii) may receive an additional medical cannabis caregiver card in relation to each
1571 additional medical cannabis patient who designates the caregiver; and

1572 (iv) is not subject to an additional background check.

1573 (4) An individual is eligible for a medical cannabis caregiver card if the individual:

1574 (a) is at least 21 years old;

1575 (b) is a Utah resident;

1576 (c) pays to the department a fee in an amount that, subject to Subsection

1577 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the
1578 criminal background check described in Section 26-61a-203;

1579 (d) signs an acknowledgment stating that the applicant received the information
1580 described in Subsection 26-61a-201(9); and

1581 (e) has not been convicted of a misdemeanor or felony drug distribution offense that is
1582 a felony under either state or federal law, unless the individual completes any imposed sentence
1583 two or more years before the day on which the individual submits the application.

1584 (5) An eligible applicant for a medical cannabis caregiver card shall:

1585 (a) submit an application for a medical cannabis caregiver card to the department
1586 through an electronic application connected to the state electronic verification system; and

1587 (b) submit the following information in the application described in Subsection (5)(a):

1588 (i) the applicant's name, gender, age, and address;

1589 (ii) the name, gender, age, and address of the cardholder described in Section

1590 26-61a-201 who designated the applicant; ~~and~~

1591 (iii) if a medical cannabis guardian cardholder designated the caregiver, the name,
1592 gender, and age of the minor receiving a medical cannabis treatment in relation to the medical
1593 cannabis guardian cardholder[-]; and

1594 (iv) any additional information that the department requests to assist in matching the

1595 application with the designating medical cannabis patient.

1596 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the
1597 department issues under this section is valid for the lesser of:

1598 (a) an amount of time that the cardholder described in Section 26-61a-201 who
1599 designated the caregiver determines; or

1600 (b) the amount of time remaining before the card of the cardholder described in Section
1601 26-61a-201 expires.

1602 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the
1603 designated caregiver's medical cannabis caregiver card renews automatically at the time the
1604 cardholder described in Section 26-61a-201 who designated the caregiver:

1605 (i) renews the cardholder's card; and

1606 (ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

1607 (b) The department shall provide a method in the card renewal process to allow a
1608 cardholder described in Section 26-61a-201 who has designated a caregiver to:

1609 (i) signify that the cardholder renews the caregiver's designation;

1610 (ii) remove a caregiver's designation; or

1611 (iii) designate a new caregiver.

1612 (8) The department may revoke a medical cannabis caregiver card if the designated
1613 caregiver:

1614 (a) violates this chapter; or

1615 (b) is convicted under state or federal law of:

1616 (i) a felony drug distribution offense; or

1617 (ii) after December 3, 2018, a misdemeanor drug distribution offense.

1618 (9) The department shall record the issuance or revocation of a medical cannabis card
1619 under this section in the controlled substance database.

1620 Section 19. Section 26-61a-204 is amended to read:

1621 **26-61a-204. Medical cannabis card -- Patient and designated caregiver**

1622 **requirements -- Rebuttable presumption.**

1623 (1) (a) A medical cannabis cardholder who possesses medical cannabis that the
1624 cardholder purchased under this chapter:

1625 (i) shall carry:

1626 (A) at all times the cardholder's medical cannabis card; and

1627 (B) [~~after the earlier of January 1, 2021, or the day on which the individual purchases~~
1628 ~~any medical cannabis from a medical cannabis pharmacy;~~] with the medical cannabis, a label
1629 that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy
1630 and includes an identification number that links the medical cannabis to the inventory control
1631 system; and

1632 (ii) may possess up to the legal dosage limit of:

1633 (A) unprocessed cannabis in medicinal dosage form; and

1634 (B) a cannabis product in medicinal dosage form;

1635 (iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);

1636 (iv) may only possess the medical cannabis in the container in which the cardholder
1637 received the medical cannabis from the medical cannabis pharmacy; and

1638 (v) may not alter or remove any label described in Section [4-41a-602](#) from the
1639 container described in Subsection (1)(a)(iv).

1640 (b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who
1641 possesses medical cannabis in violation of Subsection (1)(a) is:

1642 (i) guilty of an infraction; and

1643 (ii) subject to a \$100 fine.

1644 (c) A medical cannabis cardholder or a nonresident patient who possesses medical
1645 cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice
1646 the legal dosage limit is:

1647 (i) for a first offense:

1648 (A) guilty of an infraction; and

- 1649 (B) subject to a fine of up to \$100; and
1650 (ii) for a second or subsequent offense:
1651 (A) guilty of a class B misdemeanor; and
1652 (B) subject to a fine of \$1,000.
1653 (d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is
1654 not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the
1655 conduct underlying the penalty described in Subsection (1)(b) or (c).
1656 (e) A nonresident patient who possesses medical cannabis that is not in a medicinal
1657 dosage form is:
1658 (i) for a first offense:
1659 (A) guilty of an infraction; and
1660 (B) subject to a fine of up to \$100; and
1661 (ii) for a second or subsequent offense, is subject to the penalties described in Title 58,
1662 Chapter 37, Utah Controlled Substances Act.
1663 (f) A medical cannabis cardholder or a nonresident patient who possesses medical
1664 cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties
1665 described in Title 58, Chapter 37, Utah Controlled Substances Act.
1666 (2) (a) As used in this Subsection (2), "emergency medical condition" means the same
1667 as that term is defined in Section [31A-22-627](#).
1668 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a
1669 provisional patient cardholder, or a nonresident patient may not use, in public view, medical
1670 cannabis or a cannabis product.
1671 (c) In the event of an emergency medical condition, an individual described in
1672 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical
1673 cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a
1674 medicinal dosage form or a cannabis product in a medicinal dosage form.
1675 (d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

- 1676 (i) for a first offense:
- 1677 (A) guilty of an infraction; and
- 1678 (B) subject to a fine of up to \$100; and
- 1679 (ii) for a second or subsequent offense:
- 1680 (A) guilty of a class B misdemeanor; and
- 1681 (B) subject to a fine of \$1,000.
- 1682 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis
- 1683 in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a
- 1684 medical cannabis device that corresponds with the cannabis or cannabis product:
- 1685 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,
- 1686 cannabis product, or medical cannabis device legally; and
- 1687 (b) there is no probable cause, based solely on the cardholder's possession of the
- 1688 cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical
- 1689 cannabis device, to believe that the cardholder is engaging in illegal activity.
- 1690 (4) (a) If a law enforcement officer stops an individual who possesses cannabis in a
- 1691 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis
- 1692 device, and the individual represents to the law enforcement officer that the individual holds a
- 1693 valid medical cannabis card, but the individual does not have the medical cannabis card in the
- 1694 individual's possession at the time of the stop by the law enforcement officer, the law
- 1695 enforcement officer shall attempt to access the state electronic verification system to determine
- 1696 whether the individual holds a valid medical cannabis card.
- 1697 (b) If the law enforcement officer is able to verify that the individual described in
- 1698 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:
- 1699 (i) may not arrest or take the individual into custody for the sole reason that the
- 1700 individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a
- 1701 medicinal dosage form, or a medical cannabis device; and
- 1702 (ii) may not seize the cannabis, cannabis product, or medical cannabis device.

1703 Section 20. Section **26-61a-301** is amended to read:

1704 **26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

1705 (1) A person may not operate as a medical cannabis pharmacy without a license that
1706 the department issues under this part.

1707 (2) (a) (i) Subject to Subsections (4) and (5) and to Section **26-61a-305**, the department
1708 shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G,
1709 Chapter 6a, Utah Procurement Code.

1710 (ii) The department may not issue a license to operate a medical cannabis pharmacy to
1711 an applicant who is not eligible for a license under this section.

