

# WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

## UTAH MEDICAL CANNABIS ACT

### LONG TITLE

#### General Description:

This bill provides for the cultivation, processing, medical recommendation, and patient use of medical cannabis.

#### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for licensing and regulation of a cannabis cultivation facility, a cannabis processing facility, an independent cannabis testing laboratory, and a medical cannabis pharmacy;
- ▶ provides for security and tracking of cannabis and a cannabis product from cultivation to consumption to ensure safety and chemical content;
- ▶ requires certain labeling and childproof packaging of cannabis and a cannabis product;
- ▶ requires the Department of Agriculture and Food, the Department of Health, the Department of Public Safety, and the Department of Technology Services to create an electronic verification system to facilitate recommendation, dispensing, and record-keeping for medical cannabis transactions;
- ▶ allows an individual with a qualifying condition to obtain a medical cannabis card on the recommendation of a certain medical professional to gain access to medical cannabis;
- ▶ allows a patient to designate a caregiver to assist with accessing medical cannabis;
- ▶ provides that a parent or legal guardian is the designated caregiver for a minor;
- ▶ provides housing and employment discrimination protection for an individual who lawfully uses medical cannabis;

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- 31 ▶ limits the form and amount of medical cannabis available to a patient at one
- 32 time;
- 33 ▶ prohibits a minor from entering a medical cannabis pharmacy;
- 34 ▶ creates the state central fill medical cannabis pharmacy;
- 35 ▶ provides for a process of state central fill shipment of medical cannabis and
- 36 cannabis product to a local health department for patient retrieval;
- 37 ▶ imposes heightened criminal penalties for improperly selling medical cannabis,
- 38 including to a minor;
- 39 ▶ creates an affirmative defense to prosecution for certain individuals before the
- 40 medical cannabis card program is operational;
- 41 ▶ creates protections from state prosecution for the lawful possession, use, and
- 42 sale of medical cannabis;
- 43 ▶ prohibits a court from considering the lawful use of medical cannabis in a
- 44 custody proceeding;
- 45 ▶ repeals superfluous sections related to authorized use of cannabis or a
- 46 cannabis product; and
- 47 ▶ makes technical and conforming changes.

### 48 **Money Appropriated in this Bill:**

49 None

### 50 **Other Special Clauses:**

51 None

### 52 List of sections affected:

53 AMENDS:

54 4-41-102

55 7-1-401

56 10-9a-104

57 17-27a-104

58 26-61-202

59 30-3-10

60 41-6a-517

61 41-6a-517

62 58-17b-302

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63 58-17b-310  
64 58-17b-502  
65 58-37-3.6  
66 58-37-3.6  
67 58-67-304  
68 58-85-102  
69 58-85-104  
70 58-85-105  
71 59-12-104.9  
72 62A-4a-202.1  
73 78A-6-508  
74 78A-6-508  
75  
76 ENACTS:  
77 4-41b-101  
78 4-41b-102  
79 4-41b-103  
80 4-41b-104  
81 4-41b-201  
82 4-41b-202  
83 4-41b-203  
84 4-41b-204  
85 4-41b-301  
86 4-41b-302  
87 4-41b-303  
88 4-41b-401  
89 4-41b-402  
90 4-41b-403  
91 4-41b-404  
92 4-41b-405  
93 4-41b-406  
94 4-41b-501

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96	4-41b-601
97	4-41b-602
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99	4-41b-701
100	4-41b-702
101	4-41b-801
102	4-41b-802
103	26-61b-101
104	26-61b-102
105	26-61b-103
106	26-61b-104
107	26-61b-105
108	26-61b-106
109	26-61b-107
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111	26-61b-109
112	26-61b-110
113	26-61b-111
114	26-61b-112
115	26-61b-113
116	26-61b-201
117	26-61b-202
118	26-61b-203
119	26-61b-204
120	26-61b-301
121	26-61b-302
122	26-61b-303
123	26-61b-304
124	26-61b-401
125	26-61b-402
126	26-61b-403

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127	26-61b-404
128	26-61b-501
129	26-61b-502
130	26-61b-503
131	26-61b-504
132	26-61b-505
133	26-61b-506
134	26-61b-507
135	26-61b-601
136	26-61b-602
137	26-61b-603
138	26-61b-604
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141	26-61b-607
142	26-61b-608
143	26-61b-609
144	26-61b-610
145	26-61b-611
146	26-61b-701
147	26-61b-702
148	26-61b-703
149	53-1-106.5
150	58-37-3.7
151	58-37-3.8
152	58-37-3.9
153	
154	REPEALS:
155	4-41-201
156	4-41-202
157	4-41-203
158	4-41-204

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159	4-41-301
160	4-41-302
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163	4-43-102
164	4-43-201
165	4-43-202
166	4-43-203
167	4-43-301
168	4-43-401
169	4-43-402
170	4-43-501
171	4-43-502
172	4-43-503
173	4-43-601
174	4-43-602
175	4-43-701
176	4-43-702
177	4-43-703
178	4-43-801
179	7-26-101
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181	7-26-201
182	7-26-202
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190	26-65-201

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191 26-65-202  
192 58-67-808  
193 58-68-808  
194 58-85-103.5  
195 58-88-101  
196 58-88-102  
197 58-88-103  
198 58-88-104  
199 59-29-101  
200 59-29-102  
201 59-29-103  
202 59-29-104  
203 59-29-105  
204 59-29-106  
205 59-29-107  
206 59-29-108

207

208 Statutory text:

209 **4-41-102. Definitions.**

210 For purposes of this chapter:

211 (1) "Agricultural pilot program" means a program to study the growth, cultivation, or  
212 marketing of industrial hemp.

213 (2) "Cannabidiol product" means a chemical compound extracted from a hemp product  
214 that:

215 (a) is processed into a medicinal dosage form; and

216 (b) contains less than 0.3% tetrahydrocannabinol by weight before  
217 processing and no more than a 10:1 ratio of cannabidiol to  
218 tetrahydrocannabinol after processing.

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

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- 221 (4) "Industrial hemp certificate" means a certificate issued by the department to a higher  
222 education institution to grow or cultivate industrial hemp under Subsection 4-41-  
223 103(1).
- 224 (5) "Industrial hemp license" means a license issued by the department to a person for the  
225 purpose of participating in a research pilot program.
- 226 (6) "Industrial hemp product" means a product derived from, or made by, processing  
227 industrial hemp plants or industrial hemp parts.
- 228 (7) "Licensee" means an individual or business entity possessing a license issued by the  
229 department under this chapter to grow, cultivate, process, or market industrial hemp or  
230 an industrial hemp product.
- 231 (8) "Medicinal dosage form" means the same as that term is defined in Section ~~26-65-~~  
232 ~~402~~ 26-61b-102 .
- 233 (9) "Person" means:
- 234 (a) an individual, partnership, association, firm, trust, limited liability  
235 company, or corporation; and
- 236 (b) an agent or employee of an individual, partnership, association, firm,  
237 trust, limited liability company, or corporation.
- 238 (10) "Research pilot program" means a program conducted by the department in  
239 collaboration with at least one licensee to study methods of cultivating, processing, or  
240 marketing industrial hemp.

### CHAPTER 41b. CANNABIS PRODUCTION ESTABLISHMENTS

#### Part 1. General Provisions

##### 4-41b-101. Title.

This chapter is known as "Cannabis Production Establishments."

##### 4-41b-102. Definitions.

As used in this chapter:

- 249 (1) "Cannabis" means the same as that term is defined in Section 58-37-3.7.
- 250 (2) "Cannabis cultivation facility" means a person that:
- 251 (a) possesses cannabis;
- 252 (b) grows or intends to grow cannabis; and



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- 253                    (c) sells or intends to sell cannabis to a cannabis cultivation facility or a  
254                    cannabis processing facility.
- 255    (3) "Cannabis cultivation facility agent" means an individual who:  
256                    (a) is an owner, officer, director, board member, or employee of a cannabis  
257                    cultivation facility; and  
258                    (b) holds a valid cannabis production establishment agent registration card.
- 259    (4) "Cannabis processing facility" means a person that:  
260                    (a) acquires or intends to acquire cannabis from a cannabis production  
261                    establishment;  
262                    (b) possesses cannabis with the intent to manufacture a cannabis product;  
263                    (c) manufactures or intends to manufacture a cannabis product from  
264                    unprocessed cannabis or a cannabis extract; and  
265                    (d) sells or intends to sell a cannabis product to a medical cannabis  
266                    pharmacy or the state central fill medical cannabis pharmacy.
- 267    (5) "Cannabis processing facility agent" means an individual who:  
268                    (a) is an owner, officer, director, board member, or employee of a cannabis  
269                    processing facility; and  
270                    (b) holds a valid cannabis production establishment agent registration card.
- 271    (6) "Cannabis product" means the same as that term is defined in Section 58-37-3.7.
- 272    (7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis  
273                    processing facility, or an independent cannabis testing laboratory.
- 274    (8) "Cannabis production establishment agent" means a cannabis cultivation facility agent,  
275                    a cannabis processing facility agent, or an independent cannabis testing laboratory  
276                    agent.
- 277    (9) "Cannabis production establishment agent registration card" means a registration card  
278                    that the department issues that:  
279                    (a) authorizes an individual to act as a cannabis production establishment agent;  
280                    and  
281                    (b) designates the type of cannabis production establishment for which an  
282                    individual is authorized to act as an agent.
- 283    (10) "Department" means the Department of Agriculture and Food.

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- 284 (11) "Family member" means a parent, spouse, child, sibling, uncle, aunt, nephew, niece,  
285 first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,  
286 daughter-in-law, grandparent, or grandchild.
- 287 (12) "Independent cannabis testing laboratory" means a person that:  
288 (a) conducts a chemical or other analysis of cannabis or a cannabis product;  
289 or  
290 (b) acquires, possesses, or transports cannabis or a cannabis product with  
291 the intent to conduct a chemical or other analysis of the cannabis or cannabis  
292 product.
- 293 (13) "Independent cannabis testing laboratory agent" means an individual who:  
294 (a) is an owner, officer, director, board member, or employee of an independent  
295 cannabis testing laboratory; and  
296 (b) holds a valid cannabis production establishment agent registration card.
- 297 (14) "Inventory control system" means a system described in Section 4-41b-103.
- 298 (15) "Medical cannabis card" means the same as that term is defined in Section 26-61b-  
299 102.
- 300 (16) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-  
301 61b-102.
- 302 (17) "Medical cannabis pharmacy agent" means the same as that term is defined in Section  
303 26-61b-102.
- 304 (18) "Medical Cannabis Restricted Account" means the account created in Section 26-61b-  
305 109.
- 306 (19) "Medicinal dosage form" means the same as that term is defined in Section 26-61b-  
307 102.
- 308 (20) "Qualified medical provider" means the same as that term is defined in Section 26-  
309 61b-102.
- 310 (21) "State central fill agent" means the same as that term is defined in Section 26-61b-  
311 102.
- 312 (22) "State central fill medical cannabis pharmacy" means the same as that term is defined  
313 in Section 26-61b-102.
- 314 (23) "State central fill shipment" means the same as that term is defined in Section 26-61b-  
315 102.

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316 (24) "State electronic verification system" means the system described in Section 26-61b-  
317 103.

318 (25) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic  
319 equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

### 4-41b-103. Inventory Control System.

322 (1) Each cannabis production establishment, each medical cannabis pharmacy, and the  
323 state central fill medical cannabis pharmacy shall maintain an inventory control system  
324 that meets the requirements of this section.

325 (2) A cannabis production establishment, a medical cannabis pharmacy, and the state  
326 central fill medical cannabis pharmacy shall ensure that the inventory control system  
327 that the establishment or pharmacy maintains:

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

332 (b) stores in real time a record of the amount of cannabis and cannabis products in  
333 the possession of the establishment or pharmacy;

334 (c) includes a video-recording system that:

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

337 (ii) is tamper proof; and

338 (iii) stores a video record for 45 days; and

339 (d) preserves compatibility with the state electronic verification system described in  
340 Section 26-61b-103.

341 (3) A cannabis production establishment, a medical cannabis pharmacy, and the state  
342 central fill medical cannabis pharmacy shall allow the department or the Department of  
343 Health access to the cannabis production establishment's, medical cannabis  
344 pharmacy's, or state central fill medical cannabis pharmacy's inventory control system  
345 at any time.

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

## 349 **4-41b-104. Preemption.**

350 This chapter preempts any ordinance or rule that a political subdivision enacts regarding a  
351 cannabis production establishment.

## 352 **Part 2. Cannabis Production Establishment**

### 353 **4-41b-201. Cannabis production establishment -- License.**

354 (1) A person may not operate a cannabis production establishment without a license that  
355 the department issues under this chapter.

356 (2) Subject to Subsections (6) and (7) and Section 4-41b-204, the department shall, within  
357 90 days after the day on which the department receives a complete application, issue  
358 a license to operate a cannabis production establishment to the applicant if the  
359 applicant submits to the department:

360 (a) a proposed name and address, located in a zone described in Subsection 4-  
361 41b-406(1)(a) or (b), where the applicant will operate the cannabis production  
362 establishment;

363 (b) the name and address of any individual who:

364 (i) has a financial or voting interest of 2% or greater in the proposed  
365 cannabis production establishment; or

366 (ii) has the power to direct the management or control of a proposed  
367 medical cannabis production establishment;

368 (c) an operating plan that:

369 (i) complies with Section 4-41b-203;

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

373 (iii) the department approves;

374 (d) financial statements demonstrating that the applicant possesses a minimum of:  
375  
376

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- 377            (i)     \$250,000 in liquid assets available for each cannabis cultivation facility  
378            for which the applicant applies; or
- 379            (ii)     \$50,000 in liquid assets available for each cannabis processing facility or  
380            independent cannabis testing laboratory for which the applicant applies;
- 381            (e)     if the municipality or county where the proposed cannabis production  
382            establishment would be located requires a local permit or license, a copy of the  
383            applicant's application for the local permit or license; and
- 384            (f)     an application fee in an amount that the department sets in accordance with  
385            Section 63J-1-504.
- 386            (3)     If the department approves an application for a license under this section, the  
387            applicant shall pay the department an initial license fee in an amount that the  
388            department sets in accordance with Section 63J-1-504.
- 389            (4)     Except as provided in Subsection (5), the department shall require a separate license  
390            for each type of cannabis production establishment and each location of a cannabis  
391            production establishment.
- 392            (5)     The department may issue a cannabis cultivation facility license and a cannabis  
393            processing facility license to a person to operate at the same physical location or at  
394            separate physical locations.
- 395            (6)     The department may not issue a license to operate an independent cannabis testing  
396            laboratory to a person:
- 397                    (a)     that holds a license or has an ownership interest in a medical cannabis  
398                    pharmacy, a cannabis processing facility, or a cannabis cultivation facility;
- 399                    (b)     that has an owner, officer, director, or employee whose family member  
400                    holds a license or has an ownership interest in a medical cannabis pharmacy, a  
401                    cannabis processing facility, or a cannabis cultivation facility; or
- 402                    (c)     who proposes to operate the independent cannabis testing laboratory at  
403                    the same physical location as a medical cannabis pharmacy, a cannabis  
404                    processing facility, or a cannabis cultivation facility.
- 405            (7)     The department may not issue a license to operate a cannabis production  
406            establishment to an applicant if any individual described in Subsection (2)(b):
- 407                    (a)     has been convicted of an offense that is a felony under state or federal  
408                    law; or

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409           **(b)**    is less than 21 years old.

410 **(8)**    The department may revoke a license under this part:

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

414       **(b)**    after the cannabis production establishment makes the same class of violation  
415           of this chapter three times; or

416       **(c)**    if the owner or operator of the cannabis production establishment is convicted,  
417           between renewals, of a felony.

418 **(9)**    The department shall deposit the proceeds of a fee imposed under this section in the  
419           Medical Cannabis Restricted Account.

420 **(10)** The department shall begin accepting applications under this part on or before  
421           January 1, 2020.

## 423                   **4-41b-202. Renewal.**

424 The department shall renew a license issued under Section 4-41b-201 every two years if, at  
425 the time of renewal:

426 **(1)**    the licensee meets the requirements of Section 4-41b-201;

427 **(2)**    the licensee pays the department a license renewal fee in an amount the department  
428           sets in accordance with Section 63J-1-504; and

429 **(3)**    if the cannabis production establishment changes the operating plan described in  
430           Section 4-41b-203 that the department approved under Section 4-41b-201(2)(c), the  
431           department approves the new operating plan.

## 433                   **4-41b-203. Operating plan.**

434 **(1)**    A person applying for a cannabis production establishment license or license renewal  
435           shall submit to the department for the department's review a proposed operating plan  
436           that includes:

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

439       **(b)**    a description of the credentials and experience of:

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- 440            (i) each officer, director, and owner of the proposed cannabis production  
441            establishment; and
- 442            (ii) any highly skilled or experienced prospective employee;
- 443            (c) the cannabis production establishment's employee training standards;
- 444            (d) a security plan;
- 445            (e) a description of the cannabis production establishment's inventory control  
446            system, including a description of how the inventory control system is  
447            compatible with the state electronic verification system described in Section 26-  
448            61b-103;
- 449            (f) for a cannabis cultivation facility, the information described in Subsection (2);
- 450            (g) for a cannabis processing facility, the information described in Subsection (3);  
451            and
- 452            (h) for an independent cannabis testing laboratory, the information described in  
453            Subsection (4).
- 454            (2) A cannabis cultivation facility shall ensure that the facility's operating plan includes the  
455            facility's intended cannabis cultivation practices, including the facility's intended  
456            pesticide use, fertilizer use, square footage under cultivation, and anticipated cannabis  
457            yield.
- 458            (3) A cannabis processing facility's operating plan shall include the facility's intended  
459            cannabis processing practices, including the cannabis processing facility's intended:
- 460            (a) offered variety of cannabis product;
- 461            (b) cannabinoid extraction method;
- 462            (c) cannabinoid extraction equipment;
- 463            (d) processing equipment;
- 464            (e) processing techniques; and
- 465            (f) sanitation and food safety procedures.
- 466            (4) An independent cannabis testing laboratory's operating plan shall include the  
467            laboratory's intended cannabis and cannabis product testing capability and cannabis  
468            and cannabis product testing equipment.

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**4-41b-204. Number of licenses -- Cannabis cultivation facilities.**

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- 471 (1) Except as provided in Subsection (2), the department may not issue more than 15  
472 licenses to operate cannabis cultivation facilities.
- 473 (2) After January 1, 2022, the department may issue up to five licenses to operate a  
474 cannabis cultivation facility in addition to the 15 licenses described in Subsection (1) if  
475 the department determines, after an analysis of the current and anticipated market for  
476 cannabis in a medicinal dosage form and cannabis products in a medicinal dosage  
477 form, that an additional license is necessary to provide an adequate supply, quality, or  
478 variety of cannabis in a medicinal dosage form and cannabis product in a medicinal  
479 dosage form to medical cannabis cardholders.
- 480 (3) If there are more qualified applicants than the number of available licenses for  
481 cannabis cultivation facilities under Subsections (1) and (2), the department shall  
482 evaluate the applicants and award the limited number of licenses described in  
483 Subsections (1) and (2) to the applicants that best demonstrate:
- 484 (a) experience with establishing and successfully operating a business that  
485 involves:
- 486 (i) complying with a regulatory environment;  
487 (ii) tracking inventory; and  
488 (iii) training, evaluating, and monitoring employees;
- 489 (b) an operating plan that will best ensure the safety and security of patrons and  
490 the community;
- 491 (c) positive connections to the local community; and  
492 (d) the extent to which the applicant can reduce the cost to patients of cannabis in  
493 a medicinal dosage form or cannabis products in a medicinal dosage form.
- 494 (4) The department may conduct a face-to-face interview with an applicant for a license  
495 that the department evaluates under Subsection (3).

### Part 3. Cannabis Production Establishment Agents

#### 4-41b-301. Cannabis production establishment agent -- Registration.

- 500 (1) An individual may not act as a cannabis production establishment agent unless the  
501 department registers the individual as a cannabis production establishment agent.



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- 502 (2) The following individuals, regardless of the individual's status as a qualified medical  
503 provider, may not serve as a cannabis production establishment agent:
- 504 (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
505 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
- 506 (b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act.
- 507 (3) An independent cannabis testing laboratory agent may not act as an agent for a  
508 medical cannabis pharmacy, the state central fill medical cannabis pharmacy, a  
509 cannabis processing facility, or a cannabis cultivation facility.
- 510 (4) The department shall, within 15 business days after the day on which the department  
511 receives a complete application from a cannabis production establishment on behalf of  
512 a prospective cannabis production establishment agent, register and issue a cannabis  
513 production establishment agent registration card to the prospective agent if the  
514 cannabis production establishment:
- 515 (a) provides to the department the prospective agent's name and address and the  
516 name and location of a licensed cannabis production establishment where the  
517 prospective agent will act as the cannabis production establishment's agent;  
518 and
- 519 (b) pays a fee to the department in an amount that the department sets in  
520 accordance with Section 63J-1-504.
- 521 (5) The department shall designate on an individual's cannabis production establishment  
522 agent registration card:
- 523 (a) the name of the cannabis production establishment where the individual is  
524 registered as an agent; and
- 525 (b) the type of cannabis production establishment for which the individual is  
526 authorized to act as an agent.
- 527 (6) A cannabis production establishment agent shall comply with:
- 528 (a) a certification standard that the department develops; or  
529 (b) a third-party certification standard that the department designates by rule, in  
530 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 531 (7) The department shall ensure that the certification standard described in Subsection (6)  
532 includes training:
- 533 (a) in Utah medical cannabis law;

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534 (b) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

535 (c) for a cannabis processing facility agent, in cannabis processing, food safety,  
536 and sanitation best practices; and

537 (d) for an independent cannabis testing laboratory agent, in cannabis testing best  
538 practices.

539 (8) For an individual who holds or applies for a cannabis production establishment agent  
540 registration card:

541 (a) the department may revoke or refuse to issue the card if the individual violates  
542 the requirements of this chapter; and

543 (b) the department shall revoke or refuse to issue the card if the individual is  
544 convicted of an offense that is a felony under state or federal law.

545 (9) (a) A cannabis production establishment agent registration card expires two  
546 years after the day on which the department issues the card.

547 (b) A cannabis production establishment agent may renew the agent's registration  
548 card if the agent:

549 (i) is eligible for a cannabis production establishment registration card under  
550 this section;

551 (ii) certifies to the department in a renewal application that the information in  
552 Subsection (4)(a) is accurate or updates the information; and

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

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

555 (B) may not exceed the cost of the relatively lower administrative

556 burden of renewal in comparison to the original application

557 process.

### 558 **4-41b-302. Cannabis production establishment -- Criminal** 559 **background checks.**

560  
561 (1) At the time of application, an applicant for a license as a cannabis production  
562 establishment shall submit the following information regarding an individual described  
563 in Subsection (2):

564 (a) a fingerprint card in a form acceptable to the department; and

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565 (b) consent to a fingerprint background check by the Utah Bureau of Criminal  
566 Identification and the Federal Bureau of Investigation.

567 (2) An applicant shall submit the information described in Subsection (1) regarding each  
568 individual who has:

569 (a) a financial or voting interest of 2% or greater in the applicant; or

570 (b) the power to direct or cause the management or control of the applicant.

571 (3) The department shall request that the Department of Public Safety complete a Federal  
572 Bureau of Investigation criminal background check for each individual described in  
573 Subsection (2).

574 (4) The Department of Public Safety shall:

575 (a) complete a Federal Bureau of Investigation criminal background check for each  
576 individual who is the subject of a department request under Subsection (3); and

577 (b) report the results of the background check to the department.

### 578 **4-41b-303. Cannabis production establishment agent registration** 579 **card -- Rebuttable presumption.**

581 (1) A cannabis production establishment agent whom the department registers under  
582 Section 4-41b-301 shall carry the individual's cannabis production establishment agent  
583 registration card with the agent at all times when:

584 (a) the agent is on the premises of a cannabis production establishment where the  
585 agent is registered;

586 (b) the agent is transporting cannabis in a medicinal dosage form, a cannabis  
587 product in a medicinal dosage form, or a medical cannabis device between:

588 (i) two cannabis production establishments; or

589 (ii) a cannabis production establishment; and

590 (A) a medical cannabis pharmacy; or

591 (B) the state central fill medical cannabis pharmacy; and

592 (c) if the cannabis production establishment agent is an agent of a cannabis  
593 cultivating facility, the agent is transporting raw cannabis plants to a cannabis  
594 processing facility or an independent cannabis testing laboratory.

595 (2) If a cannabis processing facility agent possesses cannabis, a cannabis product, or a  
596 medical cannabis device and produces the registration card in the individual's

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597 possession in compliance with Subsection (1) while handling those items at a  
598 cannabis production facility or while transporting those items:

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

601 (b) a law enforcement officer does not have probable cause, based solely on the  
602 agent's possession of the cannabis, cannabis product, or medical cannabis  
603 device in compliance with Subsection (1), to believe that the individual is  
604 engaging in illegal activity.

605 (3) An cannabis production establishment agent who fails to carry the agent's cannabis  
606 production establishment agent registration card in accordance with Subsection (1) is:

607 (a) for a first or second offense:

608 (i) guilty of an infraction; and

609 (ii) subject to a \$100 fine; or

610 (b) for a third or subsequent offense:

611 (i) guilty of a class C misdemeanor; and

612 (ii) subject to a \$750 fine.

## 613 **Part 4. General Cannabis Production Establishment Operating Requirements**

### 614 **4-41b-401. Cannabis production establishment -- General operating** 615 **requirements.**

616  
617 (1) (a) A cannabis production establishment shall operate in accordance with  
618 the operating plan provided to the department under Section 4-41b-203.

619 (b) A cannabis production establishment shall notify the department before a  
620 change in the cannabis production establishment's operating plan.

621 (c) (i) If a cannabis production establishment changes the cannabis  
622 production establishment's operating plan, the establishment shall  
623 ensure that the new operating plan complies with this chapter.

624 (ii) The department shall establish by rule, in accordance with Title 63G,  
625 Chapter 3, Utah Administrative Rulemaking Act, a process to:

626 (A) review a change notification described in Subsection (1)(b);

627 (B) identify for the cannabis production establishment each point of  
628 noncompliance between the new operating plan and this chapter;

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- 629                    (C) provide an opportunity for the cannabis production establishment  
630                    to address each identified point of noncompliance; and
- 631                    (D) suspend or revoke a license if the cannabis production  
632                    establishment fails to cure the noncompliance.
- 633 (2) A cannabis production establishment shall operate:
- 634                    (a) except as provided in Subsection (5), in a facility that is accessible only by an  
635                    individual with a valid cannabis production establishment agent registration card  
636                    issued under Section 4-41b-301; and
- 637                    (b) at the physical address provided to the department under Section 4-41b-201.
- 638 (3) A cannabis production establishment agent may not employ a person who is younger  
639 than 21 years old.
- 640 (4) (a) A cannabis production establishment shall conduct a background check  
641 into the criminal history of each individual required to register as an agent of the  
642 cannabis production establishment.
- 643                    (b) A cannabis production establishment may not employ an individual convicted of  
644 a felony offense under either state or federal law.
- 645 (5) A cannabis production establishment may authorize an individual who is not a  
646 cannabis production establishment agent to access the cannabis production  
647 establishment if the cannabis production establishment:
- 648                    (a) tracks and monitors the individual at all times while the individual is at the  
649                    cannabis production establishment; and
- 650                    (b) maintains a record of the individual's access, including arrival and departure.
- 651 (6) A cannabis production establishment shall operate in a facility that has:
- 652                    (a) a single, secure public entrance;
- 653                    (b) a security system with a backup power source that:
- 654                    (i) detects and records entry into the cannabis production establishment;  
655                    and
- 656                    (ii) provides notice of an unauthorized entry to law enforcement when the  
657                    cannabis production establishment is closed; and
- 658                    (c) a lock or equivalent restrictive security feature on any area where the cannabis  
659 production establishment stores cannabis or a cannabis product.
- 660

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## 4-41b-402. Inspections.

- 661
- 662 (1) The department may inspect the records and facility of a cannabis production  
663 establishment at any time during business hours to determine if the cannabis  
664 production establishment complies with this chapter.
- 665 (2) An inspection under this section may include:
- 666 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, and  
667 other physical or electronic information;
- 668 (b) questioning of any relevant individual;
- 669 (c) inspection of equipment, an instrument, a tool, or machinery, including a  
670 container or label.
- 671 (3) In making an inspection under this section, the department may freely access any area  
672 and review and make copies of a book, record, paper, document, data, or other  
673 physical or electronic information, including financial data, sales data, shipping data,  
674 pricing data, and employee data.
- 675 (4) Failure to provide the department or the department's authorized agents immediate  
676 access during business hours in accordance with this section may result in:
- 677 (a) the imposition of a civil monetary penalty that the department sets in  
678 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 679 (b) license or registration suspension or revocation; or
- 680 (c) an immediate cessation of operations under a cease and desist order that the  
681 department issues.
- 682

## 4-41b-403. Advertising.

- 684 (1) A cannabis production establishment may not advertise to the general public in any  
685 medium.
- 686 (2) Notwithstanding Subsection (1), a cannabis production establishment may advertise  
687 an employment opportunity at the cannabis production facility.
- 688

## 4-41b-404. Cannabis, cannabis product, or medical cannabis device transportation.

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- 691 (1) (a) Only the following individuals may transport cannabis in a medicinal  
692 dosage form, a cannabis product in a medicinal dosage form, or a medical  
693 cannabis device under this chapter:
- 694 (i) a registered cannabis production establishment agent; or  
695 (ii) a medical cannabis cardholder who is transporting a medical cannabis  
696 treatment that the cardholder is authorized to transport under this  
697 chapter.
- 698 (b) Only an agent of a cannabis cultivating facility, when the agent is transporting  
699 cannabis plants to a cannabis processing facility or an independent cannabis  
700 testing laboratory, may transport unprocessed cannabis outside of a medicinal  
701 dosage form.
- 702 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter  
703 61b, Medical Cannabis Act who is transporting a medical cannabis treatment the  
704 cardholder is authorized to transport under this chapter, an individual described in  
705 Subsection (1) shall possess a transportation manifest that:
- 706 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
707 cannabis device to a relevant inventory control system;
- 708 (b) includes origin and destination information for any cannabis, cannabis product,  
709 or medical cannabis device that the individual is transporting; and
- 710 (c) identifies the departure and arrival times and locations of the individual  
711 transporting the cannabis, cannabis product, or medical cannabis device.
- 712 (3) In addition to the requirements in Subsections (1) and (2), the department may  
713 establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
714 Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a  
715 cannabis product in a medicinal dosage form, or a medical cannabis device to ensure  
716 that the cannabis, cannabis product, or medical cannabis device remains safe for  
717 human consumption.
- 718 (4) (a) It is unlawful for a registered cannabis production establishment agent, a  
719 registered medical cannabis pharmacy agent, a registered state central fill  
720 agent, or a courier described in Section 26-61b-605 to make a transport  
721 described in this section with a manifest that does not meet the requirements of  
722 this section.

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723 (b) Except as provided in Subsection (4)(c), an agent or courier who violates  
724 Subsection (4)(a) is:

725 (i) guilty of an infraction; and

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

727 (c) If the individual described in Subsection (4)(a) is transporting more cannabis,  
728 cannabis product, or medical cannabis devices than the manifest identifies,  
729 except for a de minimis administrative error:

730 (a) this chapter does not apply; and

731 (b) the individual is subject to penalties under Title 58, Chapter 37, Utah  
732 Controlled Substances Act.

### 733 **4-41b-405. Excess and disposal.**

734  
735 (1) As used in this section, "medical cannabis waste" waste and unused material from the  
736 cultivation and production of medical cannabis.

737 (2) A cannabis production establishment shall:

738 (a) render medical cannabis waste unusable and unrecognizable before  
739 transporting the medical cannabis waste from the cannabis production  
740 establishment;

741 (b) dispose of medical cannabis waste in accordance with:

742 (i) federal and state law and rules and regulations related to hazardous  
743 waste;

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

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

747 (iv) other regulations that the department makes in accordance with Title  
748 63G, Chapter 3, Utah Administrative Rulemaking Act.

749 (3) It is unlawful to transport or dispose of medical cannabis waste other than as provided  
750 in this section.

### 751 **4-41b-406. Local control.**

752



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- 753 (1) If a municipality's or county's zoning ordinances provide for a commercial  
754 zone, the municipality or county shall ensure that the ordinances allow for  
755 cannabis production establishments in at least one type of commercial zone  
756 (b) If a municipality's or county's zoning ordinances provide for an industrial zone,  
757 the municipality or county shall ensure that the ordinances allow for cannabis  
758 production establishments in at least one type of industrial zone  
759 (2) A municipality or county may not deny or revoke a permit or license to operate a  
760 cannabis production facility on the sole basis that the applicant or cannabis production  
761 establishment violates federal law regarding the legal status of cannabis.  
762

### Part 5. Cannabis Cultivation Facility Operating Requirements

#### 4-41b-501. Cannabis cultivation facility -- Operating requirements.

- 765 (1) A cannabis cultivation facility shall ensure that cannabis growing at the cannabis  
766 cultivation facility is not visible from the cannabis cultivation facility perimeter.  
767 (2) A cannabis cultivation facility shall use a unique identifier that is connected to the  
768 cannabis cultivation facility's inventory control system to identify:  
769 (a) beginning at the time a cannabis plant is eight inches tall and has a root ball,  
770 each cannabis plant;  
771 (b) each unique harvest of cannabis plants;  
772 (c) each batch of cannabis the facility transfers to a medical cannabis pharmacy,  
773 the state central fill medical cannabis pharmacy, a cannabis processing facility,  
774 or an independent cannabis testing laboratory; and  
775 (d) any excess, contaminated, or deteriorated cannabis that the cannabis  
776 cultivation facility disposes.  
777

#### 4-41b-502. Cannabis -- Labeling and child-resistant packaging.

779 For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and  
780 subsequently ships to another cannabis production establishment, the facility shall:

- 781 (1) label the cannabis with a label that has a unique batch identification number that is  
782 connected to the inventory control system; or  
783 (2) package the cannabis in a container that is:  
784 (a) tamper evident; and

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785 (b) not appealing to children.

786

## 787 **Part 6. Cannabis Processing Facility Operating Requirements**

### 788 **4-41b-601. Cannabis processing facility -- Operating requirements**

#### 789 **-- General.**

790 (1) A cannabis processing facility shall ensure that a cannabis product the cannabis  
791 processing facility sells complies with the requirements of this part.

792 (2) If a cannabis processing facility extracts cannabinoids from cannabis using a  
793 hydrocarbon process, the cannabis processing facility shall:

794 (a) extract the cannabinoids under a blast hood; and

795 (b) use a system to reclaim solvents.

796

### 797 **4-41b-602. Cannabis product -- Labeling and child-resistant**

798 **packaging.**

799 (1) For any cannabis product that a cannabis processing facility processes or produces,  
800 the facility shall:

801 (a) label the cannabis product with a label that:

802 (a) clearly and unambiguously states that the cannabis product contains  
803 cannabis;

804 (b) clearly displays the amount of tetrahydrocannabinol and cannabidiol in  
805 the cannabis product;

806 (c) has a unique identification number that:

807 (i) is connected to the inventory control system; and

808 (ii) identifies the unique cannabis product manufacturing process the  
809 cannabis processing facility used to manufacture the cannabis  
810 product;

811 (d) identifies the cannabinoid extraction process that the cannabis  
812 processing facility used to create the cannabis product;

813 (e) does not display an image, word, or phrase that the facility knows or  
814 should know appeals to children; and

815 (f) discloses each ingredient and possible allergen; and

816 (b) package the cannabis product in a medicinal dosage form in a container that:

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- 817            (a)    except for a blister pack, is tamper evident and tamper resistant;  
818            (b)    does not appeal to children;  
819            (c)    is not similar to a candy container;  
820            (d)    except for a blister pack, is opaque;  
821            (e)    complies with child-resistant effectiveness standards that the United  
822            States Consumer Product Safety Commission establishes; and  
823            (f)    includes a warning label that states: "WARNING: Cannabis has  
824            intoxicating effects and may be addictive. Do not operate a vehicle or  
825            machinery under its influence. KEEP OUT OF REACH OF CHILDREN.  
826            This product is for medical use only. Use only as directed by a qualified  
827            medical provider."
- 828    (2)    For any cannabis or cannabis product that the cannabis processing facility processes  
829    into a gelatin-based cube, the facility shall:
- 830            (a)    ensure that the label described in Subsection (1)(b) does not contain a  
831            photograph or other image of the content of the container; and  
832            (b)    include on the label described in Subsection (1)(a) a warning about the risks of  
833            over-consumption.
- 834
- 835                            **4-41b-603.    Cannabis product -- Product quality.**
- 836    (1)    A cannabis processing facility may not produce a cannabis product in a physical form  
837    that:
- 838            (a)    the facility knows or should know appeals to children;  
839            (b)    is designed to mimic or could be mistaken for a candy product; or  
840            (c)    for a product used in vaporization, includes a candy-like flavor or another flavor  
841            that the facility knows or should know appeals to children.
- 842    (2)    A cannabis processing facility may not manufacture a cannabis product by applying a  
843    cannabis agent only to the surface of a pre-manufactured food product that the  
844    cannabis processing facility does not produce.
- 845    (3)    A cannabis product may vary in the cannabis product's labeled cannabinoid profile by  
846    up to 10% of the indicated amount of a given cannabinoid, by weight.