1712 (b) An applicant is eligible for a license under this section if the applicant submits to
1713 the department:

1714 (i) subject to Subsection (2)(c), a proposed name and address where the applicant will
1715 operate the medical cannabis pharmacy;

1716 (ii) the name and address of an individual who:

1717 (A) for a publicly traded company, has a financial or voting interest of 2% or greater in
1718 the proposed medical cannabis pharmacy;

1719 (B) for a privately held company, a financial or voting interest in the proposed medical
1720 cannabis pharmacy; or

1721 (C) has the power to direct or cause the management or control of a proposed medical
1722 cannabis pharmacy;

1723 (iii) a statement that the applicant will obtain and maintain a performance bond that a
1724 surety authorized to transact surety business in the state issues in an amount of at least
1725 \$100,000 for each application that the applicant submits to the department;

1726 (iv) an operating plan that:

1727 (A) complies with Section **26-61a-304**;

1728 (B) includes operating procedures to comply with the operating requirements for a
1729 medical cannabis pharmacy described in this chapter and with a relevant municipal or county

1730 law that is consistent with Section 26-61a-507; and
1731 (C) the department approves;
1732 (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
1733 department sets in accordance with Section 63J-1-504; and
1734 (vi) a description of any investigation or adverse action taken by any licensing
1735 jurisdiction, government agency, law enforcement agency, or court in any state for any
1736 violation or detrimental conduct in relation to any of the applicant's cannabis-related operations
1737 or businesses.
1738 (c) (i) A person may not locate a medical cannabis pharmacy:
1739 (A) within 200 feet of a community location; or
1740 (B) in or within 600 feet of a district that the relevant municipality or county has zoned
1741 as primarily residential.
1742 (ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured
1743 from the nearest entrance to the medical cannabis pharmacy establishment by following the
1744 shortest route of ordinary pedestrian travel to the property boundary of the community location
1745 or residential area.
1746 (iii) The department may grant a waiver to reduce the proximity requirements in
1747 Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible
1748 for the applicant to site the proposed medical cannabis pharmacy without the waiver.
1749 (iv) An applicant for a license under this section shall provide evidence of compliance
1750 with the proximity requirements described in Subsection (2)(c)(i).
1751 (d) The department may not issue a license to an eligible applicant that the department
1752 has selected to receive a license until the selected eligible applicant obtains the performance
1753 bond described in Subsection (2)(b)(iii).
1754 (e) If the department receives more than one application for a medical cannabis
1755 pharmacy within the same city or town, the department shall consult with the local land use
1756 authority before approving any of the applications pertaining to that city or town.

1757 (3) If the department selects an applicant for a medical cannabis pharmacy license
1758 under this section, the department shall:

1759 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
1760 26-61a-109(5), the department sets in accordance with Section 63J-1-504;

1761 (b) notify the Department of Public Safety of the license approval and the names of
1762 each individual described in Subsection (2)(b)(ii); and

1763 (c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5),
1764 the department sets in accordance with Section 63J-1-504, for any change in location,
1765 ownership, or company structure.

1766 (4) The department may not issue a license to operate a medical cannabis pharmacy to
1767 an applicant if an individual described in Subsection (2)(b)(ii):

1768 (a) has been convicted under state or federal law of:

1769 (i) a felony; or

1770 (ii) after December 3, 2018, a misdemeanor for drug distribution;

1771 (b) is younger than 21 years old; or

1772 (c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

1773 (5) (a) If an applicant for a medical cannabis pharmacy license under this section holds
1774 a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give
1775 preference to the applicant based on the applicant's status as a holder of the license.

1776 (b) If an applicant for a medical cannabis pharmacy license under this section holds a
1777 license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis
1778 Production Establishments, the department:

1779 (i) shall consult with the Department of Agriculture and Food regarding the applicant;
1780 and

1781 (ii) may give consideration to the applicant based on the applicant's status as a holder
1782 of a license to operate a cannabis cultivation facility if:

1783 (A) the applicant demonstrates that a decrease in costs to patients is more likely to

1784 result from the applicant's vertical integration than from a more competitive marketplace; and
1785 (B) the department finds multiple other factors, in addition to the existing license, that
1786 support granting the new license.

1787 (6) (a) The department may revoke a license under this part:

1788 (i) if the medical cannabis pharmacy does not begin operations within one year after
1789 the day on which the department issues an announcement of the [initial] department's intent to
1790 award a license to the medical cannabis pharmacy;

1791 (ii) after the third the same violation of this chapter in any of the licensee's licensed
1792 cannabis production establishments or medical cannabis pharmacies;

1793 (iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is
1794 active, under state or federal law of:

1795 (A) a felony; or

1796 (B) after December 3, 2018, a misdemeanor for drug distribution;

1797 (iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at
1798 the time of application, or fails to supplement the information described in Subsection
1799 (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the
1800 application within 14 calendar days after the licensee receives notice of the investigation or
1801 adverse action; ~~or~~

1802 (v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for
1803 the requirements of this chapter or the rules the department makes in accordance with this
1804 chapter~~[-];~~ or

1805 (vi) if, after a change of ownership described in Subsection (11)(c), the department
1806 determines that the medical cannabis pharmacy no longer meets the minimum standards for
1807 licensure and operation of the medical cannabis pharmacy described in this chapter.

1808 (b) The department shall rescind a notice of an intent to issue a license under this part
1809 to an applicant or revoke a license issued under this part if the associated medical cannabis
1810 pharmacy does not begin operation on or before June 1, 2021.

1811 (7) (a) A person who receives a medical cannabis pharmacy license under this chapter,
1812 if the municipality or county where the licensed medical cannabis pharmacy will be located
1813 requires a local land use permit, shall submit to the department a copy of the licensee's
1814 approved application for the land use permit within 120 days after the day on which the
1815 department issues the license.

1816 (b) If a licensee fails to submit to the department a copy the licensee's approved land
1817 use permit application in accordance with Subsection (7)(a), the department may revoke the
1818 licensee's license.

1819 (8) The department shall deposit the proceeds of a fee imposed by this section into the
1820 Qualified Patient Enterprise Fund.

1821 (9) The department shall begin accepting applications under this part on or before
1822 March 1, 2020.

1823 (10) (a) The department's authority to issue a license under this section is plenary and is
1824 not subject to review.

1825 (b) Notwithstanding Subsection (2), the decision of the department to award a license
1826 to an applicant is not subject to:

1827 (i) Title 63G, Chapter 6a, Part 16, Protests; or

1828 (ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

1829 (11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

1830 (b) A medical cannabis pharmacy shall report in writing to the department no later than
1831 10 business days before the date of any change of ownership of the medical cannabis
1832 pharmacy.

1833 (c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

1834 (i) concurrent with the report described in Subsection (11)(b), the medical cannabis
1835 pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection
1836 (2)(c);

1837 (ii) within 30 days of the submission of the application, the department shall:

1838 (A) conduct an application review; and
1839 (B) award a license to the medical cannabis pharmacy for the remainder of the term of
1840 the medical cannabis pharmacy's license before the ownership change if the medical cannabis
1841 pharmacy meets the minimum standards for licensure and operation of the medical cannabis
1842 pharmacy described in this chapter; and

1843 (iii) if the department approves the license application, notwithstanding Subsection (3),
1844 the medical cannabis pharmacy shall pay a license fee that the department sets in accordance
1845 with Section 63J-1-504 in an amount that covers the board's cost of conducting the application
1846 review.

1847 Section 21. Section **26-61a-303** is amended to read:

1848 **26-61a-303. Renewal.**

1849 (1) The department shall renew a license under this part every year if, at the time of
1850 renewal:

- 1851 (a) the licensee meets the requirements of Section 26-61a-301;
- 1852 (b) the licensee pays the department a license renewal fee in an amount that, subject to
1853 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and
- 1854 (c) if the medical cannabis pharmacy changes the operating plan described in Section
1855 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the
1856 department approves the new operating plan.

1857 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis
1858 pharmacy's license, the department shall publish notice of an available license:

- 1859 (i) in a newspaper of general circulation for the geographic area in which the medical
1860 cannabis pharmacy license is available; or
- 1861 (ii) on the Utah Public Notice Website established in Section 63A-16-601.

1862 (b) The department may establish criteria, in collaboration with the Division of
1863 Occupational and Professional Licensing and the Board of Pharmacy and in accordance with
1864 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis

1865 pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

1866 (3) If the department has not completed the necessary processes to make a
1867 determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a
1868 license, the department may issue a conditional medical cannabis pharmacy license to a
1869 licensed medical cannabis pharmacy that has applied for license renewal under this section and
1870 paid the fee described in Subsection (1)(b).

1871 Section 22. Section **26-61a-305** is amended to read:

1872 **26-61a-305. Maximum number of licenses -- Home delivery medical cannabis**
1873 **pharmacies.**

1874 (1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of
1875 applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in
1876 accordance with this section.

1877 (b) If an insufficient number of qualified applicants apply for the available number of
1878 medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy
1879 license to each qualified applicant.

1880 (c) The department may issue the licenses described in Subsection (1)(a) in accordance
1881 with this Subsection (1)(c).

1882 (i) Using one procurement process, the department may issue eight licenses to an initial
1883 group of medical cannabis pharmacies and six licenses to a second group of medical cannabis
1884 pharmacies.

1885 (ii) If the department issues licenses in two phases in accordance with Subsection
1886 (1)(c)(i), the department shall:

1887 (A) divide the state into no less than four geographic regions;

1888 (B) issue at least one license in each geographic region during each phase of issuing
1889 licenses; and

1890 (C) complete the process of issuing medical cannabis pharmacy licenses no later than
1891 July 1, 2020.

1892 (iii) In issuing a 15th license under Subsection (1), the department shall ensure that the
1893 license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah,
1894 Carbon, Sevier, Emery, Grand, or San Juan County.

1895 (d) (i) The department may issue licenses to operate a medical cannabis pharmacy in
1896 addition to the licenses described in Subsection (1)(a) if the department determines, in
1897 consultation with the Department of Agriculture and Food and after an annual or more frequent
1898 analysis of the current and anticipated market for medical cannabis, that each additional license
1899 is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical
1900 cannabis cardholders.