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847 (4) The department shall adopt by rule, in accordance with Title 63G, Chapter 3, Utah  
848 Administrative Rulemaking Act, human safety standards for the manufacture of  
849 cannabis products that are consistent with best practices for the use of cannabis.  
850

## Part 7. Independent Cannabis Testing Laboratories

### 4-41b-701. Cannabis and cannabis product testing.

- 853 (1) A medical cannabis pharmacy and the state central fill medical cannabis pharmacy  
854 may not offer any cannabis or cannabis product for sale unless an independent  
855 cannabis testing laboratory has tested a representative sample of the cannabis or  
856 cannabis product to determine:
- 857 (a) (i) the amount of tetrahydrocannabinol and cannabidiol in the  
858 cannabis or cannabis product; and
  - 859 (ii) the amount of any other cannabinoid in the cannabis or cannabis product  
860 that the label claims the cannabis or cannabis product contains.
  - 861 (b) that the presence of contaminants, including mold, fungus, pesticides, microbial  
862 contaminants, or foreign material, does not exceed an amount that is safe for  
863 human consumption; and
  - 864 (c) for a cannabis product that is manufactured using a process that involves  
865 extraction using hydrocarbons, that the cannabis product does not contain a  
866 level of a residual solvent that is not safe for human consumption.
- 867 (2) The department may determine by rule, in accordance with Title 63G, Chapter 3, Utah  
868 Administrative Rulemaking Act, the amount of a substance described in Subsection (1)  
869 that is safe for human consumption.  
870

### 4-41b-702. Reporting -- Inspections -- Seizure by the department.

- 872 (1) If an independent cannabis testing laboratory determines that the results of a lab test  
873 indicate that a cannabis or cannabis product batch may be unsafe for human  
874 consumption, the independent cannabis testing laboratory shall:
- 875 (a) report the results and the cannabis or cannabis product batch to:
    - 876 (i) the department; and
    - 877 (ii) the cannabis production establishment that prepared the cannabis or  
878 cannabis product batch;

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879 (b) retain possession of the cannabis or cannabis product batch for one week in  
880 order to investigate the cause of the defective batch and to make a  
881 determination; and

882 (c) allow the cannabis production establishment that prepared the cannabis or  
883 cannabis product batch to appeal the determination described in Subsection  
884 (1)(b) to the department.

885 (2) If the department determines, under Subsection (1)(b) or following an appeal under  
886 Subsection (1)(c), that a cannabis or cannabis product prepared by a cannabis  
887 production establishment is unsafe for human consumption, the department may  
888 seize, embargo, or destroy the cannabis or cannabis product batch.

889 (3) If an independent cannabis testing laboratory determines that the results of a lab test  
890 indicate that the cannabinoid content of a cannabis or cannabis product batch diverges  
891 more than 10% from the amounts the label indicates, the cannabis processing facility  
892 may not sell the cannabis or cannabis product batch unless the facility replaces the  
893 incorrect label with a label that correctly indicates the cannabinoid content.

### 895 **Part 8. Enforcement**

#### 896 **4-41b-801. Enforcement -- Fine --** 897 **Citation.**

898 (1) If a person that is a cannabis production establishment or a cannabis production  
899 establishment agent violates this chapter, the department may:

900 (a) revoke the person's license or cannabis production establishment agent  
901 registration card;

902 (b) decline to renew the person's license or cannabis production establishment  
903 agent registration card; or

904 (c) assess the person an administrative penalty that the department establishes by  
905 rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking  
906 Act.

907 (2) The department shall deposit an administrative penalty imposed under this section in  
908 the General Fund.

909 (3) (a) The department may take an action described in Subsection (3)(b) if the  
910 department concludes, upon investigation, that, for an individual that is a

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- 911 cannabis production establishment or a cannabis production establishment  
912 agent:
- 913 (i) the individual violates a provision of this chapter, a rule made under this  
914 chapter, or an order issued under this chapter; or
- 915 (ii) the individual produced cannabis or a cannabis product batch that  
916 contains a substance, other than cannabis, that poses a significant threat  
917 to human health.
- 918 (b) If the department makes the determination about a person described in  
919 Subsection (3)(a), the department shall:
- 920 (i) issue the person a written citation;  
921 (ii) attempt to negotiate a stipulated settlement;  
922 (iii) seize, embargo, or destroy the cannabis or cannabis product batch; and  
923 (iv) direct the person to appear before an adjudicative proceeding conducted  
924 under Title 63G, Chapter 4, Administrative Procedures Act.
- 925 (4) The department may, for a person subject to an uncontested citation, a stipulated  
926 settlement, or a finding of a violation in an adjudicative proceeding under this section:
- 927 (a) assess the person a fine in an amount that the department sets, in accordance  
928 with Section 63J-1-504, of up to \$5,000 per violation, in accordance with a fine  
929 schedule that the department establishes by rule in accordance with Title 63G,  
930 Chapter 3, Utah Administrative Rulemaking Act; or
- 931 (b) order the person to cease and desist from the action that creates a violation.
- 932 (5) The department may not revoke a cannabis production establishment's license without  
933 first directing the cannabis production establishment to appear before an adjudicative  
934 proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- 935 (6) If within 20 calendar days after the day on which a department serves a citation for a  
936 violation of this chapter, the person that is the subject of the citation fails to request a  
937 hearing to contest the citation, the citation becomes the department's final order.
- 938 (7) The department may, for a person who fails to comply with a citation under this  
939 section:
- 940 (a) refuse to issue or renew the person's license or cannabis production  
941 establishment agent registration card; or

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942 (b) suspend, revoke, or place on probation the person's license or cannabis  
943 production establishment registration card.

944 (8) (a) Except as provided in Subsection (8)(b), if the department makes a final  
945 determination under this section that an individual violated a provision of this  
946 chapter, the individual is:

947 (i) guilty of an infraction; and

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

949 (b) If the department makes a final determination under this section that an  
950 individual willfully, knowingly, or deliberately violated a provision of this chapter  
951 or violated this chapter three or more times, the individual is:

952 (i) guilty of a class B misdemeanor; and

953 (ii) subject to a \$1,000 fine.

954 (9) Nothing in this section prohibits the department from referring potential criminal activity  
955 to law enforcement.

### 4-41b-802. Report.

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

960 (a) the number of applications and renewal applications that the department  
961 receives;

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

964 (c) the amount of cannabis that licensees grow;

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

966 (e) the number of licenses the department revokes; and

967 (f) the expenses incurred and revenues generated from the medical cannabis  
968 program.

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

### 7-1-401. Fees payable to commissioner.

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- 973 (1) Except for an out-of-state depository institution with a branch in Utah, a depository  
974 institution under the jurisdiction of the department shall pay an annual fee:
- 975 (a) computed by averaging the total assets of the depository institution  
976 shown on each quarterly report of condition for the depository institution for the  
977 calendar year immediately preceding the date on which the annual fee is due  
978 under Section 7-1-402; and
- 979 (b) at the following rates:
- 980 (i) on the first \$5,000,000 of these assets, the greater of:
- 981 (A) 65 cents per \$1,000; or
- 982 (B) \$500;
- 983 (ii) on the next \$10,000,000 of these assets, 35 cents per \$1,000;
- 984 (iii) on the next \$35,000,000 of these assets, 15 cents per \$1,000;
- 985 (iv) on the next \$50,000,000 of these assets, 12 cents per \$1,000;
- 986 (v) on the next \$200,000,000 of these assets, 10 cents per \$1,000;
- 987 (vi) on the next \$300,000,000 of these assets, 6 cents per \$1,000;
- 988 and
- 989 (vii) on all amounts over \$600,000,000 of these assets, 2 cents per  
990 \$1,000.
- 991 (2) A financial institution with a trust department shall pay a fee determined in accordance  
992 with Subsection (7) for each examination of the trust department by a state examiner.
- 993 (3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a  
994 basic fee of \$25 instead of the fee required under Subsection (1).
- 995 (4) A trust company that is not a depository institution or a subsidiary of a depository  
996 institution holding company shall pay:
- 997 (a) an annual fee of \$500; and
- 998 (b) an additional fee determined in accordance with Subsection (7) for each  
999 examination by a state examiner.
- 1000 (5) Any person or institution under the jurisdiction of the department that does not pay a  
1001 fee under Subsections (1) through (4) shall pay:
- 1002 (a) an annual fee of \$200; and
- 1003 (b) an additional fee determined in accordance with Subsection (7) for each  
1004 examination by a state examiner.



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1005 (6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-  
1006 704, 7-1-713, 7-5-3, or 7-18a-202~~[; or 7-26-201]~~ shall pay:

1007 (a) (i) a filing fee of \$500 if on the day on which the application or  
1008 request is filed the person:

1009 (A) is a person with authority to transact business as~~[-(H)]~~ or a  
1010 depository institution~~[-(H)]~~ or a trust company~~[-(H)]~~ or ~~[(H)]~~ any  
1011 other person described in Section 7-1-501 as being subject to the  
1012 jurisdiction of the department; and

1013 (B) has total assets in an amount less than \$5,000,000; or

1014 (ii) a filing fee of \$2,500 for any person not described in Subsection  
1015 (6)(a)(i); and

1016 (b) all reasonable expenses incurred in processing the application.

1017 (7) (a) Per diem assessments for an examination shall be calculated at the rate  
1018 of \$55 per hour:

1019 (i) for each examiner; and

1020 (ii) per hour worked.

1021 (b) For an examination of a branch or office of a financial institution located  
1022 outside of this state, in addition to the per diem assessment under this  
1023 Subsection (7), the institution shall pay all reasonable travel, lodging, and other  
1024 expenses incurred by each examiner while conducting the examination.

1025 (8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201  
1026 or 7-24-201 shall pay an original registration fee of \$300.

1027 (9) In addition to a fee under Subsection (5), a person applying for licensure under  
1028 Chapter 25, Money Transmitter Act, shall pay an original license fee of \$300.

### 1030 **10-9a-104. Stricter requirements or higher standards.**

1031 (1) Except as provided in Subsection (2), a municipality may enact a land use regulation  
1032 imposing stricter requirements or higher standards than are required by this chapter.

1033 (2) A municipality may not impose :

1034 (a) a requirement or standard that conflicts with a provision of this chapter, other  
1035 state law, or federal law~~[-]~~ ; or

1036 (b) stricter requirements or higher standards than are required by:

# WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

1037 (i) Section 4-41b-406; and

1038 (ii) Section 26-61b-507.

## 17-27a-104. Stricter requirements or higher standards.

1040  
1041 (1) Except as provided in Subsection (2), a county may enact a land use regulation  
1042 imposing stricter requirements or higher standards than are required by this chapter.

1043 (2) A county may not impose :

1044 (a) a requirement or standard that conflicts with a provision of this chapter, other  
1045 state law, or federal law~~[.]~~ ; or

1046 (b) stricter requirements or higher standards than are required by:

1047 (i) Section 4-41b-406; and

1048 (ii) Section 26-61b-507.

## 26-61-202. Cannabinoid Product Board -- Duties.

1050  
1051 (1) The board shall review any available scientific research related to the human use of  
1052 cannabis, a cannabinoid product , or an expanded cannabinoid product that:

1053 (a) was conducted under a study approved by an IRB; or

1054 (b) was conducted or approved by the federal government.

1055 (2) Based on the research described in Subsection (1), the board shall evaluate the  
1056 safety, risks, and efficacy of cannabis, cannabinoid products , and expanded  
1057 cannabinoid products, including:

1058 (a) medical conditions that respond to cannabis, cannabinoid products ,  
1059 and expanded cannabinoid products;

1060 (b) cannabis and cannabinoid dosage amounts and medical dosage  
1061 forms; and

1062 (c) interaction of cannabis, cannabinoid products , and expanded  
1063 cannabinoid products with other treatments.

1064 (3) Based on the board's evaluation under Subsection (2), the board shall develop  
1065 guidelines for a physician recommending treatment with cannabis, a cannabinoid  
1066 product ~~[or]~~ , and an expanded cannabinoid product that ~~[includes]~~ include a list of  
1067 medical conditions, if any, that the board determines are appropriate for treatment with  
1068 cannabis, a cannabinoid product , or an expanded cannabinoid product.

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- 1069 (4) The board shall submit the guidelines described in Subsection (3) to:
- 1070 (a) the director of the Division of Occupational and Professional Licensing;
- 1071 and
- 1072 (b) the Health and Human Services Interim Committee.
- 1073 (5) The board shall report the board's findings before November 1 of each year to the
- 1074 Health and Human Services Interim Committee.
- 1075 (6) Guidelines that the board develops in accordance with this section may not limit the
- 1076 availability of cannabis, cannabinoid products, or expanded cannabinoid products
- 1077 permitted under Title 4, Chapter 41b, Cannabis Production Establishment or Title 26,
- 1078 Chapter 61b, Medical Cannabis Act.
- 1079

## 1080 **CHAPTER 61b. MEDICAL CANNABIS ACT**

### 1081 **Part 1. General Provisions.**

#### 1082 **26-61b-101. Title.**

1083 This chapter is known as "Medical Cannabis Act."

1084

#### 1085 **26-61b-102. Definitions.**

1086 As used in this chapter:

- 1087 (1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose
- 1088 of cannabis or a cannabis product in a blister pack.
- 1089 (2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each
- 1090 containing no more than a single dose of cannabis or a cannabis product.
- 1091 (3) "Cannabis" means the same as that term is defined in Section 58-37-3.7.
- 1092 (4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41b-
- 1093 102.
- 1094 (5) "Cannabis processing facility" means the same as that term is defined in Section 4-
- 1095 41b-102.
- 1096 (6) "Cannabis product" means the same as that term is defined in Section 58-37-3.7.
- 1097 (7) "Cannabis production establishment agent" means the same as that term is defined in
- 1098 Section 4-41b-102.
- 1099 (8) "Cannabis production establishment agent registration card" means the same as that
- 1100 term is defined in Section 4-41b-102.

## WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

- 1101 (9) "Department" means the Department of Health.
- 1102 (10) "Designated caregiver" means an individual:
- 1103 (a) whom an individual with a medical cannabis patient card or a medical cannabis
- 1104 guardian card designates as the patient's caregiver; and
- 1105 (b) who registers with the department under Section 26-61b-202.
- 1106 (11) "Dosing parameters" means quantity, routes, and frequency of administration for a
- 1107 recommended treatment of cannabis in a medicinal dosage form or a cannabis
- 1108 product in a medicinal dosage form.
- 1109 (12) "Independent cannabis testing laboratory" means the same as that term is defined in
- 1110 Section 4-41b-102.
- 1111 (13) "Inventory control system" means the system described in Section 4-41b-103.
- 1112 (14) "Local health department" means the same as that term is defined in Section 26A-1-
- 1113 102.
- 1114 (15) "Local health department courier agent" means an agent designated and registered to
- 1115 distribute state central fill shipments under Sections 26-61b-606 and 607.
- 1116 (16) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis
- 1117 guardian card, or a medical cannabis caregiver card.
- 1118 (17) "Medical cannabis caregiver card" means an official card that:
- 1119 (a) the department issues to an individual whom a medical cannabis patient
- 1120 cardholder or a medical cannabis guardian cardholder designates as a
- 1121 designated caregiver; and
- 1122 (b) is connected to the electronic verification system.
- 1123 (18) "Medical cannabis device" means the same as that term is defined in Section 58-37-
- 1124 3.7.
- 1125 (19) "Medical cannabis guardian card" means an official card that:
- 1126 (a) the department issues to the parent or legal guardian of a minor with a
- 1127 qualifying condition; and
- 1128 (b) is connected to the electronic verification system.
- 1129 (20) "Medical cannabis patient card" means an official card that:
- 1130 (a) the department issues to an individual with a qualifying condition; and
- 1131 (b) is connected to the electronic verification system.
- 1132 (21) "Medical cannabis pharmacy" means a person that:

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- 1133 (a) (i) acquires or intends to acquire:  
1134 (A) cannabis in a medicinal dosage form or a cannabis product in a  
1135 medicinal dosage form from a cannabis processing facility; or  
1136 (B) a medical cannabis device; or  
1137 (ii) possesses cannabis in a medicinal dosage form, a cannabis product in a  
1138 medicinal dosage form, or a medical cannabis device; and  
1139 (b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis  
1140 product in a medicinal dosage form, or a medical cannabis device to a medical  
1141 cannabis cardholder.

1142 (22) "Medical cannabis pharmacy agent" means an owner, officer, director, board member,  
1143 or employee of a medical cannabis pharmacy who holds a valid medical cannabis  
1144 pharmacy agent registration card.

1145 (23) "Medical cannabis pharmacy agent registration card" means a registration card issued  
1146 by the department that authorizes an individual to act as a medical cannabis pharmacy  
1147 agent.

1148 (24) "Medical Cannabis Restricted Account" means the account created in Section 26-61b-  
1149 109.

1150 (25) (a) "Medicinal dosage form" means:

- 1151 (i) for processed medical cannabis or a medical cannabis product, the  
1152 following in single dosage form with a specific and consistent  
1153 cannabinoid content:  
1154 (A) a tablet;  
1155 (B) a capsule;  
1156 (C) a concentrated oil;  
1157 (D) a liquid suspension;  
1158 (E) a topical preparation;  
1159 (F) a transdermal preparation;  
1160 (G) a sublingual preparation;  
1161 (H) a cube that is designed for ingestion through chewing or holding in  
1162 the mouth for slow dissolution; or

## WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

1163 (l) for use only after the individual's qualifying condition has failed to  
1164 substantially respond to at least two other form described in this  
1165 Subsection (25)(a)(i), a resin or wax;

1166 (ii) for unprocessed cannabis flower, a blister pack, with each individual  
1167 blister:

1168 (A) containing a specific and consistent dosage amount that does not  
1169 exceed one gram and that varies by no more than 10% across the  
1170 blister pack; and

1171 (B) labeled with a barcode that provides information connected to an  
1172 inventory control system and the individual blister's content and  
1173 weight; and

1174 (iii) a form measured in grams, milligrams, or milliliters.

1175 (b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower  
1176 that:

1177 (i) the medical cannabis cardholder has recently removed from the blister  
1178 pack described in Subsection (25)(a)(ii) for use; and

1179 (ii) does not exceed the quantity described in Subsection (25)(a)(ii).

1180 (c) "Medicinal dosage form" does not include:

1181 (i) any unprocessed cannabis flower outside of the blister pack, except as  
1182 provided in Subsection (25)(b); or

1183 (ii) a process of vaporizing and inhaling concentrated cannabis by placing  
1184 the cannabis on a nail or other metal object that is heated by a flame,  
1185 including a blowtorch.

1186 (26) "Pharmacy medical provider" means the medical provider required to be on site at a  
1187 medical cannabis pharmacy under Section 26-61b-404.

1188 (27) "Provisional patient card" means a card that:

1189 (a) the department issues to a minor with a qualifying condition for whom:

1190 (a) a qualified medical provider has recommended a medical cannabis  
1191 treatment; and

1192 (b) the minor's parent or legal guardian has obtained a medical cannabis  
1193 guardian card; and

1194 (b) is connected to the electronic verification system.

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- 1195 (28) "Qualified medical provider" means an individual who is qualified to recommend  
1196 treatment with cannabis in a medicinal dosage form under Section 26-61b-107.
- 1197 (29) "Qualifying condition" means a condition described in Section 26-61b-105.
- 1198 (30) "State central fill agent" means an employee of the state central fill medical cannabis  
1199 pharmacy that the department registers in accordance with Section 26-61b-602.
- 1200 (31) "State central fill medical cannabis pharmacy" means the central fill pharmacy that the  
1201 department creates in accordance with Section 26-61b-601.
- 1202 (32) "State central fill medical provider" means a physician or pharmacist that the state  
1203 central fill medical cannabis pharmacy employs to consult with medical cannabis  
1204 cardholders in accordance with Section 26-61b-601.
- 1205 (33) "State central fill shipment" means a shipment of cannabis in a medicinal dosage form,  
1206 cannabis product in a medicinal dosage form, or a medical cannabis device that the  
1207 state central fill medical cannabis pharmacy prepares and ships for distribution to a  
1208 medical cannabis cardholder in a local health department.
- 1209 (34) "State electronic verification system" means the system described in Section 26-61b-  
1210 103.