1901 (ii) The department shall:

1902 (A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1903 make rules to establish criteria and processes for the consultation, analysis, and application for
1904 a license described in Subsection (1)(d)(i); and

1905 [~~(B) before November 30, 2020, report on the rules described in Subsection~~

1906 ~~(1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and]~~

1907 [~~(C)~~ (B) report to the Executive Appropriations Committee of the Legislature before
1908 each time the department issues an additional license under Subsection (1)(d)(i) regarding the
1909 results of the consultation and analysis described in Subsection (1)(d)(i) and the application of
1910 the criteria described in Subsection (1)(d)(ii)(A) [~~to the intended licensee~~].

1911 (2) (a) If there are more qualified applicants than there are available licenses for
1912 medical cannabis pharmacies, the department shall:

1913 (i) evaluate each applicant and award the license to the applicant that best
1914 demonstrates:

1915 (A) experience with establishing and successfully operating a business that involves
1916 complying with a regulatory environment, tracking inventory, and training, evaluating, and
1917 monitoring employees;

1918 (B) an operating plan that will best ensure the safety and security of patrons and the

1919 community;

1920 (C) positive connections to the local community;

1921 (D) the suitability of the proposed location and the location's accessibility for

1922 qualifying patients;

1923 (E) the extent to which the applicant can increase efficiency and reduce the cost of

1924 medical cannabis for patients; and

1925 (F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively

1926 high likelihood of success; and

1927 (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably

1928 maximize access to the largest number of medical cannabis cardholders.

1929 (b) In making the evaluation described in Subsection (2)(a), the department may give

1930 increased consideration to applicants who indicate a willingness to:

1931 (i) operate as a home delivery medical cannabis pharmacy that accepts electronic

1932 medical cannabis orders that the state central patient portal facilitates; and

1933 (ii) accept payments through:

1934 (A) a payment provider that the Division of Finance approves, in consultation with the

1935 state treasurer, in accordance with Section 26-61a-603; or

1936 (B) a financial institution in accordance with Subsection 26-61a-603(4).

1937 (3) The department may conduct a face-to-face interview with an applicant for a

1938 license that the department evaluates under Subsection (2).

1939 (4) (a) The department may designate a medical cannabis pharmacy as a home delivery

1940 medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's

1941 operating plan demonstrates the functional and technical ability to:

1942 (i) safely conduct transactions for medical cannabis shipments;

1943 (ii) accept electronic medical cannabis orders that the state central patient portal

1944 facilitates; and

1945 (iii) accept payments through:

1946 (A) a payment provider that the Division of Finance approves, in consultation with the
1947 state treasurer, in accordance with Section 26-61a-603; or

1948 (B) a financial institution in accordance with Subsection 26-61a-603(4).

1949 (b) An applicant seeking a designation as a home delivery medical cannabis pharmacy
1950 shall identify in the applicant's operating plan any information relevant to the department's
1951 evaluation described in Subsection (4)(a), including:

1952 (i) the name and contact information of the payment provider;

1953 (ii) the nature of the relationship between the prospective licensee and the payment
1954 provider;

1955 (iii) the processes of the following to safely and reliably conduct transactions for
1956 medical cannabis shipments:

1957 (A) the prospective licensee; and

1958 (B) the electronic payment provider or the financial institution described in Subsection
1959 (4)(a)(iii); and

1960 (iv) the ability of the licensee to comply with the department's rules regarding the
1961 secure transportation and delivery of medical cannabis or medical cannabis product to a
1962 medical cannabis cardholder.

1963 (c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy
1964 that the department designates as a home delivery medical cannabis pharmacy may deliver
1965 medical cannabis shipments in accordance with this chapter.

1966 Section 23. Section 26-61a-401 is amended to read:

1967 **26-61a-401. Medical cannabis pharmacy agent -- Registration.**

1968 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical
1969 cannabis pharmacy unless the department registers the individual as a medical cannabis
1970 pharmacy agent.

1971 (2) A recommending medical provider may not act as a medical cannabis pharmacy
1972 agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or

1973 have the power to direct or cause the management or control of a medical cannabis pharmacy.

1974 (3) (a) The department shall, within 15 days after the day on which the department
1975 receives a complete application from a medical cannabis pharmacy on behalf of a prospective
1976 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent
1977 registration card to the prospective agent if the medical cannabis pharmacy:

1978 (i) provides to the department:

1979 (A) the prospective agent's name and address;

1980 (B) the name and location of the licensed medical cannabis pharmacy where the
1981 prospective agent seeks to act as the medical cannabis pharmacy agent; and

1982 (C) the submission required under Subsection (3)(b); and

1983 (ii) pays a fee to the department in an amount that, subject to Subsection
1984 [26-61a-109\(5\)](#), the department sets in accordance with Section [63J-1-504](#).

1985 (b) Except for an applicant reapplying for a medical cannabis pharmacy agent
1986 registration card within less than one year after the expiration of the applicant's previous
1987 medical cannabis pharmacy agent registration card, each prospective agent described in
1988 Subsection (3)(a) shall:

1989 (i) submit to the department:

1990 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

1991 (B) a signed waiver in accordance with Subsection [53-10-108\(4\)](#) acknowledging the
1992 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
1993 Generation Identification System's Rap Back Service; and

1994 (ii) consent to a fingerprint background check by:

1995 (A) the Bureau of Criminal Identification; and

1996 (B) the Federal Bureau of Investigation.

1997 (c) The Bureau of Criminal Identification shall:

1998 (i) check the fingerprints the prospective agent submits under Subsection (3)(b) against
1999 the applicable state, regional, and national criminal records databases, including the Federal

2000 Bureau of Investigation Next Generation Identification System;

2001 (ii) report the results of the background check to the department;

2002 (iii) maintain a separate file of fingerprints that prospective agents submit under

2003 Subsection (3)(b) for search by future submissions to the local and regional criminal records

2004 databases, including latent prints;

2005 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next

2006 Generation Identification System's Rap Back Service for search by future submissions to

2007 national criminal records databases, including the Next Generation Identification System and

2008 latent prints; and

2009 (v) establish a privacy risk mitigation strategy to ensure that the department only

2010 receives notifications for an individual with whom the department maintains an authorizing

2011 relationship.

2012 (d) The department shall:

2013 (i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an

2014 amount that the department sets in accordance with Section [63J-1-504](#) for the services that the

2015 Bureau of Criminal Identification or another authorized agency provides under this section; and

2016 (ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal

2017 Identification.

2018 (4) The department shall designate, on an individual's medical cannabis pharmacy

2019 agent registration card the name of the medical cannabis pharmacy where the individual is

2020 registered as an agent.

2021 (5) A medical cannabis pharmacy agent shall comply with a certification standard that

2022 the department develops in collaboration with the Division of Occupational and Professional

2023 Licensing and the Board of Pharmacy, or a third-party certification standard that the department

2024 designates by rule, in collaboration with the Division of Occupational and Professional

2025 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

2026 Administrative Rulemaking Act.

2027 (6) The department shall ensure that the certification standard described in Subsection
2028 (5) includes training in:

- 2029 (a) Utah medical cannabis law; and
- 2030 (b) medical cannabis pharmacy best practices.

2031 (7) The department may revoke the medical cannabis pharmacy agent registration card
2032 of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual
2033 who:

- 2034 (a) violates the requirements of this chapter; or
- 2035 (b) is convicted under state or federal law of:
 - 2036 (i) a felony within the preceding 10 years; or
 - 2037 (ii) after December 3, 2018, a misdemeanor for drug distribution.

2038 (8) (a) A medical cannabis pharmacy agent registration card expires two years after the
2039 day on which the department issues or renews the card.

2040 (b) A medical cannabis pharmacy agent may renew the agent's registration card if the
2041 agent:

- 2042 (i) is eligible for a medical cannabis pharmacy agent registration card under this
2043 section;
- 2044 (ii) certifies to the department in a renewal application that the information in
2045 Subsection (3)(a) is accurate or updates the information; and

2046 (iii) pays to the department a renewal fee in an amount that:

2047 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2048 Section 63J-1-504; and

2049 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2050 comparison to the original application process.

2051 (9) (a) As a condition precedent to registration and renewal of a medical cannabis
2052 pharmacy agent registration card, a medical cannabis pharmacy agent shall:

- 2053 (i) complete at least one hour of continuing education regarding patient privacy and

2054 federal health information privacy laws that is offered by the department under Subsection
2055 (9)(b) or an accredited or approved continuing education provider that the department
2056 recognizes as offering continuing education appropriate for the medical cannabis pharmacy
2057 practice; and

2058 (ii) make a continuing education report to the department in accordance with a process
2059 that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah
2060 Administrative Rulemaking Act, and in collaboration with the Division of Occupational and
2061 Professional Licensing and the Board of Pharmacy.