### **26-61b-103. Electronic verification system.**

- 1212
- 1213 (1) The Department of Agriculture and Food, the department, the Department of Public  
1214 Safety, and the Department of Technology Services shall:
- 1215 (a) enter into a memorandum of understanding in order to determine the function  
1216 and operation of a state electronic verification system in accordance with  
1217 Subsection (2);
- 1218 (b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah  
1219 Procurement Code, to develop a request for proposals for a third-party provider  
1220 to develop and maintain the state electronic verification system in coordination  
1221 with the Department of Technology Services; and
- 1222 (c) select a third-party provider who meets the requirements contained in the  
1223 request for proposals issued under Subsection (1)(b).
- 1224 (2) The Department of Agriculture and Food, the department, the Department of Public  
1225 Safety, and the Department of Technology Services shall ensure that, on or before  
1226 March 1, 2020, the state electronic verification system described in Subsection (1):

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- 1227 (a) allows an individual, with the individual's qualified medical provider in the  
1228 qualified medical provider's office, to apply for a medical cannabis patient card  
1229 or, if applicable, a medical cannabis guardian card;
- 1230 (b) allows an individual to apply to renew a medical cannabis patient card or a  
1231 medical cannabis guardian card in accordance with Sections 20-61b-201 and  
1232 202;
- 1233 (c) allows a qualified medical provider to:
- 1234 (i) access records regarding an individual to review the individual's medical  
1235 cannabis history;
- 1236 (ii) electronically recommend, during a visit with a patient, treatment with  
1237 cannabis in a medical dosage form or a cannabis product in a medical  
1238 dosage form and optionally recommend dosing parameters;
- 1239 (iii) electronically renew a recommendation to a medical cannabis patient  
1240 cardholder or medical cannabis guardian cardholder:
- 1241 (A) for the qualified medical provider who originally recommended a  
1242 medical cannabis treatment, using telehealth services, as that  
1243 term is defined in Section 26-60-102; or
- 1244 (B) for a qualified medical provider who did not originally recommend  
1245 the medical cannabis treatment, during a visit with a patient; and
- 1246 (iv) at the request of a medical cannabis cardholder, initiate a state central fill  
1247 shipment in accordance with Section 26-61b-602;
- 1248 (d) syncs or otherwise communicates with existing patient electronic health  
1249 records;
- 1250 (e) connects with an inventory control system that a medical cannabis pharmacy  
1251 and the state central fill medical cannabis pharmacy use to track in real time  
1252 and archive purchases of any cannabis in a medicinal dosage form, cannabis  
1253 product in a medicinal dosage form, or medical cannabis device, including:
- 1254 (i) the time and date of each purchase;
- 1255 (ii) the quantity and type of cannabis, cannabis product, or medical cannabis  
1256 device purchased;



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- 1257            (iii) any cannabis production establishment, any medical cannabis  
1258            pharmacy, or the state central fill medical cannabis pharmacy associated  
1259            with the cannabis, cannabis product, or medical cannabis device; and  
1260            (iv) the personally identifiable information of the medical cannabis cardholder  
1261            who made the purchase;
- 1262            (f) provides access to the department and the Department of Agriculture and Food  
1263            to the extent necessary to carry out the department's and the Department of  
1264            Agriculture and Food's functions and responsibilities under this chapter and  
1265            under Title 4, Chapter 41b, Cannabis Production Establishment;
- 1266            (g) provides access to and interaction with the state central fill medical cannabis  
1267            pharmacy, state central fill agents, and local health department courier agents,  
1268            to facilitate the state central fill shipment process;
- 1269            (h) provides access to state or local law enforcement:
- 1270            (i) during a traffic stop for the purpose of determining if the individual  
1271            subject to the traffic stop is in compliance with state medical cannabis  
1272            law; or
- 1273            (ii) after obtaining a warrant; and
- 1274            (i) creates a record each time a person accesses the database that identifies the  
1275            person who accesses the database and the individual whose records the  
1276            person accesses.
- 1277            (3) The department may release de-identified data that the system collects for the  
1278            purpose of:
- 1279            (a) conducting medical research; and  
1280            (b) providing the report required by Section 26-61b-603.

### **26-61b-104. Preemption.**

This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a medical cannabis pharmacy or a medical cannabis card.

### **26-61b-105. Qualifying condition.**

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1287 (1) By designating a particular condition under Subsection (2) for which the use of medical  
1288 cannabis to treat symptoms is decriminalized, the Legislature does not conclusively  
1289 state that:

1290 (a) current scientific evidence clearly supports the efficacy of a medical cannabis  
1291 treatment for the condition; or

1292 (b) a medical cannabis treatment will treat, cure, or positively affect the condition.

1293 (2) For the purposes of this chapter, each of the following conditions is a qualifying  
1294 condition:

1295 (a) HIV or acquired immune deficiency syndrome;

1296 (b) Alzheimer's disease;

1297 (c) amyotrophic lateral sclerosis;

1298 (d) cancer;

1299 (e) cachexia;

1300 (f) persistent nausea that is not significantly responsive to traditional treatment,  
1301 except for nausea related to pregnancy;

1302 (g) Crohn's disease or ulcerative colitis;

1303 (h) epilepsy or debilitating seizures;

1304 (i) multiple sclerosis or persistent and debilitating muscle spasms;

1305 (j) post-traumatic stress disorder that a psychiatrist has diagnosed;

1306 (k) autism;

1307 (l) a terminal illness when the patient's remaining life expectancy is less than six  
1308 months;

1309 (m) a condition resulting in the individual receiving hospice care;

1310 (n) a rare condition or disease that affects less than 200,000 individual in the  
1311 United States, as defined in Section 526 of the Federal Food, Drug, and  
1312 Cosmetic Act; and

1313 (o) pain lasting longer than two weeks that is not substantially responsive to:

1314 (i) conventional medications other than opioids or opiates; or

1315 (ii) physical interventions; and

1316 (p) a condition that the compassionate use board approves under Section 26-61b-  
1317 106 on an individual, case-by-case basis.

1318

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## 26-61b-106. Compassionate use board.

- 1319
- 1320 (1) The department shall establish a compassionate use board consisting of:
- 1321 (a) five qualified medical providers that the department appoints who are:
- 1322 (i) knowledgeable about and experienced with the medicinal use of
- 1323 cannabis; and
- 1324 (ii) certified by the appropriate board in the specialty of neurology, pain
- 1325 medicine and pain management, medical oncology, psychiatry, infectious
- 1326 disease, internal medicine, pediatrics, or gastroenterology; and
- 1327 (b) as a nonvoting member and the chair of the board, the director of the
- 1328 department or the director's designee.
- 1329 (2) (a) Of the members of the board that the department first appoints:
- 1330 (i) two shall serve an initial term of two years; and
- 1331 (ii) the remaining members shall serve an initial term of four years.
- 1332 (b) After an initial term described in Subsection (2)(a) expires:
- 1333 (i) each term is four years; and
- 1334 (ii) each board memeber is eligible for reappointment.
- 1335 (c) A member of the board may serve until a successor is appointed.
- 1336 (3) Three members constitute a quorum of the compassionate use board.
- 1337 (4) A member of the compassionate use board:
- 1338 (a) may not receive compensation or benefits for the member's service; and
- 1339 (b) may receive per diem and travel expenses in accordance with Section 63A-3-
- 1340 106, Section 63A-3-107, and rules made by the Division of Finance pursuant to
- 1341 Sections 63A-3-106 and 63A-3-107.
- 1342 (5) The compassionate use board shall:
- 1343 (a) review and recommend for department approval an individual who is not
- 1344 otherwise qualified to receive a medical cannabis card to obtain a medical
- 1345 cannabis card for compassionate use if:
- 1346 (i) the individual offers, in the board's discretion, satisfactory evidence that
- 1347 the individual suffers from an intractable condition that substantially
- 1348 impairs the individual's quality of life; and
- 1349 (ii) the board determines it is in the best interest of the individual to allow the
- 1350 compassionate use of medical cannabis;

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- 1351 (b) meet to receive or review compassionate use petitions at least quarterly unless  
1352 no petitions are pending, and as often as necessary if there are more petitions  
1353 than the board can receive or review during the board's regularly scheduled  
1354 meetings;
- 1355 (c) complete a review of each petition and recommend to the department approval  
1356 or denial of the applicant for qualification for a medical cannabis patient card or  
1357 a medical cannabis guardian card within 90 days after the day on which the  
1358 board received the petition; and
- 1359 (d) report, before November 1 of each year, to the Health and Human Services  
1360 Interim Committee:
- 1361 (i) the number of compassionate use approvals the board issued during the  
1362 past year; and
- 1363 (ii) the types of conditions for which the board approved compassionate use.
- 1364 (6) The department shall review any compassionate use that the board approves to  
1365 determine whether the board properly exercised the board's discretion under this  
1366 section.
- 1367 (7) If the department determines that the board properly approved an individual for  
1368 compassionate use under this section, the department shall issue a medical cannabis  
1369 patient card or a medical cannabis guardian card.
- 1370 (8) Any individually identifiable health information contained in a petition that the board or  
1371 department receives under this section is a protected record in accordance with Title  
1372 63G, Chapter 2, Government Records Access and Management Act.
- 1373 (9) The compassionate use board shall annually report the board's activity to the cannabis  
1374 product board created in Section 26-61-201.

### **26-61b-107. Qualified medical provider registration -- Continuing education -- Treatment recommendation.**

- 1378 (1) An individual may not recommend a medical cannabis treatment unless the  
1379 department registers the individual as a qualified medical provider in accordance with  
1380 this section.
- 1381 (2) (a) The department shall, within 15 days after the day on which the  
1382 department receives an application from an individual, register and issue a

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1383 qualified medical provider registration card to the individual if the individual  
1384 provides to the department:

1385 (i) the individual's name and address;

1386 (ii) a report detailing the individual's completion of the applicable continuing  
1387 education requirement described in Subsection (3); and

1388 (iii) evidence that the individual:

1389 (A) has the authority to write a prescription and is licensed under Title  
1390 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter  
1391 68, Utah Osteopathic Medical Practice Act;

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

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

1396 (b) The department may not register a pharmacy medical provider or a state central  
1397 fill medical provider as a qualified medical provider.

1398 (3) (a) An individual shall complete the continuing education described in this  
1399 Subsection (3) in the following amounts:

1400 (i) for an individual as a condition precedent to registration, four hours; and

1401 (ii) for a qualified medical provider as a condition precedent to renewal, four  
1402 hours every two years.

1403 (b) In accordance with Subsection (3)(a), a qualified medical provider shall:

1404 (i) complete continuing education:

1405 (A) regarding the topics described in Subsection (3)(d); and

1406 (B) offered by the department under Subsection (3)(c) or an  
1407 accredited or approved continuing education provider that the  
1408 department recognizes as offering continuing education

1409 appropriate for the recommendation of cannabis to patients; and  
1410 (ii) make a continuing education report to the department in accordance with  
1411 a process that the department establishes by rule, in collaboration with  
1412 the Division of Occupational and Professional Licensing and the Board of  
1413 Pharmacy and in accordance with Title 63G, Chapter 3, Utah  
1414 Administrative Rulemaking Act.

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1415 (c) The department may, in consultation with the Division of Occupational and  
1416 Professional Licensing, develop the continuing education described in this  
1417 Subsection (3).

1418 (d) The continuing education described in this Subsection (3) may discuss:

1419 (i) the provisions of this chapter;

1420 (ii) general information about medical cannabis under federal and state law;

1421 (iii) the latest scientific research on the endocannabinoid system and  
1422 medical cannabis, including risks and benefits;

1423 (iv) recommendations for medical cannabis as it relates to the continuing  
1424 care of a patient in pain management, risk management, potential  
1425 addiction, or palliative care; and

1426 (v) best practices for recommending the form and dosage of medical  
1427 cannabis products based on the qualifying condition underlying a  
1428 medical cannabis recommendation.

1429 (4) (a) Except as provided in Subsection (4)(b), a qualified medical provider  
1430 may not recommend a medical cannabis treatment to more than 20% of the  
1431 qualified medical provider's patients at any given time.

1432 (b) A qualified medical provider may recommend a medical cannabis treatment to  
1433 more than 20% of the qualified medical provider's patients if the appropriate  
1434 American medical board has certified the qualified medical provider in the  
1435 specialty of anesthesiology, gastroenterology, neurology, oncology, pain and  
1436 palliative care, physiatry, or psychiatry.

1437 (5) A qualified medical provider may recommend a medical cannabis treatment to an  
1438 individual under this chapter only in the course of a physician-patient relationship after  
1439 the qualified medical provider has completed a full assessment of the patient's  
1440 condition and medical history.

1441 (6) (a) Except as provided in Subsection (6)(b), a qualified medical provider  
1442 may not advertise that the qualified medical provider recommends medical  
1443 cannabis treatment.

1444 (b) For purposes of Subsection (6)(a), the communication of the following, through  
1445 a website, does not constitute advertising:

1446 (i) a green cross;

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1447 (ii) a qualifying condition that the qualified medical provider treats; or

1448 (iii) a scientific study regarding medical cannabis use.

1449 (7) (a) A qualified medical provider registration card expires two years after the  
1450 day on which the department issues the card.

1451 (b) The department shall renew a qualified medical provider's registration card if  
1452 the provider:

1453 (i) applies for renewal;

1454 (ii) is eligible for a qualified medical provider registration card under this  
1455 section;

1456 (iii) certifies to the department in a renewal application that the information in  
1457 Subsection (2)(a) is accurate or updates the information; and

1458 (iv) submits a report detailing the completion of the continuing education  
1459 requirement described in Subsection (3).

1460 (8) A qualified medical provider may not receive any compensation or benefit for the  
1461 qualified medical provider's medical cannabis treatment recommendation except for a  
1462 patient's payment for the normal course of consultation and treatment in which the  
1463 provider made the recommendation.

### 1465 **26-61b-108. Standard of care -- Medical practitioners not liable -- No** 1466 **private right of action.**

1467 (1) If a qualified medical provider recommends treatment with cannabis in a medicinal  
1468 dosage form or a cannabis product in a medicinal dosage form to a patient in  
1469 compliance with this chapter, the provider is not subject to the following solely for  
1470 participating in the recommendation process:

1471 (a) civil or criminal liability; or

1472 (b) licensure sanctions under Title 58, Chapter 67, Utah Medical Practice Act or  
1473 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

1474 (2) Before January 1, 2021, a physician who has the authority to write a prescription, is  
1475 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68,  
1476 Utah Osteopathic Medical Practice Act, and recommends a medical cannabis  
1477 treatment to a patient is not subject to the following solely for participating in  
1478 recommending the treatment:

## WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

1479 (a) civil or criminal liability; or

1480 (b) a licensure sanction under Title 58, Chapter 67, Utah Medical Practice Act or  
1481 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

### 26-61b-109. Medical Cannabis Restricted Account -- Creation.

1484 (1) There is created in the General Fund a restricted account known as the "Medical  
1485 Cannabis Restricted Account."

1486 (2) The account created in this section is funded from:

1487 (a) money the Department of Agriculture and Food deposits into the account under  
1488 Title 4, Chapter 41b, Cannabis Production Establishments;

1489 (b) money the department deposits into the account under this chapter;

1490 (c) appropriations the Legislature makes to the account; and

1491 (d) the interest described in Subsection (3).

1492 (3) Interest earned on the account shall be deposited in the account.

1493 (4) The department, in consultation with the Department of Agriculture and Food, may  
1494 only use money in the account to fund the state medical cannabis program, including:

1495 (a) Title 26, Chapter 61b, Medical Cannabis Act; and

1496 (b) Title 4, Chapter 41b, Cannabis Production Establishments.

### 26-61b-110. Medical Cannabis Restricted Account -- Creation.

1499 (1) There is created in the General Fund a restricted account known as the "State Central  
1500 Fill Medical Cannabis Pharmacy Restricted Account."

1501 (2) The account created in this section is funded from:

1502 (a) money the state central fill medical cannabis pharmacy deposits into the account  
1503 under this chapter;

1504 (b) appropriations the Legislature makes to the account; and

1505 (c) the interest described in Subsection (3).

1506 (3) Interest earned on the account shall be deposited in the account.

1507 (4) The department may only use money in the account to fund the operation of the state  
1508 central fill medical cannabis pharmacy.

1509



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## 26-61b-111. Nondiscrimination for medical care, housing, employment.

- (1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:
- (a) is the equivalent of the authorized use of any other medication used at the discretion of a physician; and
- (b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.
- (2) A landlord may not refuse to lease to or otherwise penalize an individual solely for the individual's status as a medical cannabis cardholder, unless failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law.
- (3) An employer may not refuse to hire, suspend, terminate, take an adverse employment action against, or otherwise penalize an individual solely for the individual's status as a medical cannabis cardholder, unless failing to do so would cause the employer to lose a monetary or licensing-related benefit under federal law.

## 26-61b-112. No insurance requirement.

Nothing in this chapter requires an insurer, a third-party administrator, or an employer to pay or reimburse for cannabis, a cannabis product, or a medical cannabis device.

## 26-61b-113. No effect on use of hemp extract -- Cannabidiol.

Nothing in this chapter prohibits an individual:

- (1) with a valid hemp extract registration card that the department issues under Section 26-56-103 from possessing, administering, or using hemp extract in accordance with Section 58-37-4.3; or
- (2) from purchasing, selling, possessing, or using a cannabidiol product in accordance with Section 4-41-402.

## Part 2. Medical Cannabis Card Registration

### 26-61b-201. Medical cannabis patient card -- Medical cannabis guardian card Application -- Fees -- Studies.

## WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

- 1542 (1) On or before March 1, 2020, the department shall, within 15 days after the day on  
1543 which an individual who complies with this section and satisfies the eligibility criteria in  
1544 this section submits an application in compliance with this section:
- 1545 (a) issue a medical cannabis patient card to an individual described in Subsection  
1546 (2)(a);
- 1547 (b) issue a medical cannabis guardian card to an individual described in  
1548 Subsection (2)(b); and
- 1549 (c) issue a provisional patient card to a minor described in Subsection (2)(c).
- 1550 (2) (a) An individual is eligible for a medical cannabis patient card if:
- 1551 (i) (A) the individual is at least 18 years old;  
1552 (B) the individual is a Utah resident; and  
1553 (C) the individual's qualified medical provider recommends treatment  
1554 with medical cannabis in accordance with Subsection (4);
- 1555 (ii) the individual pays to the department a fee in an amount that the  
1556 department sets in accordance with Section 63J-1-504, plus the cost of  
1557 the criminal background check described in Section 26-61b-203; and
- 1558 (iii) the individual has not been convicted of a drug distribution offense that is  
1559 a felony under either state or federal law, unless the individual completes  
1560 any imposed sentence seven or more years before the day on which the  
1561 individual applies for a medical cannabis patient card.
- 1562 (b) An individual is eligible for a medical cannabis guardian card if the individual:
- 1563 (i) is at least 18 years old;  
1564 (ii) is a Utah resident;  
1565 (iii) is the parent or legal guardian of a minor for whom the minor's qualified  
1566 medical provider recommends a medical cannabis treatment; and
- 1567 (iv) pays to the department a fee in an amount that the department sets in  
1568 accordance with Section 63J-1-504.
- 1569 (c) (i) A minor is eligible for a provisional patient card if:
- 1570 (A) the minor has a qualifying condition;  
1571 (B) the minor's qualified medical provider recommends a medical  
1572 cannabis treatment to address the minor's qualifying condition;  
1573 and

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1574 (C) the minor's parent or legal guardian receives a medical cannabis  
1575 caregiver card under this section.

1576 (ii) The department shall automatically issue a provisional patient card to the  
1577 minor described in Subsection (2)(c)(i) when the department issues a  
1578 medical cannabis guardian card to the minor's parent or legal guardian.

1579 (3) (a) An individual who is eligible for a medical cannabis card described in  
1580 Subsection (2)(a) or (b) shall submit an application to the department:

1581 (i) through an electronic application connected to the state electronic  
1582 verification system;

1583 (ii) with the recommending qualified medical provider while in the  
1584 recommending qualified medical provider's office;

1585 (iii) with information including:

1586 (A) the applicant's name, gender, age, and address; and

1587 (B) for a medical cannabis guardian card, the name, gender, and age  
1588 of the minor receiving a medical cannabis treatment under the  
1589 cardholder's medical cannabis guardian card.

1590 (b) The department shall ensure that a medical cannabis card the department  
1591 issues under this section contains the information described in Subsection  
1592 (3)(a)(iii).

1593 (4) To recommend a medical cannabis treatment to a patient or to renew a  
1594 recommendation, a qualified medical provider shall:

1595 (a) before recommending cannabis in a medicinal dosage form or a cannabis  
1596 product in a medicinal dosage form:

1597 (i) verify the patient's and, for a minor patient, the minor patient's parent or  
1598 legal guardian's valid form of identification that is a valid United States  
1599 federal- or state-issued photo identification, including a driver license, a  
1600 United States passport, a United States passport card, or a United  
1601 States military identification card;

1602 (ii) review any record related to the patient and, for a minor patient, the  
1603 patient's parent or legal guardian in:

1604 (A) the state electronic verification system; and

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1605 (B) the controlled substance database created in Section 58-37f-201;

1606 and

1607 (iii) consider the recommendation in light of the patient's qualifying condition

1608 and history of medical cannabis and controlled substance use; and

1609 (b) state in the qualified medical provider's recommendation that the patient:

1610 (i) suffers from a qualifying condition, including the type of qualifying

1611 condition; and

1612 (ii) may benefit from treatment with cannabis in a medical dosage form or a

1613 cannabis product in a medical dosage form.

1614 (5) A card that the department issues under this section is valid for the lesser of:

1615 (a) an amount of time that the qualified medical provider determines or:

1616 (b) (i) for the first issuance, 30 days;

1617 (ii) for the first renewal, 60 days; or

1618 (iii) for a renewal after the first renewal, six months.

1619 (6) (a) A medical cannabis card that the department issues under this section is

1620 renewable if, at the time of renewal, the cardholder meets the requirements of

1621 Subsection (2).

1622 (b) A cardholder under this section may renew the cardholder's card:

1623 (i) using the application process described in Subsection (3); or

1624 (ii) through phone or video conference with the qualified medical provider

1625 who made the recommendation underlying the card, at the qualifying

1626 medical provider's discretion.

1627 (c) A cardholder under this section who renews the cardholder's card shall pay to

1628 the department a renewal fee in an amount that:

1629 (i) the department sets in accordance with Section 63J-1-504; and

1630 (ii) may not exceed the cost of the relatively lower administrative burden of

1631 renewal in comparison to the original application process.

1632 (7) (a) A cardholder under this section shall carry the cardholder's valid card

1633 with the patient's name.

1634 (b) (i) A medical cannabis patient cardholder or a provisional patient

1635 cardholder, may purchase, in accordance with this chapter and the

1636 recommendation underlying the card, cannabis in a medicinal dosage

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1637 form, a cannabis product in a medicinal dosage form, or a medical  
1638 cannabis device.

1639 (ii) A cardholder under this section may possess or transport, in accordance  
1640 with this chapter and the recommendation underlying the card, cannabis  
1641 in a medicinal dosage form, a cannabis product in a medicinal dosage  
1642 form, or a medical cannabis device.

1643 (iii) To address the qualifying condition or a symptom associated with the  
1644 qualifying condition underlying the medical cannabis treatment  
1645 recommendation:

1646 (A) a medical cannabis patient cardholder or a provisional patient  
1647 cardholder may use cannabis in a medicinal dosage form, a  
1648 medical cannabis product in a medicinal dosage form, or a  
1649 medical cannabis device; and

1650 (B) a medical cannabis guardian cardholder may assist the  
1651 associated provisional patient cardholder with the use of cannabis  
1652 in a medicinal dosage form, a medical cannabis product in a  
1653 medicinal dosage form, or a medical cannabis device.

1654 (c) If neither a licensed medical cannabis pharmacy nor the state central fill  
1655 medical cannabis pharmacy is operating within the state after January 1, 2021,  
1656 a cardholder under this section is not subject to prosecution for the possession  
1657 of:

1658 (i) marijuana or tetrahydrocannabinol in a medicinal dosage form; or

1659 (ii) marijuana drug paraphernalia.

1660 (8) The department may establish procedures by rule, in accordance with Title 63G,  
1661 Chapter 3, Utah Administrative Rulemaking Act, to implement the application and  
1662 issuance provisions of this section.

1663 (9) (a) A person may submit to the department a request to conduct a medical  
1664 research study using medical cannabis cardholder data that the state electronic  
1665 verification system contains.

1666 (b) The department shall review a request described in Subsection (9)(a) to  
1667 determine whether the medical research study is valid.

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- 1668 (c) If the department makes a determination under Subsection (9)(b) that the  
1669 medical research study is valid, the department shall notify each relevant  
1670 cardholder asking for the cardholder's consent to participate in the study.
- 1671 (d) The department may release, for the purposes of a study described in this  
1672 Subsection (9), information about a cardholder under this section who consents  
1673 to participate under Subsection (9)(c).
- 1674 (e) The department may establish standards for a medical research study's validity,  
1675 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
1676 Rulemaking Act.

### 26-61b-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

- 1680 (1) A cardholder described in Section 26-61b-201 may designate up to two individuals to  
1681 serve as a designated caregiver for the cardholder if a qualified medical provider  
1682 determines that, because of physical difficulty or undue hardship, the cardholder  
1683 needs assistance to obtain the medical cannabis treatment that the qualified medical  
1684 provider recommends.
- 1685 (2) An individual that the department registers as a designated caregiver under this  
1686 section:
- 1687 (a) may carry a valid medical cannabis caregiver card;
- 1688 (b) in accordance with this chapter, may purchase, possess, transport, or assist the  
1689 patient in the use of cannabis in a medicinal dosage form, a cannabis product in  
1690 a medicinal dosage form, or a medical cannabis device on behalf of the  
1691 designating medical cannabis cardholder;
- 1692 (c) may not charge a fee to an individual to act as the individual's designated  
1693 caregiver or for a service that the designated caregiver provides in relation to  
1694 the role as a designated caregiver;
- 1695 (d) may accept reimbursement from the designating medical cannabis cardholder  
1696 for direct costs the designated caregiver incurs for assisting with the  
1697 cardholder's medicinal use of cannabis; and
- 1698 (e) if neither a licensed medical cannabis pharmacy nor the state central fill medical  
1699 cannabis pharmacy is operating within the state after January 1, 2021, is not

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1700 subject to prosecution for the possession of marijuana or tetrahydrocannabinol  
1701 in a medicinal dosage form or marijuana drug paraphernalia.

1702 (3) (a) The department shall, within 15 days after the day on which an individual  
1703 submits an application in compliance with this section, issue a medical cannabis  
1704 card to the applicant if:

1705 (i) the applicant is designated as a caregiver under Subsection (1); and

1706 (ii) complies with this section.

1707 (b) The department shall ensure that a medical cannabis caregiver card contains  
1708 the information described in Subsection (5)(b).

1709 (4) An applicant is eligible for a medical cannabis caregiver card if the individual:

1710 (a) is at least 21 years old;

1711 (b) is a Utah resident;

1712 (c) pays to the department a fee in an amount that the department sets in  
1713 accordance with Section 63J-1-504, plus the cost of the criminal background  
1714 check described in Section 26-61b-203; and

1715 (d) has not been convicted of a drug distribution offense that is a felony under  
1716 either state or federal law, unless the individual completes any imposed  
1717 sentence seven or more years before the day on which the individual submits  
1718 the application.

1719 (5) An individual who is eligible for a medical cannabis caregiver card shall:

1720 (a) submit an application for a medical cannabis caregiver card to the department  
1721 through an electronic application connected to the state electronic verification  
1722 system; and

1723 (b) submit the following information in the application described in Subsection  
1724 (5)(a):

1725 (i) the applicant's name, gender, age, and address;

1726 (ii) the name, gender, age, and address of the cardholder described in  
1727 Section 26-61b-201 who designated the applicant; and

1728 (iii) if a medical cannabis guardian cardholder designated the caregiver, the  
1729 name, gender, and age of the minor receiving a medical cannabis  
1730 treatment in relation to the medical cannabis guardian cardholder.

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- 1731 (6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the  
1732 department issues under this section is valid for the lesser of:
- 1733 (a) an amount of time that the cardholder described in Section 26-61b-201 who  
1734 designated the caregiver determines; or
- 1735 (b) the amount of time remaining before the card of the cardholder described in  
1736 Section 26-61b-201 expires.
- 1737 (7) (a) If a designated caregiver meets the requirements of Subsection (4), the  
1738 designated caregiver's medical cannabis caregiver card renews automatically at  
1739 the time the cardholder described in Section 26-61b-201 who designated the  
1740 caregiver:
- 1741 (i) renews the cardholder's card; and
- 1742 (ii) renews the caregiver's designation, in accordance with Subsection  
1743 (7)(b).
- 1744 (b) The department shall provide a method in the card renewal process to allow a  
1745 cardholder described in Section 26-61b-201 who has designated a caregiver to:
- 1746 (i) signify that the cardholder renews the caregiver's designation;
- 1747 (ii) remove a caregiver's designation; or
- 1748 (iii) designate a new caregiver.
- 1749 (8) The department may revoke a medical cannabis caregiver card if the designated  
1750 caregiver:
- 1751 (a) violates this chapter; or
- 1752 (b) is convicted of an offense that is a felony under either state or federal law.

### **26-61b-203. Designated caregiver -- Criminal background check.**

- 1755 (1) An individual that the department registers as a designated caregiver under Section  
1756 26-61b-202 shall submit to a criminal background check in accordance with  
1757 Subsection (2).
- 1758 (2) Each designated caregiver shall, upon registration and once every two calendar years  
1759 after registration:
- 1760 (a) submit to the department a fingerprint card in a form acceptable to the  
1761 department and the Department of Public Safety; and
- 1762 (b) consent to a fingerprint background check by:



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1763 (i) the Utah Bureau of Criminal Identification; and

1764 (ii) the Federal Bureau of Investigation.

1765 (3) The department shall request that the Department of Public Safety complete a Federal  
1766 Bureau of Investigation criminal background check for each designated caregiver who  
1767 makes a submission in accordance with (2).

1768 (4) The Department of Public Safety shall:

1769 (a) complete a Federal Bureau of Investigation Criminal Background Check for  
1770 each designated caregiver who is the subject of a department request under  
1771 Subsection (3); and

1772 (b) report the results of the background check to the department.

### 1774 **26-61b-204. Medical cannabis card -- Patient and designated** 1775 **caregiver requirements -- Rebuttable presumption.**

1776 (1) (a) A medical cannabis cardholder who possesses cannabis in a medicinal  
1777 dosage form or a cannabis product in a medicinal dosage form that the  
1778 cardholder purchased under this chapter shall:

1779 (i) carry at all times the cardholder's medical cannabis card;

1780 (ii) carry, with the cannabis in a medicinal dosage form or cannabis product  
1781 in a medicinal dosage form, a label that identifies that the cannabis or  
1782 cannabis product:

1783 (A) was sold from a licensed medical cannabis pharmacy or the state  
1784 central fill medical cannabis pharmacy; and

1785 (B) includes an identification number that links the cannabis or  
1786 cannabis product to the inventory control system; and

1787 (iii) possess not more than:

1788 (A) 113 grams of unprocessed cannabis; or

1789 (B) an amount of cannabis product that contains 20 grams of  
1790 tetrahydrocannabinol.

1791 (b) If a medical cannabis cardholder possesses between 113 and 226 grams of  
1792 unprocessed cannabis or an amount of cannabis product that contains between  
1793 20 and 40 grams of tetrahydrocannabinol, the cardholder is:

1794 (i) guilty of a class B misdemeanor; and

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1795 (ii) subject to a fine of \$1,000.

1796 (2) (a) As used in this Subsection (2), "emergency medical condition" means the  
1797 same as that term is defined in Section 31A-22-627.

1798 (b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder  
1799 or a provisional patient cardholder may not use, in public view, cannabis or a  
1800 cannabis product.

1801 (c) In the event of an emergency medical condition, an individual described in  
1802 Subsection (2)(b) may use, and the holder of a medical cannabis guardian card  
1803 or a medical cannabis caregiver card may administer to the cardholder's  
1804 charge, in public view, cannabis in a medicinal dosage form or a cannabis  
1805 product in a medicinal dosage form.

1806 (3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in  
1807 a medicinal dosage form or a cannabis product in a medicinal dosage form in  
1808 compliance with Subsection (1), or a medical cannabis device that corresponds with  
1809 the cannabis or cannabis product:

1810 (a) there is a rebuttable presumption that the cardholder possesses the cannabis,  
1811 cannabis product, or medical cannabis device legally; and

1812 (b) there is no probable cause, based solely on the cardholder's possession of the  
1813 cannabis, cannabis product, or medical cannabis device, to believe that the  
1814 cardholder is engaging in illegal activity.

1815 (4) (a) If a law enforcement officer stops an individual who possesses cannabis  
1816 in a medicinal dosage form, a cannabis product in a medicinal dosage form, or  
1817 a medical cannabis device, and the individual represents to the law  
1818 enforcement officer that the individual holds a valid medical cannabis card, but  
1819 the individual does not have the medical cannabis card in the individual's  
1820 possession at the time of the stop by the law enforcement officer, the law  
1821 enforcement officer shall attempt to access the state electronic verification  
1822 system to determine whether the individual holds a valid medical cannabis card.

1823 (b) If the law enforcement officer is able to verify that the individual described in  
1824 Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement  
1825 officer:

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- 1826 (i) may not arrest or take the individual into custody for the sole reason that  
1827 the individual is in possession of cannabis in a medicinal dosage form, a  
1828 cannabis product in a medicinal dosage form, or a medical cannabis  
1829 device; and
- 1830 (ii) may not seize the cannabis, cannabis product, or medical cannabis  
1831 device.

1832 (5) An individual who possesses cannabis in a medicinal dosage form, a cannabis product  
1833 in a medicinal dosage form, or a medical cannabis device in violation of Subsection  
1834 (1)(a) or Subsection (1)(b) is:

- 1835 (a) guilty of an infraction; and  
1836 (b) subject to a \$100 fine.

### 1837 **Part 3. Medical cannabis pharmacy License**

#### 1838 **26-61b-301. Medical cannabis pharmacy -- License -- Eligibility.**

- 1840 (1) A person may not operate as a medical cannabis pharmacy without a license that the  
1841 department issues under this part.
- 1842 (2) (a) Subject to Subsection (4) and to Section 26-61b-304, the department  
1843 shall, within 90 business days after the day on which the department receives a  
1844 complete application, issue a license to operate a medical cannabis pharmacy  
1845 to the applicant if the applicant submits to the department:
- 1846 (i) subject to subsections (2)(b), a proposed name and address  
1847 where the applicant will operate the medical cannabis pharmacy;
- 1848 (ii) the name and address of an individual who:
- 1849 (A) has a financial or voting interest of two percent or greater in the  
1850 proposed medical cannabis pharmacy; or
- 1851 (B) has the power to direct or cause the management or control of a  
1852 proposed cannabis production establishment;
- 1853 (iii) financial statements demonstrating that the applicant possesses a  
1854 minimum of \$125,000 in liquid assets available for each application  
1855 submitted to the department;
- 1856 (iv) an operating plan that:
- 1857 (A) complies with Section 26-61b-303; and

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1858                    (B) includes operating procedures to comply with the operating  
1859                    requirements for a medical cannabis pharmacy described in this  
1860                    chapter and with a relevant municipal or county law that is  
1861                    consistent with Section 26-61b-507;

1862                    (v) if the municipality or county where the proposed medical cannabis  
1863                    pharmacy would be located requires a local permit or license, a copy of  
1864                    the applicant's submitted application for the local permit or license; and

1865                    (vi) an application fee in an amount that the department sets in accordance  
1866                    with Section 63J-1-504.

1867                    (b) A person may locate a medical cannabis pharmacy within an area in which local  
1868                    zoning allows for the operation of either:

1869                    (i) a business that sells alcohol; or

1870                    (ii) a retail tobacco specialty business, as that term is defined in Section 10-  
1871                    8-41.6 or 17-50-333.

1872                    (3) If the department determines that an applicant is eligible for a license under this  
1873                    section, the department shall charge the applicant an initial license fee in an amount  
1874                    the department sets in accordance with Section 63J-1-504.

1875                    (4) The department may not issue a license to operate a medical cannabis pharmacy to  
1876                    an applicant if an individual described in Subsection (2)(a)(ii):

1877                    (a) has been convicted of an offense that is a felony under either state or federal  
1878                    law; or

1879                    (b) is less than 21 years old.

1880                    (5) The department may revoke a license under this part if:

1881                    (a) the medical cannabis pharmacy does not begin operations within one year after  
1882                    the day on which the department issues the initial license;

1883                    (b) the medical cannabis pharmacy makes the same class of violation of this  
1884                    chapter three times; or

1885                    (c) the owner or operator of the medical cannabis pharmacy is convicted, between  
1886                    renewals, of a felony.

1887                    (6) The department shall deposit the proceeds of a fee the department imposes under this  
1888                    section in the Medical Cannabis Restricted Account.

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1889 (7) The department shall begin accepting applications under this part on or before March  
1890 1, 2020.

1891 (8) Notwithstanding this chapter, if the United State Congress reschedules marijuana  
1892 under the Controlled Substances Act:

1893 (a) each medical cannabis pharmacy shall, within one year after the day on which  
1894 marijuana is rescheduled:

1895 (i) cease operations; or

1896 (ii) operate as a pharmacy, in accordance with Title 26, Chapter 17b,  
1897 Pharmacy Practice Act; and

1898 (b) a medical professional authorized to prescribe medications in the relevant  
1899 schedule may only recommend or prescribe marijuana in accordance with the  
1900 restrictions on that schedule, including use of the controlled substance  
1901 database created in Section 58-37f-201; and

1902 (c) an individual authorized to dispense medications in the relevant schedule may  
1903 only dispense marijuana in accordance with the restrictions on that schedule,  
1904 including use of the controlled substance database created in Section 58-37f-  
1905 201.

### 26-61b-302. Renewal.

1907  
1908 (1) Except as provided in Subsection (3), the department shall renew a person's license  
1909 under this part every two years if, at the time of renewal:

1910 (a) the person meets the requirements of Section 26-61b-301; and

1911 (b) the person pays the department a license renewal fee in an amount that the  
1912 department sets in accordance with Section 63J-1-504.

1913 (2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis  
1914 pharmacy's license, the department shall publish notice of an available license:

1915 (i) in a newspaper of general circulation for the geographic area in which  
1916 the medical cannabis pharmacy license is available; or

1917 (ii) on the Utah Public Notice Website established in Section 63F-1-701.