2062 (b) The department may, in consultation with the Division of Occupational and
2063 Professional Licensing, develop the continuing education described in this Subsection (9).

2064 (c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each
2065 medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to
2066 the state electronic verification system is in compliance with this Subsection (9).

2067 Section 24. Section **26-61a-501** is amended to read:

2068 **26-61a-501. Operating requirements -- General.**

2069 (1) (a) A medical cannabis pharmacy shall operate:

2070 (i) at the physical address provided to the department under Section 26-61a-301; and

2071 (ii) in accordance with the operating plan provided to the department under Section
2072 26-61a-301 and, if applicable, Section 26-61a-304.

2073 (b) A medical cannabis pharmacy shall notify the department before a change in the
2074 medical cannabis pharmacy's physical address or operating plan.

2075 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2076 (a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

2077 (b) except as provided in Subsection ~~(4)~~ (4):

2078 (i) possesses a valid:

2079 (A) medical cannabis pharmacy agent registration card;

2080 (B) pharmacy medical provider registration card; or

2081 (C) medical cannabis card;
2082 (ii) is an employee of the department or the Department of Agriculture and Food
2083 performing an inspection under Section 26-61a-504; or
2084 (iii) is another individual as the department provides.

2085 (3) A medical cannabis pharmacy may not employ an individual who is younger than
2086 21 years old.

2087 ~~[(4) A medical cannabis pharmacy may not employ an individual who has been~~
2088 ~~convicted of a felony under state or federal law.]~~

2089 ~~[(5)]~~ (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may
2090 authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical
2091 provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and
2092 monitors the individual at all times while the individual is at the medical cannabis pharmacy
2093 and maintains a record of the individual's access.

2094 ~~[(6)]~~ (5) A medical cannabis pharmacy shall operate in a facility that has:

2095 (a) a single, secure public entrance;

2096 (b) a security system with a backup power source that:

2097 (i) detects and records entry into the medical cannabis pharmacy; and

2098 (ii) provides notice of an unauthorized entry to law enforcement when the medical
2099 cannabis pharmacy is closed; and

2100 (c) a lock on each area where the medical cannabis pharmacy stores cannabis or a
2101 cannabis product.

2102 ~~[(7)]~~ (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the
2103 medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection
2104 26-61a-502(2).

2105 ~~[(8)]~~ (7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a
2106 medical cannabis pharmacy may not allow any individual to consume cannabis on the property
2107 or premises of the medical cannabis pharmacy.

2108 [~~9~~] (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product
2109 without first indicating on the cannabis or cannabis product label the name of the medical
2110 cannabis pharmacy.

2111 [~~10~~] (9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records
2112 the following information regarding each recommendation underlying a transaction:

2113 (i) the recommending medical provider's name, address, and telephone number;

2114 (ii) the patient's name and address;

2115 (iii) the date of issuance;

2116 (iv) directions of use and dosing guidelines or an indication that the recommending
2117 medical provider did not recommend specific directions of use or dosing guidelines; and

2118 (v) if the patient did not complete the transaction, the name of the medical cannabis
2119 cardholder who completed the transaction.

2120 (b) (i) Except as provided in Subsection [~~10~~] (9)(b)(iii), a medical cannabis pharmacy
2121 may not sell medical cannabis unless the medical cannabis has a label securely affixed to the
2122 container indicating the following minimum information:

2123 (A) the name, address, and telephone number of the medical cannabis pharmacy;

2124 (B) the unique identification number that the medical cannabis pharmacy assigns;

2125 (C) the date of the sale;

2126 (D) the name of the patient;

2127 (E) the name of the recommending medical provider who recommended the medical
2128 cannabis treatment;

2129 (F) directions for use and cautionary statements, if any;

2130 (G) the amount dispensed and the cannabinoid content;

2131 (H) the suggested use date;

2132 (I) for unprocessed cannabis flower, the legal use termination date; and

2133 (J) any other requirements that the department determines, in consultation with the
2134 Division of Occupational and Professional Licensing and the Board of Pharmacy.

2135 (ii) A medical cannabis pharmacy is exempt from the ~~[following labeling~~
2136 ~~requirements]~~ requirement to provide the following information under Subsection (9)(b)(i) if
2137 the information is already provided on the product label that a cannabis production
2138 establishment affixes:

- 2139 (A) ~~[Subsection (10)(b)(i)(B) regarding]~~ a unique identification number;
- 2140 (B) ~~[Subsection (10)(b)(i)(F) regarding]~~ directions for use and cautionary statements;
- 2141 (C) ~~[Subsection (10)(b)(i)(G) regarding]~~ amount and cannabinoid content; and
- 2142 (D) ~~[Subsection (10)(b)(i)(H) regarding]~~ a suggested use date.

2143 (iii) If the size of a medical cannabis container does not allow sufficient space to
2144 include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis
2145 pharmacy may provide the following information described in Subsection (9)(b)(i) on a
2146 supplemental label attached to the container or an informational enclosure that accompanies the
2147 container:

- 2148 (A) the cannabinoid content;
- 2149 (B) the suggested use date; and
- 2150 (C) any other requirements that the department determines.

2151 ~~[(iii)]~~ (iv) A medical cannabis pharmacy may sell medical cannabis to another medical
2152 cannabis pharmacy without a label described in Subsection ~~[(10)]~~ (9)(b)(i).

2153 ~~[(11)]~~ (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

2154 (a) upon receipt of an order from a limited medical provider in accordance with
2155 Subsections ~~26-61a-106(1)(b)~~ ~~[and (c)]~~ through (d):

2156 (i) for a written order or an electronic order under circumstances that the department
2157 determines, contact the limited medical provider or the limited medical provider's office to
2158 verify the validity of the recommendation; and

2159 (ii) for ~~[a written]~~ an order that the pharmacy medical provider or medical cannabis
2160 pharmacy agent verifies under Subsection ~~[(11)]~~ (10)(a)(i) or an electronic order that is not
2161 subject to verification under Subsection (10)(a)(i), enter the limited medical provider's

2162 recommendation or renewal, including any associated directions of use, dosing guidelines, or
2163 caregiver indication, in the state electronic verification system;

2164 (b) in processing an order for a holder of a conditional medical cannabis card described
2165 in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the
2166 pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending
2167 medical provider or the recommending medical provider's office to verify the validity of the
2168 recommendation before processing the cardholder's order;

2169 (c) unless the medical cannabis cardholder has had a consultation under Subsection
2170 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase
2171 of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the
2172 pharmacy medical provider; and

2173 (d) provide a telephone number or website by which the cardholder may contact a
2174 pharmacy medical provider for counseling.

2175 ~~[(12)]~~ (11) (a) A medical cannabis pharmacy may create a medical cannabis disposal
2176 program that allows an individual to deposit unused or excess medical cannabis, cannabis
2177 residue from a medical cannabis device, or medical cannabis product in a locked box or other
2178 secure receptacle within the medical cannabis pharmacy.

2179 (b) A medical cannabis pharmacy with a disposal program described in Subsection
2180 ~~[(12)]~~ (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical
2181 provider can access deposited medical cannabis or medical cannabis products.

2182 (c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or
2183 medical cannabis products by:

2184 (i) rendering the deposited medical cannabis or medical cannabis products unusable
2185 and unrecognizable before transporting deposited medical cannabis or medical cannabis
2186 products from the medical cannabis pharmacy; and

2187 (ii) disposing of the deposited medical cannabis or medical cannabis products in
2188 accordance with:

- 2189 (A) federal and state law, rules, and regulations related to hazardous waste;
- 2190 (B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;
- 2191 (C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and
- 2192 (D) other regulations that the department makes in accordance with Title 63G, Chapter
- 2193 3, Utah Administrative Rulemaking Act.

2194 [~~13~~] (12) The department shall establish by rule, in accordance with Title 63G,
2195 Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and
2196 cannabis products by a medical cannabis pharmacy.

2197 Section 25. Section **26-61a-502** is amended to read:

2198 **26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense --**
2199 **Reporting -- Form of cannabis or cannabis product.**

2200 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this
2201 chapter:

2202 (i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired
2203 from another medical cannabis pharmacy or a cannabis processing facility that is licensed
2204 under Section [4-41a-201](#);

2205 (ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy
2206 acquired from another medical cannabis pharmacy or a cannabis processing facility that is
2207 licensed under Section [4-41a-201](#);

2208 (iii) a medical cannabis device; or

2209 (iv) educational material related to the medical use of cannabis.

2210 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to
2211 an individual with:

2212 (i) (A) a medical cannabis card;

2213 (B) a department registration described in Section [26-61a-201\(10\)](#); and

2214 (ii) a corresponding valid form of photo identification.

2215 (c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a

2216 cannabis-based drug that the United States Food and Drug Administration has approved.