1918 (b) The department may establish criteria, in collaboration with the Division of  
1919 Occupational and Professional Licensing and the Board of Pharmacy and in  
1920 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to

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1921 identify the medical cannabis pharmacy actions that constitute abandonment of  
1922 a medical cannabis pharmacy license.

## 26-61b-303. Operating plan.

1925 A person applying for a medical cannabis pharmacy license shall submit to the department a  
1926 proposed operation plan for the medical cannabis pharmacy that complies with this section  
1927 and that includes:

- 1928 (1) a description of the physical characteristics of the proposed facility, including a floor  
1929 plan and an architectural elevation;  
1930 (2) a description of the credentials and experience of:  
1931 (a) each officer, director, or owner of the proposed medical cannabis pharmacy;  
1932 and  
1933 (b) any highly skilled or experienced prospective employee;  
1934 (3) the medical cannabis pharmacy's employee training standards;  
1935 (4) a security plan; and  
1936 (5) a description of the medical cannabis pharmacy's inventory control system, including a  
1937 plan to make the inventory control system compatible with the state electronic  
1938 verification system.

## 26-61b-304. Maximum number of licenses.

- 1941 (1) (a) Except as provided in Subsection (1)(b), the department may not issue  
1942 more than five medical cannabis pharmacy licenses.  
1943 (b) (i) In addition to the licenses described in Subsection (1)(a), the  
1944 department may issue two additional licenses if the state central fill  
1945 medical cannabis facility is not operational by January 1, 2021.  
1946 (ii) In addition to the licenses described in Subsection (1)(a) and (1)(b)(i),  
1947 the department may issue two additional licenses if the state central fill  
1948 medical cannabis facility is not operational by July 1, 2021.  
1949 (iii) In addition to the licenses described in Subsection (1)(a), (1)(b)(i), and  
1950 (1)(b)(ii), the department may issue one additional license if the state  
1951 central fill medical cannabis facility is not operational by January 1, 2022.

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1952 (2) If there are more qualified applicants than there are available licenses for medical  
1953 cannabis pharmacies, the department shall:

1954 (a) evaluate each applicant and award the license to the applicant that best  
1955 demonstrates:

1956 (i) experience with establishing and successfully operating a business that  
1957 involves complying with a regulatory environment, tracking inventory,  
1958 and training, evaluating, and monitoring employees;

1959 (ii) an operating plan that:

1960 (A) will best ensure the safety and security of patrons and the  
1961 community; and

1962 (B) mirrors as closely as possible a traditional pharmacy;

1963 (iii) positive connections to the local community;

1964 (iv) the suitability of the proposed location and the location's accessibility for  
1965 qualifying patients; and

1966 (v) the extent to which the applicant can reduce the cost of cannabis or  
1967 cannabis products for patients; and

1968 (b) ensure a geographic dispersal among licensees that is sufficient to reasonably  
1969 maximize access to the largest number of medical cannabis cardholders.

1970 (3) The department may conduct a face-to-face interview with an applicant for a license  
1971 that the department evaluates under Subsection (2).

### 1973 **Part 4. Medical Cannabis Pharmacy Agents**

#### 1974 **26-61b-401. Medical cannabis pharmacy agent -- Registration.**

1975 (1) An individual may not serve as a medical cannabis pharmacy agent of a medical  
1976 cannabis pharmacy unless the department registers the individual as a medical  
1977 cannabis pharmacy agent.

1978 (2) Except as provided in Section 26-61b-404, the following individuals, regardless of the  
1979 individual's status as a qualified medical provider, may not act as a medical cannabis  
1980 pharmacy agent:

1981 (a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
1982 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

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1983 (b) a physician's assistant licensed under Title 58, Chapter 70A, Physician  
1984 Assistant Act; or

1985 (c) an advanced practice registered nurse licensed under Title 58, Chapter 31B,  
1986 Nurse Practice Act.

1987 (3) The department shall, within 15 days after the day on which the department receives a  
1988 complete application from a medical cannabis pharmacy on behalf of a prospective  
1989 medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy  
1990 agent registration card to the prospective agent if the medical cannabis pharmacy:

1991 (a) provides to the department the prospective agent's name and address and the  
1992 name and location of the licensed medical cannabis pharmacy where the  
1993 prospective agent seeks to act as the medical cannabis pharmacy agent; and

1994 (b) pays a fee to the department in an amount that the department sets in  
1995 accordance with Section 63J-1-504.

1996 (4) The department shall designate on an individual's medical cannabis pharmacy agent  
1997 registration card the name of the medical cannabis pharmacy where the individual is  
1998 registered as an agent.

1999 (5) A medical cannabis pharmacy agent shall comply with a certification standard that the  
2000 department develops in collaboration with the Division of Occupational and  
2001 Professional Licensing and the Board of Pharmacy, or a third-party certification  
2002 standard that the department designates by rule, in collaboration with the Division of  
2003 Occupational and Professional Licensing and the Board of Pharmacy and in  
2004 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2005 (6) The department shall ensure that the certification standard described in Subsection (5)  
2006 includes training in:

2007 (a) Utah medical cannabis law; and

2008 (b) medical cannabis pharmacy best practices.

2009 (7) The department may revoke the medical cannabis pharmacy agent registration card of  
2010 or refuse to issue a medical cannabis pharmacy agent registration card to an individual  
2011 who:

2012 (a) violates the requirements of this chapter; or

2013 (b) is convicted of an offense that is a felony under state or federal law.



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- 2014 (8) (a) A medical cannabis pharmacy agent registration card expires two years  
2015 after the day on which the department issues or renews the card.
- 2016 (b) A medical cannabis pharmacy agent may renew the agent's registration card if  
2017 the agent:
- 2018 (i) is eligible for a medical cannabis pharmacy agent registration card under  
2019 this section;
- 2020 (ii) certifies to the department in a renewal application that the information in  
2021 Subsection (3)(a) is accurate or updates the information; and
- 2022 (iii) pays to the department a renewal fee in an amount that:
- 2023 (A) the department sets in accordance with Section 63J-1-504; and  
2024 (B) may not exceed the cost of the relatively lower administrative  
2025 burden of renewal in comparison to the original application  
2026 process.

### 26-61b-402. Medical cannabis pharmacy agents -- Criminal background checks.

- 2030 (1) Each applicant for a license as a medical cannabis pharmacy shall submit, at the time  
2031 of application, from each individual who has a financial or voting interest of two percent  
2032 or greater in the applicant or who has the power to direct or cause the management or  
2033 control of the applicant:
- 2034 (a) a fingerprint card in a form acceptable to the department; and  
2035 (b) consent to a fingerprint background check by the Utah Bureau of Criminal  
2036 Identification and the Federal Bureau of Investigation.
- 2037 (2) The department shall request that the Department of Public Safety complete a Federal  
2038 Bureau of Investigation criminal background check for each individual described in  
2039 Subsection (1).
- 2040 (3) The Department of Public Safety shall:
- 2041 (a) complete a Federal Bureau of Investigation criminal background check for each  
2042 individual who is the subject of a department request under Subsection (2); and  
2043 (b) report the results of the background check to the department.  
2044

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## 26-61b-403. Medical cannabis pharmacy agent registration card -- Rebuttable presumption.

- (1) A medical cannabis pharmacy agent shall carry the individual's medical cannabis pharmacy agent registration card with the individual at all times when:
- (a) the individual is on the premises of a medical cannabis pharmacy; and
  - (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between a cannabis production establishment and a medical cannabis pharmacy.
- (2) If an individual handling, at a medical cannabis pharmacy, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device or transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, possesses the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):
- (a) there is a rebuttable presumption that the individual possesses the cannabis, cannabis product, or medical cannabis device legally; and
  - (b) there is no probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), that the individual is engaging in illegal activity.
- (3) (a) Except as provided in Subsection (3)(b), an individual who violates Subsection (1) is:
- (i) guilty of an infraction; and
  - (ii) subject to a \$100 fine.
- (b) An individual who willfully, knowingly, or deliberately violates a provision of this chapter or who violates this chapter three or more times is:
- (i) guilty of a class B misdemeanor; and
  - (ii) subject to a \$1,000 fine.

## 26-61b-404. Pharmacy medical providers -- Registration -- Continuing education.

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

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2077 (ii) may employ a physician who has the authority to write a prescription and  
2078 is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title  
2079 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy  
2080 medical provider;

2081 (iii) shall ensure that a pharmacy medical provider described in Subsection  
2082 (1)(a)(i) works onsite during all business hours; and

2083 (iv) shall designate one pharmacy medical provider described in Subsection  
2084 (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and  
2085 generally supervise the medical cannabis pharmacy.

2086 (b) An individual may not serve as a pharmacy medical provider unless the  
2087 department registers the individual as a pharmacy medical provider in  
2088 accordance with Subsection (2).

2089 (2) (a) The department shall, within 15 days after the day on which the  
2090 department receives an application from a medical cannabis pharmacy on  
2091 behalf of a prospective pharmacy medical provider, register and issue a  
2092 pharmacy medical provider registration card to the prospective pharmacy  
2093 medical provider if the medical cannabis pharmacy:

2094 (i) provides to the department:

2095 (A) the prospective pharmacy medical provider's name and address;

2096 (B) the name and location of the licensed medical cannabis pharmacy  
2097 where the prospective pharmacy medical provider seeks to act as  
2098 a pharmacy medical provider;

2099 (C) a report detailing the completion of the continuing education  
2100 requirement described in Subsection (3); and

2101 (D) evidence that the prospective pharmacy medical provider is a  
2102 pharmacist who is licensed under Title 58, Chapter 17b,  
2103 Pharmacy Practice Act or a physician who has the authority to  
2104 write a prescription and is licensed under Title 58, Chapter 67,  
2105 Utah Medical Practice Act, or Title 58, Chapter 68, Utah  
2106 Osteopathic Medical Practice Act; and

2107 (ii) pays a fee to the department in an amount that the department sets in  
2108 accordance with Section 63J-1-504.

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- 2109            (b) The department may not register a qualified medical provider or a state central  
2110            fill medical provider as a pharmacy medical provider.
- 2111            (3) (a) A pharmacy medical provider shall complete the continuing education  
2112            described in this Subsection (3) in the following amounts:
- 2113            (i) as a condition precedent to registration, four hours; and  
2114            (ii) as a condition precedent to renewal of the registration, four hours every  
2115            two years.
- 2116            (b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:
- 2117            (i) complete continuing education:
- 2118            (A) regarding the topics described in Subsection (3)(d); and  
2119            (B) offered by the department under Subsection (3)(c) or an  
2120            accredited or approved continuing education provider that the  
2121            department recognizes as offering continuing education  
2122            appropriate for the medical cannabis pharmacy practice; and
- 2123            (ii) make a continuing education report to the department in accordance with  
2124            a process that the department establishes by rule, in collaboration with  
2125            the Division of Occupational and Professional Licensing and the Board of  
2126            Pharmacy and in accordance with Title 63G, Chapter 3, Utah  
2127            Administrative Rulemaking Act.
- 2128            (c) The department may, in consultation with the Division of Occupational and  
2129            Professional Licensing, develop the continuing education described in this  
2130            Subsection (3).
- 2131            (d) The continuing education described in this Subsection (3) may discuss:
- 2132            (i) the provisions of this chapter;  
2133            (ii) general information about medical cannabis under federal and state law;  
2134            (iii) the latest scientific research on the endocannabinoid system and  
2135            medical cannabis, including risks and benefits;  
2136            (iv) recommendations for medical cannabis as it relates to the continuing  
2137            care of a patient in pain management, risk management, potential  
2138            addiction, and palliative care; or

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2139 (v) best practices for recommending the form and dosage of a medical  
2140 cannabis product based on the qualifying condition underlying a medical  
2141 cannabis recommendation.

2142 (4) (a) A pharmacy medical provider registration card expires two years after  
2143 the day on which the department issues or renews the card.

2144 (b) A pharmacy medical provider may renew the provider's registration card if the  
2145 provider:

2146 (i) is eligible for a pharmacy medical provider registration card under this  
2147 section;

2148 (ii) certifies to the department in a renewal application that the information in  
2149 Subsection (2)(a) is accurate or updates the information;

2150 (iii) submits a report detailing the completion of the continuing education  
2151 requirement described in Subsection (3); and

2152 (iv) pays to the department a renewal fee in an amount that:

2153 (A) the department sets in accordance with Section 63J-1-504; and

2154 (B) may not exceed the cost of the relatively lower administrative  
2155 burden of renewal in comparison to the original application  
2156 process.

### 2157 **Part 5. Medical Cannabis Pharmacy Operation**

#### 2158 **26-61b-501. Operating requirements -- General.**

2159 (1) (a) A medical cannabis pharmacy shall operate:

2160 (i) at the physical address provided to the department under Section 26-  
2161 61b-301; and

2162 (ii) in accordance with the operating plan provided to the department under  
2163 Section 26-61b-303.

2164 (b) A medical cannabis pharmacy shall notify the department before a change in  
2165 the medical cannabis pharmacy's physical address or operating plan.

2166 (2) An individual may not enter a medical cannabis pharmacy unless the individual:

2167 (a) is at least 18 years old or older; and

2168 (b) except as provided in Subsection (5), possesses a valid:

2169 (i) medical cannabis pharmacy agent registration card; or  
2170

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2171           (ii)    medical cannabis card.

2172   (3)    A medical cannabis pharmacy may not employ an individual who is younger than 21  
2173   years old.

2174   (4)    (a)    A medical cannabis pharmacy shall conduct a background check into the  
2175   criminal history of each individual before the individual becomes an agent of the  
2176   medical cannabis pharmacy.

2177   (b)    A medical cannabis pharmacy may not employ an individual who has been  
2178   convicted of an offense that is a felony under either state or federal law.

2179   (5)    Notwithstanding Subsection (2), a medical cannabis pharmacy may authorize an  
2180   individual who is not a medical cannabis pharmacy agent to access the medical  
2181   cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the  
2182   individual at all times while the individual is at the medical cannabis pharmacy and  
2183   maintains a record of the individual's access.

2184   (6)    A medical cannabis pharmacy shall operate in a facility that has:

2185   (a)    a single, secure public entrance;

2186   (b)    a security system with a backup power source that:

2187       (i)    detects and records entry into the medical cannabis pharmacy; and

2188       (ii)   provides notice of an unauthorized entry to law enforcement when the  
2189       medical cannabis pharmacy is closed; and

2190   (c)    a lock on each area where the medical cannabis pharmacy stores cannabis or a  
2191   cannabis product.

2192   (7)    A medical cannabis pharmacy shall post, clearly and conspicuously in the medical  
2193   cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-  
2194   61b-502(2).

2195   (8)    A medical cannabis pharmacy may not allow an individual to consume cannabis on the  
2196   property or premises of the medical cannabis pharmacy.

2197   (9)    A medical cannabis pharmacy may not sell cannabis or a cannabis product without  
2198   first indicating on the cannabis or cannabis product label the name of the medical  
2199   cannabis pharmacy.

2200   (10)   (a)    Each medical cannabis pharmacy shall retain in the pharmacy's records  
2201   the following information regarding each recommendation underlying a  
2202   transaction:

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- 2203 (i) the qualified medical provider's name, address, and telephone number;
- 2204 (ii) the patient's name and address;
- 2205 (iii) the date of issuance;
- 2206 (iv) dosing parameters or an indication that the qualified medical provider did
- 2207 not recommend specific dosing parameters; and
- 2208 (v) if the patient did not complete the transaction, the name of the medical
- 2209 cannabis cardholder who completed the transaction.

2210 (b) The medical cannabis pharmacy may not sell cannabis or a cannabis product  
2211 unless the cannabis or cannabis product has a label securely affixed to the  
2212 container indicating the following minimum information:

- 2213 (i) the name, address, and telephone number of the medical cannabis
- 2214 pharmacy;
- 2215 (ii) the unique identification number that the medical cannabis pharmacy
- 2216 assigns;
- 2217 (iii) the date of the sale;
- 2218 (iv) the name of the patient;
- 2219 (v) the name of the qualified medical provider who recommended the
- 2220 medical cannabis treatment;
- 2221 (vi) directions for use and cautionary statements, if any;
- 2222 (vii) the amount dispensed and the cannabinoid content;
- 2223 (viii) the beyond use date; and
- 2224 (ix) any other requirements that the department determines, in consultation
- 2225 with the Division of Occupational and Professional Licensing and the
- 2226 Board of Pharmacy.

2227 (11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

- 2228 (a) unless the medical cannabis cardholder has had a consultation under
- 2229 Subsection 26-61b-502(4), verbally offer to a medical cannabis cardholder at
- 2230 the time of a purchase of cannabis, a cannabis product, or a medical cannabis
- 2231 device, personal, face-to-face counseling with the pharmacy medical provider
- 2232 who is a pharmacist; and
- 2233 (b) provide a telephone number or website by which the cardholder may contact a
- 2234 pharmacy medical provider for counseling.

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## 26-61b-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

- 2235
- 2236
- 2237
- 2238 (1) (a) A medical cannabis pharmacy may not sell a product other than, subject
- 2239 to this chapter:
- 2240 (i) cannabis in a medicinal dosage form;
- 2241 (ii) a cannabis product in a medicinal dosage form;
- 2242 (iii) a medical cannabis device; or
- 2243 (iv) educational material related to the medical use of cannabis.
- 2244 (b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a)
- 2245 to an individual with:
- 2246 (i) a medical cannabis card; and
- 2247 (ii) corresponding identification that is a valid United States federal- or state-
- 2248 issued photo identification, including a driver license, a United States
- 2249 passport, a United States passport card, or a United States military
- 2250 identification card.
- 2251 (2) A medical cannabis pharmacy may not dispense:
- 2252 (a) to a medical cannabis cardholder in any one 14-day period, more than the
- 2253 lesser of:
- 2254 (i) an amount that the relevant qualified medical provider recommends; or
- 2255 (ii) (A) 56 grams by weight of unprocessed cannabis that is in a
- 2256 medicinal dosage form and that carries a label clearly displaying
- 2257 the amount of tetrahydrocannabinol and cannabidiol in the
- 2258 cannabis; or
- 2259 (B) an amount of cannabis products that is in a medicinal dosage
- 2260 form and that contains, in total, greater than 10 grams of
- 2261 tetrahydrocannabinol;
- 2262 (b) to a medical cannabis cardholder whose primary residence is located more than
- 2263 100 miles from the nearest medical cannabis pharmacy or local health
- 2264 department, in any one 30-day period, more than the lesser of:
- 2265 (i) an amount that the relevant qualified medical provider recommends; or





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2297 (ii) if the verification in Subsection (5)(a)(i) indicates that the individual has  
2298 met the maximum amount described in Subsection (2):

2299 (A) decline the sale; and

2300 (B) notify the qualified medical provider who made the underlying  
2301 recommendation;

2302 (b) submit a record to the state electronic verification system each time the medical  
2303 cannabis pharmacy dispenses cannabis or a cannabis product to a medical  
2304 cannabis cardholder;

2305 (c) package any cannabis or cannabis product that is in a blister pack in a  
2306 container that:

2307 (i) complies with Subsection 4-41b-602(2);

2308 (ii) is tamper-resistant and tamper-evident; and

2309 (iii) opaque;

2310 (d) for a product that is a cube that is designed for ingestion through chewing or  
2311 holding in the mouth for slow dissolution, include a separate, off-label warning  
2312 about the risks of over-consumption; and

2313 (e) present an indemnification agreement for the cardholder's signature that  
2314 indemnifies the state, medical cannabis pharmacy, recommending qualified  
2315 medical provider, and any cannabis production establishment for any legal or  
2316 actual harm arising from the cultivation, processing, inspection, recommending,  
2317 or dispensing of cannabis, a cannabis medical product, or a medical cannabis  
2318 device, in accordance with this chapter and Title 4, Chapter 41b, Cannabis  
2319 Production Establishments.

2320 (6) (a) Except as provided in Subsection (6)(b), a medical cannabis pharmacy  
2321 may not sell medical cannabis in the form of a cigarette or a medical cannabis  
2322 device that is intentionally designed or constructed to resemble a cigarette.

2323 (b) A medical cannabis pharmacy may sell a medical cannabis device that warms  
2324 cannabis material into a vapor without the use of a flame and that delivers  
2325 cannabis to an individual's respiratory system.

2326 (7) A medical cannabis pharmacy may not give, at no cost, a product that the medical  
2327 cannabis pharmacy is allowed to sell under Subsection (1).

2328

# WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

## 26-61b-503. Partial filling.

- 2329
- 2330 (1) As used in this section, "partially fill" means to provide less than the full amount of
- 2331 cannabis or cannabis product that the qualified medical provider recommends, if the
- 2332 qualified medical provider recommended specific dosing parameters.
- 2333 (2) A pharmacy medical provider may partially fill a recommendation for a medical
- 2334 cannabis treatment at the request of the qualified medical provider who issued the
- 2335 medical cannabis treatment recommendation or the medical cannabis cardholder.
- 2336 (3) The department shall makes rules, in collaboration with the Division of Occupational
- 2337 and Professional Licensing and the Board of Pharmacy and in accordance with Title
- 2338 63G, Chapter 3, Utah Administrative Rulemaking Act specifying how to record the
- 2339 date, quantity supplied, and quantity remaining of a partially filled medical cannabis
- 2340 treatment recommendation.
- 2341 (4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical
- 2342 cannabis cardholder, determine different dosing parameters, subject to the dosing
- 2343 limits in Subsection 26-6ab-502(2), to fill the quantity remaining of a partially filled
- 2344 medical cannabis treatment recommendation if:
- 2345 (a) the pharmacy medical provider determined dosing parameters for the partial fill
- 2346 under Subsection 26-61b-502(4); and
- 2347 (b) the medical cannabis cardholder reports that:
- 2348 (i) the partial fill did not substantially affect the qualifying condition
- 2349 underlying the medical cannabis recommendation; or
- 2350 (ii) the patient experienced an adverse reaction to the partial fill or was
- 2351 otherwise unable to successfully use the partial fill.
- 2352

## 26-61b-504. Records -- Inspections.

- 2353
- 2354 (1) Each medical cannabis pharmacy shall maintain the pharmacy's medical cannabis
- 2355 treatment recommendation files and other records in accordance with this chapter,
- 2356 department rules, and the federal Health Insurance Portability and Accountability Act
- 2357 of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.
- 2358 (2) The department may inspect the records and facility of a medical cannabis pharmacy
- 2359 at any time during business hours in order to determine if the medical cannabis
- 2360 pharmacy complies with this chapter.

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2361 (3) An inspection under this section may include:

2362 (a) inspection of a site, facility, vehicle, book, record, paper, document, data, and  
2363 other physical or electronic information;

2364 (b) questioning of any relevant individual;

2365 (c) inspection of equipment, an instrument, a tool, or machinery, including a  
2366 container or label.

2367 (4) In making an inspection under this section, the department may freely access any area  
2368 and review and make copies of a book, record, paper, document, data, or other  
2369 physical or electronic information, including financial data, sales data, shipping data,  
2370 pricing data, and employee data.

2371 (5) Failure to provide the department or the department's authorized agents immediate  
2372 access during business hours in accordance with this section may result in:

2373 (a) the imposition of a civil monetary penalty that the department sets in  
2374 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

2375 (b) license or registration suspension or revocation; or

2376 (c) an immediate cessation of operations under a cease and desist order that the  
2377 department issues.

### 26-61b-505. Advertising.

2380 (1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may not  
2381 advertise in any medium.

2382 (2) A medical cannabis pharmacy may use signage on the outside of the medical  
2383 cannabis pharmacy that includes only:

2384 (a) the medical cannabis pharmacy's name and hours of operation; and

2385 (b) a green cross.

2386 (3) A medical cannabis pharmacy may maintain a website that includes information about:

2387 (a) the location and hours of operation of the medical cannabis pharmacy;

2388 (b) a product or service available at the medical cannabis pharmacy;

2389 (c) personnel affiliated with the medical cannabis pharmacy;

2390 (d) best practices that the medical cannabis pharmacy upholds; and

2391 (e) educational material related to the medical use of cannabis.

2392

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## 26-61b-506. Cannabis, cannabis product, or medical cannabis device transportation.

- 2393  
2394  
2395 (1) Only the following individuals may transport cannabis in a medicinal dosage form, a  
2396 cannabis product in a medicinal dosage form, or a medical cannabis device under this  
2397 chapter:
- 2398 (a) a registered medical cannabis pharmacy agent;
  - 2399 (b) a registered state central fill agent;
  - 2400 (c) a courier for a state central fill shipment described in Section 26-61b-605; or
  - 2401 (d) a medical cannabis cardholder who is transporting a medical cannabis  
2402 treatment that the cardholder is authorized to transport.
- 2403 (2) Except for an individual with a valid medical cannabis card under Title 26, Chapter  
2404 61b, Medical Cannabis Act who is transporting a medical cannabis treatment that the  
2405 cardholder is authorized to transport, an individual described in Subsection (1) shall  
2406 possess a transportation manifest that:
- 2407 (a) includes a unique identifier that links the cannabis, cannabis product, or medical  
2408 cannabis device to a relevant inventory control system;
  - 2409 (b) includes origin and destination information for cannabis, a cannabis product, or  
2410 a medical cannabis device that the individual is transporting; and
  - 2411 (c) identifies the departure and arrival times and locations of the individual  
2412 transporting the cannabis, cannabis product, or medical cannabis device.
- 2413 (3) In addition to the requirements in Subsections (1) and (2), the department may  
2414 establish by rule, in collaboration with the Division of Occupational and Professional  
2415 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3,  
2416 Utah Administrative Rulemaking Act, requirements for transporting cannabis in a  
2417 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical  
2418 cannabis device to ensure that the cannabis, cannabis product, or medical cannabis  
2419 device remains safe for human consumption.
- 2420 (4) (a) It is unlawful for a registered medical cannabis pharmacy agent, a  
2421 registered state central fill agent, or a courier described in Section 26-61b-605  
2422 to make a transport described in this section with a manifest that does not meet  
2423 the requirements of this section.

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2424 (b) Except as provided in Subsection (4)(c), an agent or courier who violates

2425 Subsection (4)(a) is:

2426 (i) guilty of an infraction; and

2427 (ii) subject to a \$100 fine.

2428 (c) If the individual described in Subsection (4)(a) is transporting more cannabis,

2429 cannabis product, or medical cannabis devices than the manifest identifies,

2430 except for a de minimis administrative error:

2431 (a) this chapter does not apply; and

2432 (b) the individual is subject to penalties under Title 58, Chapter 37, Utah

2433 Controlled Substances Act.

2434

2435 **26-61b-507. Local control.**

2436 (1) A municipality or county may not:

2437 (a) enact a zoning ordinance that prohibits a medical cannabis pharmacy from

2438 operating at a location within the municipality's or county's jurisdiction in which

2439 at least one of the following is allowed to operate:

2440 (i) a business that sells alcohol; or

2441 (ii) a retail tobacco specialty business, as that term is defined in Section 10-

2442 8-41.6 or 17-50-333; or

2443 (b) deny or revoke a permit or license to operate a medical cannabis pharmacy on

2444 the sole basis that the applicant or medical cannabis pharmacy violates federal

2445 law regarding the legal status of cannabis.

2446 (2) A municipality or county may enact an ordinance that:

2447 (a) is not in conflict with this chapter; and

2448 (b) governs the time, place, or manner of medical cannabis pharmacy operations in

2449 the municipality or county.

2450

2451 **Part. 6 State central fill pharmacy shipment process.**

2452 **26-61b-601. Department to establish state central fill medical cannabis**

2453 **pharmacy -- Duties -- Pharmacy medical provider registration --**

2454 **Continuing education.**

## WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

- 2455 (1) On or before July 1, 2020, the department shall establish a state central fill medical  
2456 cannabis pharmacy as described in this section.
- 2457 (2) The state central fill medical cannabis pharmacy shall:
- 2458 (a) procure cannabis that a cannabis processing facility processes into a medicinal  
2459 dosage form;
- 2460 (b) prepare cannabis in medicinal dosage form, a cannabis product in medicinal  
2461 dosage form, and a medical cannabis device for shipment to a medical  
2462 cannabis cardholder under a qualified medical provider's recommendation to  
2463 address a qualifying condition;
- 2464 (c) transport prepared shipments, in accordance with Section 26-61b-605, to a  
2465 local health department for distribution, in accordance with Section 26-61b-607;
- 2466 (d) (i) process and accept electronic payment for transactions involving  
2467 any shipment from the state central fill medical cannabis pharmacy; and  
2468 (ii) deposit funds that the state central fill medical cannabis pharmacy  
2469 collects under Subsection (2)(d) into the State Central Fill Medical  
2470 Cannabis Pharmacy Restricted Account created in Section 26-61b-110;
- 2471 (e) employ at least one pharmacist who is licensed under Section 58-17b-301 to  
2472 serve as the pharmacist-in-charge, as that term is defined in Section 58-17b-  
2473 102;
- 2474 (f) employ as a state central fill medical provider an individual who is:
- 2475 (i) a physician who has the authority to write a prescription and is licensed  
2476 under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,  
2477 Chapter 68, Utah Osteopathic Medical Practice Act; or
- 2478 (ii) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy  
2479 Practice Act; and
- 2480 (g) ensure that at least one state central fill medical provider works onsite at the  
2481 state central fill medical cannabis pharmacy at all times.
- 2482 (3) (a) An individual may not enter the state central fill medical cannabis  
2483 pharmacy unless:
- 2484 (i) the individual is a state central fill agent or an employee of the state  
2485 central fill medical cannabis pharmacy;
- 2486 (ii) the individual is an employee of the department; or

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2487 (iii) a state central fill agent escorts the individual at all times.

2488 (b) An individual who violates Subsection (3)(a) is:

2489 (i) guilty of an infraction; and

2490 (ii) subject to a \$100 fine.

2491 (4) (a) The state central fill medical cannabis pharmacy:

2492 (i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b,  
2493 Pharmacy Practice Act, as a pharmacy medical provider that the  
2494 department registers in accordance with Subsection (5);

2495 (ii) may employ a physician who who has the authority to write a prescription  
2496 and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
2497 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a  
2498 pharmacy medical provider that the department registers in accordance  
2499 with Subsection (5);

2500 (iii) shall ensure that a pharmacy medical provider described in Subsection  
2501 (1)(a)(i) works onsite during all business hours; and

2502 (iv) shall designate one pharmacy medical provider described in Subsection  
2503 (1)(a) as the pharmacist-in-charge to oversee the operation of and  
2504 generally supervise the medical cannabis pharmacy.

2505 (b) An individual may not serve as a pharmacy medical provider unless the  
2506 department registers the individual as a pharmacy medical provider in  
2507 accordance with Subsection (5).

2508 (5) (a) The department shall, within 15 days after the day on which the  
2509 department receives an application from the state central fill medical cannabis  
2510 pharmacy on behalf of a prospective state central fill medical provider, register  
2511 and issue a state central fill medical provider registration card to the prospective  
2512 state central fill medical provider if the state central fill medical cannabis  
2513 pharmacy provides to the department:

2514 (i) the prospective state central fill medical provider's name and address;  
2515 and

2516 (ii) evidence that the prospective state central fill medical provider is:

2517 (A) a pharmacist who is licensed under Title 58, Chapter 17b,  
2518 Pharmacy Practice Act; or



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2519 (B) a physician who has the authority to write a prescription and is  
2520 licensed under Title 58, Chapter 67, Utah Medical Practice Act, or  
2521 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

2522 (b) The department may not register a qualified medical provider or a pharmacy  
2523 medical provider as a state central fill medical provider.

2524 (6) (a) A state central fill medical provider shall complete the continuing  
2525 education described in this Subsection (6) in the following amounts:

2526 (i) as a condition precedent to registration, four hours; and

2527 (ii) as a condition precedent to renewal, four hours every two years.

2528 (b) In accordance with Subsection (6)(a), the provider shall:

2529 (i) complete continuing education:

2530 (A) regarding the topics described in Subsection (6)(d); and

2531 (B) offered by the department under Subsection (6)(c) or an  
2532 accredited or approved continuing education provider that the  
2533 department recognizes as offering continuing education  
2534 appropriate for the medical cannabis pharmacy practice; and

2535 (ii) make a continuing education report to the department in accordance with  
2536 a process that the department establishes by rule, in collaboration with  
2537 the Division of Occupational and Professional Licensing and the Board of  
2538 Pharmacy and in accordance with Title 63G, Chapter 3, Utah  
2539 Administrative Rulemaking Act.

2540 (c) The department may, in consultation with the Division of Occupational and  
2541 Professional Licensing, develop the continuing education described in this  
2542 Subsection (6).

2543 (d) The continuing education described in this Subsection (6) may discuss:

2544 (i) the provisions of this chapter;

2545 (ii) general information about medical cannabis under federal and state law;

2546 (iii) the latest scientific research on the endocannabinoid system and  
2547 medical cannabis, including risks and benefits;

2548 (iv) recommendations for medical cannabis as it relates to the continuing  
2549 care of a patient in pain management, risk management, potential  
2550 addiction, and palliative care; and

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2551 (v) best practices for recommending the form and dosage of medical  
2552 cannabis products based on the qualifying condition underlying the  
2553 medical cannabis recommendation.

2554 (7) (a) A state central fill medical provider registration card expires two years  
2555 after the day on which the department issues the card.

2556 (b) A state central fill medical provider may renew the provider's registration card if  
2557 the provider:

2558 (i) is eligible for a state central fill medical provider registration card under  
2559 this section;

2560 (ii) certifies to the department in a renewal application that the information in  
2561 Subsection (5) is accurate or updates the information; and

2562 (iii) submits a report detailing the completion of the continuing education  
2563 requirement described in Subsection (6).

### 26-61b-602. State central fill agent -- Background check -- Registration card -- 2566 Rebuttable presumption.

2567 (1) An individual may not serve as a state central fill agent unless:

2568 (a) the individual is an employee of the state central fill medical cannabis  
2569 pharmacy; and

2570 (b) the department registers the individual as a state central fill agent.

2571 (2) (a) The department shall, within 15 days after the day on which the  
2572 department receives a complete application from the state central fill medical  
2573 cannabis pharmacy on behalf of a prospective state central fill agent, register  
2574 and issue a state central fill agent registration card to an the prospective agent  
2575 if the state central fill medical cannabis pharmacy:

2576 (i) provides to the department:

2577 (A) the prospective agent's name and address;

2578 (B) a fingerprint card in a form acceptable to the department; and

2579 (D) the prospective agent's consent to a fingerprint background check  
2580 by the Utah Bureau of Criminal Identification and the Federal  
2581 Bureau of Investigation; and

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2582           (ii)    as reported under Subsection (2)(c), has not been convicted of an  
2583                           offense that is a felony under state or federal law.

2584   (b)    The department shall request that the Department of Public Safety complete a  
2585           Federal Bureau of Investigation criminal background check for each prospective  
2586           agent described in Subsection (2)(a).

2587   (c)    The Department of Public Safety shall:

2588           (i)    complete a Federal Bureau of Investigation criminal background check  
2589                           for each prospective agent who is the subject of a department request  
2590                           under Subsection (2)(b); and

2591           (ii)   report the results of the background check to the department.

2592   (3)    (a)    A state central fill agent shall comply with a certification standard that the  
2593           department develops, in collaboration with the Division of Occupational and  
2594           Professional Licensing and the Board of Pharmacy, or a third-party certification  
2595           standard that the department designates by rule, in collaboration with the  
2596           Division of Occupational and Professional Licensing and the Board of  
2597           Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative  
2598           Rulemaking Act.

2599   (b)    The department shall ensure that the certification standard described in  
2600           Subsection (3)(a) includes continuing education in:

2601           (i)    Utah medical cannabis law;

2602           (ii)   the state central fill medical cannabis pharmacy shipment process; and

2603           (iii)   state central fill agent best practices.

2604   (4)    The department may revoke or refuse to issue the state central fill agent registration  
2605           card of an individual who:

2606           (a)    violates the requirements of this chapter; or

2607           (b)    is convicted of an offense that is a felony under state or federal law.

2608   (5)    (a)    A state central fill agent registration card expires two years after the day  
2609           on which the department issues the card.

2610   (b)    A state central fill agent may renew the agents's registration card if the agent:

2611           (i)    is eligible for a state central fill registration card under this section; and

2612           (ii)   certifies to the department in a renewal application that the information in  
2613                           Subsection (2)(a) is accurate or updates the information.

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2614 (6) A state central fill agent who the department has registered under this section shall  
2615 carry the individual's state central fill agent registration card with the individual at all  
2616 times when:

2617 (a) the individual is on the premises of the state central fill medical cannabis  
2618 pharmacy; and

2619 (b) the individual is transporting cannabis in a medicinal dosage form, a cannabis  
2620 product in a medicinal dosage form, or a medical cannabis device between a  
2621 cannabis production establishment and the state central fill medical cannabis  
2622 pharmacy.

2623 (7) If an individual handling cannabis, a cannabis product, or a medical cannabis device  
2624 handles the item in compliance with Subsection (6):

2625 (a) there is a rebuttable presumption that the individual possesses the item legally;  
2626 and

2627 (b) a law enforcement officer does not have probable cause, based solely on the  
2628 individual's handling of the item, to believe that the individual is engaging in  
2629 illegal activity.

2630 (7) An individual who violates Subsection (6) is:

2631 (a) guilty of an infraction; and

2632 (b) subject to a \$100 fine.

### 26-61b-603. Recommendation.

2635 (1) When an individual receives a recommendation for a medical cannabis treatment from  
2636 the individual's qualified medical provider, the individual may initiate a shipment from  
2637 the state central fill medical cannabis pharmacy to a local health department by:

2638 (a) contacting the state central fill medical cannabis pharmacy directly; or

2639 (b) requesting that the qualified medical provider initiate the shipment through the  
2640 state electronic verification system.

2641 (2) Upon receiving a request to prepare a shipment under Subsection (1), a state central  
2642 fill agent shall:

2643 (a) verify the shipment information using the state electronic verification system;

2644 (b) process payment, including contacting the medical cannabis cardholder to  
2645 complete payment if necessary;

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2646 (c) prepare the shipment in accordance with Section 26-61b-604;

2647 (d) record the preparation of the shipment in the electronic verification system; and

2648 (e) place the shipment for transportation in accordance with Section 26-61b-605.