2217 (d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a
2218 medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a
2219 minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the
2220 approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

2221 (2) A medical cannabis pharmacy:

2222 (a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the
2223 legal dosage limit of:

2224 (i) unprocessed cannabis that:

2225 (A) is in a medicinal dosage form; and

2226 (B) carries a label clearly displaying the amount of tetrahydrocannabinol and
2227 cannabidiol in the cannabis; and

2228 (ii) a cannabis product that is in a medicinal dosage form; and

2229 (b) may not dispense:

2230 (i) more medical cannabis than described in Subsection (2)(a); or

2231 (ii) to an individual whose recommending medical provider did not recommend
2232 directions of use and dosing guidelines, until the individual consults with the pharmacy
2233 medical provider in accordance with Subsection (4), any medical cannabis.

2234 (3) An individual with a medical cannabis card:

2235 (a) may purchase, in any one 28-day period, up to the legal dosage limit of:

2236 (i) unprocessed cannabis in a medicinal dosage form; and

2237 (ii) a cannabis product in a medicinal dosage form;

2238 (b) may not purchase:

2239 (i) more medical cannabis than described in Subsection (3)(a); or

2240 (ii) if the relevant recommending medical provider did not recommend directions of
2241 use and dosing guidelines, until the individual consults with the pharmacy medical provider in
2242 accordance with Subsection (4), any medical cannabis; and

2243 (c) may not use a route of administration that the relevant recommending medical
2244 provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not
2245 recommended.

2246 (4) If a recommending medical provider recommends treatment with medical cannabis
2247 but wishes for the pharmacy medical provider to determine directions of use and dosing
2248 guidelines:

2249 (a) the recommending medical provider shall provide to the pharmacy medical
2250 provider, either through the state electronic verification system or through a medical cannabis
2251 pharmacy's recording of a recommendation under the order of a limited medical provider, any
2252 of the following information that the recommending medical provider feels would be needed to
2253 provide appropriate directions of use and dosing guidelines:

2254 (i) information regarding the qualifying condition underlying the recommendation;

2255 (ii) information regarding prior treatment attempts with medical cannabis; and

2256 (iii) portions of the patient's current medication list; and

2257 (b) before the relevant medical cannabis cardholder may obtain medical cannabis, the
2258 pharmacy medical provider shall:

2259 (i) review pertinent medical records, including the recommending medical provider
2260 documentation described in Subsection (4)(a); and

2261 (ii) unless the pertinent medical records show directions of use and dosing guidelines
2262 from a state central patient portal medical provider in accordance with Subsection (5), after
2263 completing the review described in Subsection (4)(b)(i) and consulting with the recommending
2264 medical provider as needed, determine the best course of treatment through consultation with
2265 the cardholder regarding:

2266 (A) the patient's qualifying condition underlying the recommendation from the
2267 recommending medical provider;

2268 (B) indications for available treatments;

2269 (C) directions of use and dosing guidelines; and

2270 (D) potential adverse reactions.

2271 (5) (a) A state central patient portal medical provider may provide the consultation and
2272 make the determination described in Subsection (4)(b) for a medical cannabis patient
2273 cardholder regarding an electronic order that the state central patient portal facilitates.

2274 (b) The state central patient portal medical provider described in Subsection (5)(a)
2275 shall document the directions of use and dosing guidelines, determined under Subsection (5)(a)
2276 in the pertinent medical records.

2277 (6) (a) A medical cannabis pharmacy shall:

2278 (i) (A) access the state electronic verification system before dispensing cannabis or a
2279 cannabis product to a medical cannabis cardholder in order to determine if the cardholder or,
2280 where applicable, the associated patient has met the maximum amount of medical cannabis
2281 described in Subsection (2); and

2282 (B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the
2283 maximum amount described in Subsection (2), decline the sale, and notify the recommending
2284 medical provider who made the underlying recommendation;

2285 (ii) submit a record to the state electronic verification system each time the medical
2286 cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

2287 (iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews
2288 each medical cannabis transaction before dispensing the medical cannabis to the cardholder in
2289 accordance with pharmacy practice standards;

2290 (iv) package any medical cannabis that is in a container that:

2291 (A) complies with Subsection [~~4-41a-602(2)~~] 4-41a-602(1)(b) or, if applicable,
2292 provisions related to a container for unprocessed cannabis flower in the definition of
2293 "medicinal dosage form" in Section 26-61a-102;

2294 (B) is tamper-resistant and tamper-evident; and

2295 (C) provides an opaque bag or box for the medical cannabis cardholder's use in
2296 transporting the container in public; and

2297 (v) for a product that is a cube that is designed for ingestion through chewing or
2298 holding in the mouth for slow dissolution, include a separate, off-label warning about the risks
2299 of over-consumption.

2300 (b) A medical cannabis cardholder transporting or possessing the container described
2301 in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the
2302 medical cannabis pharmacist provides.

2303 (7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not
2304 sell medical cannabis in the form of a cigarette or a medical cannabis device that is
2305 intentionally designed or constructed to resemble a cigarette.

2306 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms
2307 cannabis material into a vapor without the use of a flame and that delivers cannabis to an
2308 individual's respiratory system.

2309 (8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the
2310 medical cannabis pharmacy is allowed to sell under Subsection (1)(a) (i), (ii), or (iii).

2311 (b) A medical cannabis pharmacy may give, at no cost, educational material related to
2312 the medical use of cannabis.

2313 (9) The department may impose a uniform fee on each medical cannabis transaction in
2314 a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the
2315 department sets in accordance with Section 63J-1-504.

2316 (10) A medical cannabis pharmacy may purchase and store medical cannabis devices
2317 regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter
2318 41a, Cannabis Production Establishments.

2319 Section 26. Section **26-61a-604** is amended to read:

2320 **26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis**
2321 **couriers -- License.**

2322 (1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
2323 Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home

2324 delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the
2325 state central patient portal facilitates, including rules regarding the safe and controlled delivery
2326 of medical cannabis shipments.

2327 (2) A person may not operate as a medical cannabis courier without a license that the
2328 department issues under this section.

2329 (3) (a) Subject to Subsections (5) and (6), the department shall issue a license to
2330 operate as a medical cannabis courier to an applicant who is eligible for a license under this
2331 section.

2332 (b) An applicant is eligible for a license under this section if the applicant submits to
2333 the department:

2334 (i) the name and address of an individual who:

2335 (A) has a financial or voting interest of 2% or greater in the proposed medical cannabis
2336 pharmacy; or

2337 (B) has the power to direct or cause the management or control of a proposed cannabis
2338 production establishment;

2339 (ii) an operating plan that includes operating procedures to comply with the operating
2340 requirements for a medical cannabis courier described in this chapter; and

2341 (iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the
2342 department sets in accordance with Section 63J-1-504.

2343 (4) If the department determines that an applicant is eligible for a license under this
2344 section, the department shall:

2345 (a) charge the applicant an initial license fee in an amount that, subject to Subsection
2346 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

2347 (b) notify the Department of Public Safety of the license approval and the names of
2348 each individual described in Subsection (3)(b)(ii).

2349 (5) The department may not issue a license to operate as a medical cannabis courier to
2350 an applicant if an individual described in Subsection (3)(b)(ii):

- 2351 (a) has been convicted under state or federal law of:
- 2352 (i) a felony; or
- 2353 (ii) after September 23, 2019, a misdemeanor for drug distribution; or
- 2354 (b) is younger than 21 years old.
- 2355 (6) The department may revoke a license under this part if:
- 2356 (a) the medical cannabis courier does not begin operations within one year after the day
- 2357 on which the department issues the initial license;
- 2358 (b) the medical cannabis courier makes the same violation of this chapter three times;
- 2359 [or]
- 2360 (c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is
- 2361 active, under state or federal law of:
- 2362 (i) a felony; or
- 2363 (ii) after September 23, 2019, a misdemeanor for drug distribution[-]; or
- 2364 (d) after a change of ownership described in Subsection (15)(c), the department
- 2365 determines that the medical cannabis courier no longer meets the minimum standards for
- 2366 licensure and operation of the medical cannabis courier described in this chapter.
- 2367 (7) The department shall deposit the proceeds of a fee imposed by this section in the
- 2368 Qualified Patient Enterprise Fund.
- 2369 (8) The department shall begin accepting applications under this section on or before
- 2370 July 1, 2020.
- 2371 (9) The department's authority to issue a license under this section is plenary and is not
- 2372 subject to review.
- 2373 (10) Each applicant for a license as a medical cannabis courier shall submit, at the time
- 2374 of application, from each individual who has a financial or voting interest of 2% or greater in
- 2375 the applicant or who has the power to direct or cause the management or control of the
- 2376 applicant:
- 2377 (a) a fingerprint card in a form acceptable to the Department of Public Safety;

2378 (b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2379 registration of the individual's fingerprints in the Federal Bureau of Investigation Next
2380 Generation Identification System's Rap Back Service; and

2381 (c) consent to a fingerprint background check by:

2382 (i) the Bureau of Criminal Identification; and

2383 (ii) the Federal Bureau of Investigation.

2384 (11) The Bureau of Criminal Identification shall:

2385 (a) check the fingerprints the applicant submits under Subsection (10) against the
2386 applicable state, regional, and national criminal records databases, including the Federal
2387 Bureau of Investigation Next Generation Identification System;

2388 (b) report the results of the background check to the department;

2389 (c) maintain a separate file of fingerprints that applicants submit under Subsection (10)
2390 for search by future submissions to the local and regional criminal records databases, including
2391 latent prints;

2392 (d) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2393 Generation Identification System's Rap Back Service for search by future submissions to
2394 national criminal records databases, including the Next Generation Identification System and
2395 latent prints; and

2396 (e) establish a privacy risk mitigation strategy to ensure that the department only
2397 receives notifications for an individual with whom the department maintains an authorizing
2398 relationship.

2399 (12) The department shall:

2400 (a) assess an individual who submits fingerprints under Subsection (10) a fee in an
2401 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2402 Bureau of Criminal Identification or another authorized agency provides under this section; and

2403 (b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal
2404 Identification.

2405 (13) The department shall renew a license under this section every year if, at the time
2406 of renewal:

2407 (a) the licensee meets the requirements of this section; and

2408 (b) the licensee pays the department a license renewal fee in an amount that, subject to
2409 Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

2410 (14) A person applying for a medical cannabis courier license shall submit to the
2411 department a proposed operating plan that complies with this section and that includes:

2412 (a) a description of the physical characteristics of any proposed facilities, including a
2413 floor plan and an architectural elevation, and delivery vehicles;

2414 (b) a description of the credentials and experience of each officer, director, or owner of
2415 the proposed medical cannabis courier;

2416 (c) the medical cannabis courier's employee training standards;

2417 (d) a security plan; and

2418 (e) storage and delivery protocols, both short and long term, to ensure that medical
2419 cannabis shipments are stored and delivered in a manner that is sanitary and preserves the
2420 integrity of the cannabis.

2421 (15) (a) A medical cannabis courier license is not transferrable or assignable.

2422 (b) A medical cannabis courier shall report in writing to the department no later than
2423 10 business days before the date of any change of ownership of the medical cannabis courier.

2424 (c) If the ownership of a medical cannabis courier changes by 50% or more:

2425 (i) concurrent with the report described in Subsection (15)(b), the medical cannabis
2426 courier shall submit a new application described in Subsection (3)(b);

2427 (ii) within 30 days of the submission of the application, the department shall:

2428 (A) conduct an application review; and

2429 (B) award a license to the medical cannabis courier for the remainder of the term of the
2430 medical cannabis courier's license before the ownership change if the medical cannabis courier
2431 meets the minimum standards for licensure and operation of the medical cannabis courier

2432 described in this chapter; and

2433 (iii) if the department approves the license application, notwithstanding Subsection (4),
2434 the medical cannabis courier shall pay a license fee that the department sets in accordance with
2435 Section 63J-1-504 in an amount that covers the board's cost of conducting the application
2436 review.

2437 Section 27. Section 26-61a-606 is amended to read:

2438 **26-61a-606. Medical cannabis courier agent -- Background check -- Registration**
2439 **card -- Rebuttable presumption.**

2440 (1) An individual may not serve as a medical cannabis courier agent unless:

2441 (a) the individual is an employee of a licensed medical cannabis courier; and

2442 (b) the department registers the individual as a medical cannabis courier agent.

2443 (2) (a) The department shall, within 15 days after the day on which the department
2444 receives a complete application from a medical cannabis courier on behalf of a medical
2445 cannabis courier agent, register and issue a medical cannabis courier agent registration card to
2446 the prospective agent if the medical cannabis courier:

2447 (i) provides to the department:

2448 (A) the prospective agent's name and address;

2449 (B) the name and address of the medical cannabis courier;

2450 (C) the name and address of each home delivery medical cannabis pharmacy with
2451 which the medical cannabis courier contracts to deliver medical cannabis shipments; and

2452 (D) the submission required under Subsection (2)(b);

2453 (ii) as reported under Subsection (2)(c), has not been convicted under state or federal
2454 law of:

2455 (A) a felony; or

2456 (B) after December 3, 2018, a misdemeanor for drug distribution; and

2457 (iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5),
2458 the department sets in accordance with Section 63J-1-504.

2459 (b) Except for an applicant reapplying for a medical cannabis courier agent registration
2460 card within less than one year after the expiration of the applicant's previous medical cannabis
2461 courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

2462 (i) submit to the department:

2463 (A) a fingerprint card in a form acceptable to the Department of Public Safety; and

2464 (B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the
2465 registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next
2466 Generation Identification System's Rap Back Service; and

2467 (ii) consent to a fingerprint background check by:

2468 (A) the Bureau of Criminal Identification; and

2469 (B) the Federal Bureau of Investigation.

2470 (c) The Bureau of Criminal Identification shall:

2471 (i) check the fingerprints the prospective agent submits under Subsection (2)(b) against
2472 the applicable state, regional, and national criminal records databases, including the Federal
2473 Bureau of Investigation Next Generation Identification System;

2474 (ii) report the results of the background check to the department;

2475 (iii) maintain a separate file of fingerprints that prospective agents submit under
2476 Subsection (2)(b) for search by future submissions to the local and regional criminal records
2477 databases, including latent prints;

2478 (iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next
2479 Generation Identification System's Rap Back Service for search by future submissions to
2480 national criminal records databases, including the Next Generation Identification System and
2481 latent prints; and

2482 (v) establish a privacy risk mitigation strategy to ensure that the department only
2483 receives notifications for an individual with whom the department maintains an authorizing
2484 relationship.

2485 (d) The department shall:

2486 (i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an
2487 amount that the department sets in accordance with Section 63J-1-504 for the services that the
2488 Bureau of Criminal Identification or another authorized agency provides under this section; and

2489 (ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal
2490 Identification.

2491 (3) The department shall designate on an individual's medical cannabis courier agent
2492 registration card the name of the medical cannabis pharmacy where the individual is registered
2493 as an agent and each home delivery medical cannabis courier for which the medical cannabis
2494 courier delivers medical cannabis shipments.

2495 (4) (a) A medical cannabis courier agent shall comply with a certification standard that
2496 the department develops, in collaboration with the Division of Occupational and Professional
2497 Licensing and the Board of Pharmacy, or a third-party certification standard that the department
2498 designates by rule in collaboration with the Division of Occupational and Professional
2499 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah
2500 Administrative Rulemaking Act.

2501 (b) The department shall ensure that the certification standard described in Subsection
2502 (4)(a) includes training in:

- 2503 (i) Utah medical cannabis law;
- 2504 (ii) the medical cannabis shipment process; and
- 2505 (iii) medical cannabis courier agent best practices.

2506 (5) (a) A medical cannabis courier agent registration card expires two years after the
2507 day on which the department issues or renews the card.

2508 (b) A medical cannabis courier agent may renew the agent's registration card if the
2509 agent:

- 2510 (i) is eligible for a medical cannabis courier agent registration card under this section;
- 2511 (ii) certifies to the department in a renewal application that the information in
2512 Subsection (2)(a) is accurate or updates the information; and

2513 (iii) pays to the department a renewal fee in an amount that:
2514 (A) subject to Subsection 26-61a-109(5), the department sets in accordance with
2515 Section 63J-1-504; and
2516 (B) may not exceed the cost of the relatively lower administrative burden of renewal in
2517 comparison to the original application process.
2518 (6) The department may revoke or refuse to issue or renew the medical cannabis
2519 courier agent registration card of an individual who:
2520 (a) violates the requirements of this chapter; or
2521 (b) is convicted under state or federal law of:
2522 (i) a felony within the preceding 10 years; or
2523 (ii) after December 3, 2018, a misdemeanor for drug distribution.
2524 (7) A medical cannabis courier agent whom the department has registered under this
2525 section shall carry the agent's medical cannabis courier agent registration card with the agent at
2526 all times when:
2527 (a) the agent is on the premises of the medical cannabis courier, a medical cannabis
2528 pharmacy, or a medical cannabis cardholder's home address; and
2529 (b) the agent is handling a medical cannabis shipment.
2530 (8) If a medical cannabis courier agent handling a medical cannabis shipment possesses
2531 the shipment in compliance with Subsection (7):
2532 (a) there is a rebuttable presumption that the agent possesses the shipment legally; and
2533 (b) there is no probable cause, based solely on the agent's possession of the medical
2534 cannabis shipment that the agent is engaging in illegal activity.
2535 (9) (a) A medical cannabis courier agent who violates Subsection (7) is:
2536 (i) guilty of an infraction; and
2537 (ii) subject to a \$100 fine.
2538 (b) An individual who is guilty of a violation described in Subsection (9)(a) is not
2539 guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct

2540 underlying the violation described in Subsection (9)(a).

2541 Section 28. Section **52-4-205** is amended to read:

2542 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
2543 **meetings.**

2544 (1) A closed meeting described under Section **52-4-204** may only be held for:

2545 (a) except as provided in Subsection (3), discussion of the character, professional
2546 competence, or physical or mental health of an individual;

2547 (b) strategy sessions to discuss collective bargaining;

2548 (c) strategy sessions to discuss pending or reasonably imminent litigation;

2549 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
2550 including any form of a water right or water shares, if public discussion of the transaction
2551 would:

2552 (i) disclose the appraisal or estimated value of the property under consideration; or

2553 (ii) prevent the public body from completing the transaction on the best possible terms;

2554 (e) strategy sessions to discuss the sale of real property, including any form of a water
2555 right or water shares, if:

2556 (i) public discussion of the transaction would:

2557 (A) disclose the appraisal or estimated value of the property under consideration; or

2558 (B) prevent the public body from completing the transaction on the best possible terms;

2559 (ii) the public body previously gave public notice that the property would be offered for
2560 sale; and

2561 (iii) the terms of the sale are publicly disclosed before the public body approves the
2562 sale;

2563 (f) discussion regarding deployment of security personnel, devices, or systems;

2564 (g) investigative proceedings regarding allegations of criminal misconduct;

2565 (h) as relates to the Independent Legislative Ethics Commission, conducting business
2566 relating to the receipt or review of ethics complaints;

- 2567 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
2568 Subsection 52-4-204(1)(a)(iii)(C);
- 2569 (j) as relates to the Independent Executive Branch Ethics Commission created in
2570 Section 63A-14-202, conducting business relating to an ethics complaint;
- 2571 (k) as relates to a county legislative body, discussing commercial information as
2572 defined in Section 59-1-404;
- 2573 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
2574 board of directors, discussing fiduciary or commercial information as defined in Section
2575 53B-12-102;
- 2576 (m) deliberations, not including any information gathering activities, of a public body
2577 acting in the capacity of:
- 2578 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
2579 during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;
- 2580 (ii) a protest officer, defined in Section 63G-6a-103, during the process of making a
2581 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or
- 2582 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
2583 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,
2584 Procurement Appeals Board;
- 2585 (n) the purpose of considering information that is designated as a trade secret, as
2586 defined in Section 13-24-2, if the public body's consideration of the information is necessary
2587 [~~in order~~] to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement
2588 Code;
- 2589 (o) the purpose of discussing information provided to the public body during the
2590 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
2591 the meeting:
- 2592 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
2593 disclosed to a member of the public or to a participant in the procurement process; and

2594 (ii) the public body needs to review or discuss the information [~~in order~~] to properly
2595 fulfill its role and responsibilities in the procurement process;

2596 (p) as relates to the governing board of a governmental nonprofit corporation, as that
2597 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
2598 as a trade secret, as that term is defined in Section 13-24-2, if:

2599 (i) public knowledge of the discussion would reasonably be expected to result in injury
2600 to the owner of the trade secret; and

2601 (ii) discussion of the information is necessary for the governing board to properly
2602 discharge the board's duties and conduct the board's business; [~~or~~]

2603 (q) as it relates to the Cannabis Production Establishment Licensing Advisory Board,
2604 to review confidential information regarding violations and security requirements in relation to
2605 the operation of cannabis production establishments; or

2606 [~~(r)~~] (r) a purpose for which a meeting is required to be closed under Subsection (2).

2607 (2) The following meetings shall be closed:

2608 (a) a meeting of the Health and Human Services Interim Committee to review a report
2609 described in Subsection 62A-16-301(1)(a), and the responses to the report described in
2610 Subsections 62A-16-301(2) and (4);

2611 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

2612 (i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the
2613 report described in Subsections 62A-16-301(2) and (4); or

2614 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

2615 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
2616 Section 26-7-13, to review and discuss an individual case, as described in Subsection
2617 26-7-13(10);

2618 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the
2619 purpose of advising the Natural Resource Conservation Service of the United States
2620 Department of Agriculture on a farm improvement project if the discussed information is

2621 protected information under federal law;

2622 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for
2623 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
2624 26-61a-105; and

2625 (f) a meeting of the Colorado River Authority of Utah if:

2626 (i) the purpose of the meeting is to discuss an interstate claim to the use of the water in
2627 the Colorado River system; and

2628 (ii) failing to close the meeting would:

2629 (A) reveal the contents of a record classified as protected under Subsection
2630 63G-2-305(82);

2631 (B) reveal a legal strategy relating to the state's claim to the use of the water in the
2632 Colorado River system;

2633 (C) harm the ability of the Colorado River Authority of Utah or river commissioner to
2634 negotiate the best terms and conditions regarding the use of water in the Colorado River
2635 system; or

2636 (D) give an advantage to another state or to the federal government in negotiations
2637 regarding the use of water in the Colorado River system.

2638 (3) In a closed meeting, a public body may not:

2639 (a) interview a person applying to fill an elected position;

2640 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
2641 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
2642 or

2643 (c) discuss the character, professional competence, or physical or mental health of the
2644 person whose name was submitted for consideration to fill a midterm vacancy or temporary
2645 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
2646 Temporary Absence in Elected Office.

2647 Section 29. Section **58-5a-102** is amended to read:

2648 **58-5a-102. Definitions.**

2649 In addition to the definitions under Section 58-1-102, as used in this chapter:

2650 (1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

2651 (2) "Indirect supervision" means the same as that term is defined by the division by
2652 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.2653 (3) "Medical assistant" means an unlicensed individual working under the indirect
2654 supervision of a licensed podiatric physician and engaging in specific tasks assigned by the
2655 licensed podiatric physician in accordance with the standards and ethics of the podiatry
2656 profession.2657 (4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the
2658 human foot and ankle and their manifestations of systemic conditions by all appropriate and
2659 lawful means, subject to Section 58-5a-103.

2660 (5) "Unlawful conduct" includes:

2661 (a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

2662 (b) for an individual who is not licensed under this chapter:

2663 (i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor,
2664 foot specialist, or D.P.M.; or

2665 (ii) implying or representing that the individual is qualified to practice podiatry.

2666 (6) (a) "Unprofessional conduct" includes, for an individual licensed under this
2667 chapter:

2668 (i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

2669 (ii) communicating to a third party, without the consent of the patient, information the
2670 individual acquires in treating the patient, except as necessary for professional consultation
2671 regarding treatment of the patient;2672 (iii) allowing the individual's name or license to be used by an individual who is not
2673 licensed to practice podiatry under this chapter;

2674 (iv) except as described in Section 58-5a-306, employing, directly or indirectly, any

2675 unlicensed individual to practice podiatry;

2676 (v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs

2677 the individual's ability to practice podiatry;

2678 (vi) unlawfully prescribing, selling, or giving away any prescription drug, including

2679 controlled substances, as defined in Section [58-37-2](#);

2680 (vii) gross incompetency in the practice of podiatry;

2681 (viii) willfully and intentionally making a false statement or entry in hospital records,

2682 medical records, or reports;

2683 (ix) willfully making a false statement in reports or claim forms to governmental

2684 agencies or insurance companies with the intent to secure payment not rightfully due;

2685 (x) willfully using false or fraudulent advertising;

2686 (xi) conduct the division defines as unprofessional conduct by rule made in accordance

2687 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; ~~or~~

2688 (xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

2689 (A) a wrongful or negligent act or omission of an individual licensed under this chapter

2690 or an individual under the direction or control of an individual licensed under this chapter; or

2691 (B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection

2692 [58-1-501\(1\)](#)~~[-]~~; or

2693 (xiii) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

2694 (b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter

2695 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a

2696 limited medical provider, as those terms are defined in Section [26-61a-102](#), recommending the

2697 use of medical cannabis within the scope of a practice of podiatry.

2698 Section 30. Section **58-31b-502** is amended to read:

2699 **58-31b-502. Unprofessional conduct.**

2700 (1) "Unprofessional conduct" includes:

2701 (a) failure to safeguard a patient's right to privacy as to the patient's person, condition,

2702 diagnosis, personal effects, or any other matter about which the licensee is privileged to know
2703 because of the licensee's or person with a certification's position or practice as a nurse or
2704 practice as a medication aide certified;

2705 (b) failure to provide nursing service or service as a medication aide certified in a
2706 manner that demonstrates respect for the patient's human dignity and unique personal character
2707 and needs without regard to the patient's race, religion, ethnic background, socioeconomic
2708 status, age, sex, or the nature of the patient's health problem;

2709 (c) engaging in sexual relations with a patient during any:

2710 (i) period when a generally recognized professional relationship exists between the
2711 person licensed or certified under this chapter and the patient; or

2712 (ii) extended period when a patient has reasonable cause to believe a professional
2713 relationship exists between the person licensed or certified under the provisions of this chapter
2714 and the patient;

2715 (d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using
2716 information about a patient or exploiting the licensee's or the person with a certification's
2717 professional relationship between the licensee or holder of a certification under this chapter and
2718 the patient; or

2719 (ii) exploiting the patient by use of the licensee's or person with a certification's
2720 knowledge of the patient obtained while acting as a nurse or a medication aide certified;

2721 (e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

2722 (f) unauthorized taking or personal use of nursing supplies from an employer;

2723 (g) unauthorized taking or personal use of a patient's personal property;

2724 (h) unlawful or inappropriate delegation of nursing care;

2725 (i) failure to exercise appropriate supervision of persons providing patient care services
2726 under supervision of the licensed nurse;

2727 (j) employing or aiding and abetting the employment of an unqualified or unlicensed
2728 person to practice as a nurse;

2729 (k) failure to file or record any medical report as required by law, impeding or
2730 obstructing the filing or recording of such a report, or inducing another to fail to file or record
2731 such a report;

2732 (l) breach of a statutory, common law, regulatory, or ethical requirement of
2733 confidentiality with respect to a person who is a patient, unless ordered by a court;

2734 (m) failure to pay a penalty imposed by the division;

2735 (n) prescribing a Schedule II controlled substance without complying with the
2736 requirements in Section 58-31b-803, if applicable;

2737 (o) violating Section 58-31b-801;

2738 (p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part
2739 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if
2740 applicable; [~~or~~]

2741 (q) falsely making an entry in, or altering, a medical record with the intent to conceal:

2742 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
2743 or an individual under the direction or control of an individual licensed under this chapter; or

2744 (ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1)[~~]~~;

2745 or

2746 (r) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

2747 (2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
2748 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as
2749 a limited medical provider, as those terms are defined in Section 26-61a-102, recommending
2750 the use of medical cannabis.

2751 (3) Notwithstanding Subsection (2), the division, in consultation with the board and in
2752 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2753 unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

2754 Section 31. Section 58-70a-503 is amended to read:

2755 **58-70a-503. Unprofessional conduct.**

- 2756 (1) "Unprofessional conduct" includes:
- 2757 (a) violation of a patient confidence to any person who does not have a legal right and a
- 2758 professional need to know the information concerning the patient;
- 2759 (b) knowingly prescribing, selling, giving away, or directly or indirectly administering,
- 2760 or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for
- 2761 a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts
- 2762 prescribed or provided;
- 2763 (c) prescribing prescription drugs for oneself or administering prescription drugs to
- 2764 oneself, except those that have been legally prescribed for the physician assistant by a licensed
- 2765 practitioner and that are used in accordance with the prescription order for the condition
- 2766 diagnosed;
- 2767 (d) in a practice that has physician assistant ownership interests, failure to allow a
- 2768 physician the independent final decision making authority on treatment decisions for the
- 2769 physician's patient;
- 2770 (e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical
- 2771 Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; ~~and~~
- 2772 (f) falsely making an entry in, or altering, a medical record with the intent to conceal:
- 2773 (i) a wrongful or negligent act or omission of an individual licensed under this chapter
- 2774 or an individual under the direction or control of an individual licensed under this chapter; or
- 2775 (ii) conduct described in Subsections (1)(a) through (e) or Subsection [58-1-501\(1\)](#)~~[-]~~;
- 2776 and
- 2777 (g) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.
- 2778 (2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter
- 2779 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a
- 2780 limited medical provider, as those terms are defined in Section [26-61a-102](#), recommending the
- 2781 use of medical cannabis.
- 2782 (b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and

2783 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define
2784 unprofessional conduct for a physician assistant described in Subsection (2)(a).

2785 **Section 32. Effective date.**

2786 If approved by two-thirds of all the members elected to each house, this bill takes effect
2787 upon approval by the governor, or the day following the constitutional time limit of Utah
2788 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
2789 the date of veto override.

2790 **Section 33. Coordinating S.B. 190 with S.B. 195 -- Superseding technical and**
2791 **substantive amendments.**

2792 If this S.B. 190 and S.B. 195, Medical Cannabis Access Amendments, both pass and
2793 become law, it is the intent of the Legislature that the Office of Legislative Research and
2794 General Counsel shall prepare the Utah Code database for publication by amending Section
2795 26-61a-505 to read:

2796 **"26-61a-505. Advertising.**

2797 (1) Except as provided in this section, a [~~medical cannabis pharmacy~~] person may not
2798 advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical
2799 cannabis within the state.

2800 (2) [~~A~~] Subject to Section 26-61a-116, a medical cannabis pharmacy may:

2801 (a) advertise an employment opportunity at the medical cannabis pharmacy[-];

2802 [~~(3)(a) Notwithstanding~~] (b) notwithstanding any municipal or county ordinance
2803 prohibiting signage, [a medical cannabis pharmacy may] use signage on the outside of the
2804 medical cannabis pharmacy that:

2805 (i) includes only:

2806 (A) in accordance with Subsection [~~(3)(b)~~] 26-61a-116(4), the medical cannabis
2807 pharmacy's name, logo, and hours of operation; and

2808 (B) a green cross; and

2809 (ii) complies with local ordinances regulating signage[-];

2810 ~~[(b) The department shall define standards for a medical cannabis pharmacy's name~~
2811 ~~and logo to ensure a medical rather than recreational disposition.]~~

2812 ~~[(4) (a) A medical cannabis pharmacy may maintain a website that includes~~
2813 ~~information about:]~~

2814 (c) advertise in any medium:

2815 (i) the pharmacy's name and logo;

2816 ~~[(i)]~~ (ii) the location and hours of operation of the medical cannabis pharmacy;

2817 ~~[(ii)]~~ (iii) a [product or] service available at the medical cannabis pharmacy;

2818 ~~[(iii)]~~ (iv) personnel affiliated with the medical cannabis pharmacy;

2819 ~~[(iv)]~~ (v) whether the medical cannabis pharmacy is licensed as a home delivery
2820 medical cannabis pharmacy;

2821 (vi) best practices that the medical cannabis pharmacy upholds; and

2822 ~~[(v)]~~ (vii) educational material related to the medical use of cannabis, as defined by the
2823 department[-];

2824 ~~[(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah~~
2825 ~~Administrative Rulemaking Act, to define the educational material described in Subsection~~
2826 ~~(4)(a):]~~

2827 ~~[(5) (a) A medical cannabis pharmacy may hold an educational event for the public or~~
2828 ~~medical providers in accordance with this Subsection (5) and the rules described in Subsection~~
2829 ~~(5)(c):]~~

2830 (d) hold an educational event for the public or medical providers in accordance with
2831 Subsection (3) and the rules described in Subsection (4); and

2832 (e) maintain on the medical cannabis pharmacy's website non-promotional information
2833 regarding the medical cannabis pharmacy's inventory.

2834 ~~[(b)]~~ (3) A medical cannabis pharmacy may not include in an educational event
2835 described in Subsection ~~[(5)(a)] (2)(d):~~

2836 ~~[(i)]~~ (a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis

2837 Production Establishments;

2838 ~~[(ii)]~~ (b) any gift items or merchandise other than educational materials, as those terms

2839 are defined by the department;

2840 ~~[(iii)]~~ (c) any marketing for a specific product from the medical cannabis pharmacy or

2841 any other statement, claim, or information that would violate the federal Food, Drug, and

2842 Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

2843 ~~[(iv)]~~ (d) a presenter other than the following:

2844 ~~[(A)]~~ (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

2845 ~~[(B)]~~ (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b,

2846 Nurse Practice Act;

2847 ~~[(C)]~~ (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act,

2848 or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

2849 ~~[(D)]~~ (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician

2850 Assistant Act;

2851 ~~[(E)]~~ (v) a medical practitioner, similar to the practitioners described in this Subsection

2852 ~~[(5)(b)(iv)]~~ (3)(d)(v), who is licensed in another state or country;

2853 ~~[(F)]~~ (vi) a state employee; or

2854 ~~[(G)]~~ (vii) if the presentation relates to a cannabis topic other than medical treatment or

2855 medical conditions, an individual whom the department approves based on the individual's

2856 background and credentials in the presented topic.

2857 ~~[(e)]~~ (4) The department shall make rules, in accordance with Title 63G, Chapter 3,

2858 Utah Administrative Rulemaking Act, to define:

2859 (a) the educational material described in Subsection (2)(c)(vii); and

2860 (b) the elements of and restrictions on the educational event described in Subsection

2861 ~~[(5)(a)]~~ (3), including:

2862 (i) a minimum age of 21 years old for attendees; and

2863 (ii) an exception to the minimum age for a medical cannabis patient cardholder who is

2864 at least 18 years old."