### 26-61b-604. State central fill shipment preparation.

2651 (1) (a) The state central fill medical cannabis pharmacy may not prepare or ship  
2652 to a local health department a product other than:

2653 (i) cannabis in medicinal dosage form;

2654 (ii) a cannabis product in medicinal dosage form;

2655 (iii) a medical cannabis device; or

2656 (iv) educational material related to the medical use of cannabis.

2657 (b) The state central fill medical cannabis pharmacy may only sell and ship an item  
2658 listed in Subsection (1)(a) in response to a request for shipment described in  
2659 Subsection 26-61b-603(1).

2660 (2) The state central fill medical cannabis pharmacy may not prepare a shipment:

2661 (a) for a medical cannabis cardholder in any one 14-day period, more than the  
2662 lesser of:

2663 (i) an amount that the relevant qualified medical provider recommends; or

2664 (ii) (A) 56 grams by weight of unprocessed cannabis that is in a  
2665 medicinal dosage form and that carries a label clearly displaying  
2666 the amount of tetrahydrocannabinol and cannabidiol in the  
2667 cannabis; or

2668 (B) an amount of cannabis products that is in a medicinal dosage  
2669 form and that contains, in total, greater than 10 grams of  
2670 tetrahydrocannabinol;

2671 (b) to a medical cannabis cardholder whose primary residence is located more than  
2672 100 miles from the nearest medical cannabis pharmacy or local health  
2673 department, in any one 30-day period, more than the lesser of:

2674 (i) an amount that the relevant qualified medical provider recommends; or

2675 (ii) (A) 113 grams by weight of unprocessed cannabis that is in a  
2676 medicinal dosage form and that carries a label clearly displaying

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2677 the amount of tetrahydrocannabinol and cannabidiol in the  
2678 cannabis; or

2679 (B) an amount of cannabis products that is in a medicinal dosage  
2680 form and that contains, in total, greater than 20 grams of  
2681 tetrahydrocannabinol; or

2682 (c) for an individual whose qualified medical provider did not recommend dosing  
2683 parameters, any cannabis or cannabis product, until the individual consults with  
2684 the state central fill medical provider in accordance with Subsection (4).

2685 (3) A medical cannabis cardholder may not receive a state central fill shipment containing:

2686 (a) more cannabis or cannabis products than the amounts designated in  
2687 Subsection (2) in any one 14-day period; or

2688 (b) if the relevant qualified medical provider did not recommend dosing parameters,  
2689 any cannabis or cannabis product, until the cardholder consults with the state  
2690 central fill medical provider in accordance with Subsection (4).

2691 (4) If a qualified medical provider recommends treatment with cannabis or a cannabis  
2692 product but does not provide dosing parameters, before the cardholder may receive a  
2693 state central fill shipment, the state central fill medical provider shall determine the  
2694 best course of treatment through consultation with the individual regarding:

2695 (a) the patient's qualifying condition underlying the recommendation from the  
2696 qualified medical provider;

2697 (b) indications for available treatments; and

2698 (c) dosing parameters.

2699 (5) The state central fill medical cannabis pharmacy shall:

2700 (a) (i) access the state electronic verification system before preparing a  
2701 shipment of cannabis or a cannabis product to determine if the medical  
2702 cannabis cardholder or, where applicable, the associated patient has met  
2703 the maximum amount of cannabis or cannabis product described in  
2704 Subsection (2); and

2705 (ii) if the verification in Subsection (5)(a)(i) indicates that the individual has  
2706 met the maximum amount described in Subsection (2):

2707 (A) decline the request to prepare the shipment; and

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2708 (B) notify the qualified medical provider that made the  
2709 recommendation;

2710 (b) submit a record to the state electronic verification system each time the state  
2711 central fill medical cannabis pharmacy prepares and ships a shipment of  
2712 cannabis, a cannabis product, or a medical cannabis device;

2713 (c) package any cannabis or cannabis product that is in a blister pack in a  
2714 container that:

2715 (i) complies with Subsection 4-41b-602(2);

2716 (ii) is tamper-resistant and tamper-evident; and

2717 (iii) opaque; and

2718 (d) for any product that is a cube that is designed for ingestion through chewing or  
2719 holding in the mouth for slow dissolution, include a separate, off-label warning  
2720 about the risks of over-consumption.

2721 (6) (a) Except as provided in Subsection (6)(b), the state central fill medical  
2722 cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a  
2723 medical cannabis device that is intentionally designed or constructed to  
2724 resemble a cigarette.

2725 (b) The state central fill medical cannabis pharmacy may sell a medical cannabis  
2726 device that warms cannabis material into a vapor without the use of a flame and  
2727 that delivers cannabis to an individual's respiratory system.

2728 (7) The state central fill medical cannabis pharmacy may not give, at no cost, a product  
2729 that the medical cannabis pharmacy is allowed to sell under Subsection (1).

2730 (8) The state central fill medical cannabis pharmacy shall retain in the pharmacy's records  
2731 the following information regarding each recommendation underlying a transaction:

2732 (a) the following information is included in the qualified medical provider's  
2733 recommendation:

2734 (i) the qualified medical provider's name, address, and telephone number;

2735 (ii) the patient's name and address;

2736 (iii) the date of issuance;

2737 (iv) dosing parameters or an indication the the qualified medical provider did  
2738 not recommend specific dosing parameters; and

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2739 (v) the name and the address of the medical cannabis cardholder if the  
2740 cardholder is not the patient.

2741 (b) The state central fill medical cannabis pharmacy may not sell cannabis or a  
2742 cannabis product unless the cannabis or cannabis product has a label securely  
2743 affixed to the container indicating the following minimum information:

2744 (i) the name and telephone number of the state central fill medical cannabis  
2745 pharmacy;

2746 (ii) the unique identification number that the state central fill medical  
2747 cannabis pharmacy assigns;

2748 (iii) the date of the sale;

2749 (iv) the name of the medical cannabis cardholder;

2750 (v) the name of the qualified medical provider who recommended the  
2751 medical cannabis treatment;

2752 (vi) directions for use and cautionary statements, if any;

2753 (vii) the amount dispensed and the cannabinoid content;

2754 (viii) the beyond use date; and

2755 (ix) any other requirements that the department determines, in consultation  
2756 with the Division of Occupational and Professional Licensing and the  
2757 Board of Pharmacy.

2758 (11) A pharmacy medical provider at the state central fill medical cannabis pharmacy or a  
2759 state central fill agent shall:

2760 (a) include in each central fill shipment written counseling regarding the central fill  
2761 shipment; and

2762 (b) provide a telephone number or website by which a medical cannabis cardholder  
2763 may contact a pharmacy medical provider for counseling.

### 26-61b-605. State central fill shipment transportation.

2766 (1) The state central fill medical cannabis pharmacy shall ensure that the state central fill  
2767 medical cannabis pharmacy is capable of delivering, in a secure manner, cannabis in  
2768 medicinal dosage form, a cannabis product in medicinal dosage form, and a medical  
2769 cannabis device to each local health department in the state within 24 hours of



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2770 receiving a request to prepare a shipment for a recommendation from a qualified  
2771 medical provider under Section 26-61b-603.

2772 (2) (a) The department may contract with a private entity to serve as a courier  
2773 for the state dispensary central fill medical cannabis pharmacy, delivering  
2774 purchased cannabis that a cannabis processing facility processes into a  
2775 medicinal dosage form to a local health department for shipment distribution to  
2776 the recipient medical cannabis cardholder.

2777 (b) The department shall:

2778 (i) issue the contract described in Subsection (2) in accordance with Title  
2779 63G, Chapter 6a, Utah Procurement Code;

2780 (ii) impose security and personnel requirements on the private entity  
2781 sufficient to ensure the security and safety of state central fill shipments;  
2782 and

2783 (iii) provide regular oversight of the contracted private entity.

2784 (3) Except for an individual with a valid medical cannabis card who transports a shipment  
2785 the individual receives, an individual may not transport a state central fill shipment  
2786 unless the individual is:

2787 (a) a registered state central fill agent; or

2788 (b) an agent of the private courier described in Subsection (2).

2789 (4) An individual transporting a state central fill shipment shall possess a transportation  
2790 manifest that:

2791 (a) includes a unique identifier that links the state central fill shipment to a relevant  
2792 inventory control system;

2793 (b) includes origin and destination information for a state central fill shipment the  
2794 individual is transporting; and

2795 (c) indicates the departure and arrival times and locations of the individual  
2796 transporting the state central fill shipment.

2797 (5) In addition to the requirements in Subsections (3) and (4), the department may  
2798 establish by rule, in collaboration with the Division of Occupational and Professional  
2799 Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3,  
2800 Utah Administrative Rulemaking Act, requirements for transporting state central fill

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2801 shipments that are related to safety for human consumption of cannabis or a cannabis  
2802 product.

2803 (6) (a) It is unlawful for an individual to transports a state central fill shipment  
2804 with a manifest that does not meet the requirements of Subsection (4).

2805 (b) Except as provided in Subsection (6)(c), an individual who violates Subsection  
2806 (6)(a):

2807 (i) is guilty of an infraction; and

2808 (ii) subject to a \$100 fine.

2809 (c) If the individual described in Subsection (6)(a) is tranporting more cannabis,  
2810 cannabis product, or medical cannabis devices than the manifest identifies,  
2811 except for a de minimis administrative error:

2812 (a) this chapter does not apply; and

2813 (b) the individual is subject to penalties under Title 58, Chapter 37, Utah  
2814 Controlled Substances Act.

### 26-61b-606. Local health department courier agent -- Background check -- Registration 2817 card -- Rebuttable presumption.

2818 (1) An individual may not serve as a local health department courier agent unless:

2819 (a) the individual is an employee of a local health department; and

2820 (b) the department registers the individual as a local health department courier  
2821 agent.

2822 (2) (a) The department shall, within 15 days after the day on which the  
2823 department receives a complete application from a local health department on  
2824 behalf of a prospective local health department courier agent, register and issue  
2825 a local health department courier agent registration card to the prospective  
2826 agent if the local health department:

2827 (i) provides to the department:

2828 (A) the prospective's name and address;

2829 (B) the name and location of the local health department where the  
2830 prospective agent seeks to act as a local health department  
2831 courier agent;

2832 (C) a fingerprint card in a form acceptable to the department; and

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2833 (D) the prospective agent's consent to a fingerprint background check  
2834 by the Utah Bureau of Criminal Identification and the Federal  
2835 Bureau of Investigation;

2836 (ii) pays a fee to the department in an amount that the department sets in  
2837 accordance with Section 63J-1-504; and

2838 (iii) as reported under Subsection (2)(c), has not been convicted for an  
2839 offense that is a felony under state or federal law.

2840 (b) The department shall request that the Department of Public Safety complete a  
2841 Federal Bureau of Investigation criminal background check for each prospective  
2842 agent described in Subsection (2)(a).

2843 (c) The Department of Public Safety shall:

2844 (i) complete a Federal Bureau of Investigation criminal background check  
2845 for each prospective agent who is the subject of a department request  
2846 under Subsection (2)(b); and

2847 (ii) report the results of the background check to the department.

2848 (3) The department shall designate on an individual's local health department courier  
2849 agent registration card the name of the local health department where the individual is  
2850 registered as an agent.

2851 (4) (a) A local health department courier agent shall comply with a certification  
2852 standard that the department develops, in collaboration with the Division of  
2853 Occupational and Professional Licensing and the Board of Pharmacy, or a third-  
2854 party certification standard that the department designates by rule in  
2855 collaboration with the Division of Occupational and Professional Licensing and  
2856 the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah  
2857 Administrative Rulemaking Act.

2858 (b) The department shall ensure that the certification standard described in  
2859 Subsection (4)(a) includes training in:

2860 (i) Utah medical cannabis law;

2861 (ii) the state central fill medical cannabis pharmacy shipment process; and

2862 (iii) local health department courier agent best practices.

2863 (5) The department may revoke or refuse to issue the local health department courier  
2864 agent registration card of an individual who:

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2865 (a) violates the requirements of this chapter; or

2866 (b) is convicted of an offense that is a felony under state or federal law.

2867 (6) A local health department courier agent who the department has registered under this  
2868 section shall carry the individual's local health department courier agent registration  
2869 card with the individual at all times when:

2870 (a) the individual is on the premises of the local health department; and

2871 (b) the individual is handling a shipment of cannabis or cannabis product from the  
2872 state central fill medical cannabis pharmacy.

2873 (7) If an individual handling a shipment of cannabis or cannabis product from the state  
2874 central fill medical cannabis pharmacy possesses the shipment in compliance with  
2875 Subsection (6):

2876 (a) there is a rebuttable presumption that the individual possesses the shipment  
2877 legally; and

2878 (b) a law enforcement officer does not have probable cause, based solely on the  
2879 individual's possession of the shipment, to believe that the individual is  
2880 engaging in illegal activity.

2881 (8) An individual who violates Subsection (6) is:

2882 (a) guilty of an infraction; and

2883 (b) subject to a \$100 fine.

### 26-61b-607. Local health department distribution.

2886 (1) Each local health department shall designate a sufficient number of personnel to  
2887 ensure that at least one individual is available at all times during business hours:

2888 (a) whom the department has registered as a local health department courier  
2889 agent; and

2890 (b) to distribute state central fill shipments to medical cannabis cardholders in  
2891 accordance with this section.

2892 (2) An individual may not retrieve a shipment from the state central fill medical cannabis  
2893 pharmacy at a local health department unless the individual presents:

2894 (a) a form of identification that is a valid United States federal- or state-issued  
2895 photo identification, including a driver license, a United States passport, a  
2896 United States passport card, or a United States military identification card; and

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2897 (b) a valid medical cannabis card that the department issues under Section 26-61b-  
2898 201.

2899 (3) Before a local health department courier agent distributes a shipment from the state  
2900 central fill medical cannabis pharmacy to an individual retrieving the shipment, the  
2901 local health department courier agent shall:

2902 (a) verify the shipment information using the state electronic verification system;

2903 (b) ensure that the individual satisfies the identification requirements in Subsection  
2904 (2);

2905 (c) verify that payment is complete;

2906 (d) record the completion of the shipment transaction in the electronic verification  
2907 system; and

2908 (e) present an indemnification agreement for the cardholder's signature that  
2909 indemnifies the state, state central fill medical cannabis pharmacy, local health  
2910 department, the recommending qualified medical provider, and any cannabis  
2911 production establishment for any legal or actual harm arising from the  
2912 cultivation, processing, inspection, recommending, or dispensing of cannabis, a  
2913 cannabis medical product, or a medical cannabis device, in accordance with  
2914 this chapter and Title 4, Chapter 41b, Cannabis Production Establishments.

2915 (4) The local health department shall:

2916 (a) store each central fill shipment that the local health department receives, until  
2917 the shipment is retrieved by the recipient medical cannabis cardholder, in a  
2918 single, secure, locked area that is equipped with a security system that detects  
2919 and records entry into the area; and

2920 (b) ensure that only a local health department courier agent can access the area.

### 26-61b-608. Department to set prices.

2923 (1) The department shall set a price schedule for cannabis in a medicinal dosage form  
2924 that the state central fill medical cannabis pharmacy sells to medical cannabis  
2925 cardholders through distribution to local health departments.

2926 (2) The department shall ensure that the price schedule described in Subsection (1) takes  
2927 into consideration:

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- 2928 (a) the demand for medical cannabis and cannabis products dispensed through the  
2929 state central fill medical cannabis pharmacy and the local health departments;  
2930 (b) the labor required to cultivate and process cannabis into a medicinal dosage  
2931 form;  
2932 (c) the regulatory burden involved in the creation of the product; and  
2933 (d) any other consideration the department considers necessary.

2934 (3) The department shall ensure that the price schedule that the department sets under  
2935 Subsection (1) includes a set fee that the department retains:

- 2936 (a) to fund the state central fill medical cannabis pharmacy; and  
2937 (b) the courier described in Subsection 26-61b-605, if any.  
2938

### 26-61b-609. Partial filling.

2940 (1) As used in this section, "partially fill" means to provide less than the full amount of  
2941 cannabis or cannabis product that the qualified medical provider recommends, if the  
2942 qualified medical provider recommended specific dosing parameters.

2943 (2) The state central fill medical cannabis pharmacy may partially fill a recommendation  
2944 for a medical cannabis treatment at the request of the qualified medical provider who  
2945 issued the medical cannabis treatment recommendation or the medical cannabis  
2946 cardholder.

2947 (3) The department shall makes rules in collaboration with the Division of Occupational  
2948 and Professional Licensing and the Board of Pharmacy and in accordance with Title  
2949 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the  
2950 date, quantity supplied, and quantity remaining of a partially filled medical cannabis  
2951 treatment recommendation.

2952 (4) A state central fill medical provider who is a pharmacist may, upon the request of a  
2953 medical cannabis cardholder, determine different dosing parameters, subject to the  
2954 dosing limits in Subsection 26-6ab-604(2), to fill the quantity remaining of a partially  
2955 filled medical cannabis treatment recommendation if:

- 2956 (a) the state central fill medical provider determined dosing parameters for the  
2957 partial fill under Subsection 26-61b-604(4); and  
2958 (b) the medical cannabis cardholder reports that:



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- 2991 (1) Except as provided in Subsections (2) and (3), the state central fill medical cannabis  
2992 pharmacy may not advertise in any medium.
- 2993 (2) The state central fill medical cannabis pharmacy may maintain a website that includes  
2994 information about:
- 2995 (a) the contact information for the state central fill medical cannabis pharmacy;  
2996 (b) the products and services available through shipment from the state central fill  
2997 the medical cannabis pharmacy;
- 2998 (c) a description of the state central fill medical cannabis pharmacy shipment  
2999 process;
- 3000 (d) information about retrieving a state central fill shipment at a local health  
3001 department; and
- 3002 (e) educational material related to the medical use of cannabis.

### Part 7. Enforcement

#### 26-61b-701. Enforcement -- Misdemeanor.

- 3006 (1) Except as provided in Sections 26-61b-502, 605, and 607, it is unlawful to sell or  
3007 otherwise give cannabis, a cannabis product, or a medical cannabis device to another  
3008 person.
- 3009 (2) (a) Except as provided in Subsection (2)(b), a person who violates  
3010 Subsection (1) is guilty of a class B misdemeanor.
- 3011 (b) An individual is not guilty under Subsection (2)(a) if the individual:
- 3012 (i) is a designated caregiver; and
- 3013 (ii) gives the product described in Subsection (1) to the medical cannabis  
3014 cardholder who designated the individual as a designated caregiver.
- 3015 (3) (a) Except as provided in Subsection (3)(b), a person who violates  
3016 Subsection (1) is guilty of a class A misdemeanor if the individual who receives  
3017 the unlawful sale or gift is a minor.
- 3018 (b) An individual is not guilty under Subsection (3)(a) if the individual:
- 3019 (i) is the parent or legal guardian of the minor recipient; and
- 3020 (ii) the minor is a medical cannabis cardholder.

#### 26-61b-702. Enforcement -- Fine -- Citation.



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- 3023 (1) (a) The department may, for a medical cannabis pharmacy's violation of this  
3024 chapter:
- 3025 (i) revoke the medical cannabis pharmacy license;  
3026 (ii) refuse to renew the medical cannabis pharmacy license; or  
3027 (iii) assess the the medical cannabis pharmacy an administrative penalty.
- 3028 (b) The department may, for a medical cannabis pharmacy agent's or state central  
3029 fill agent's violation of this chapter:
- 3030 (i) revoke the medical cannabis pharmacy agent registration card;  
3031 (ii) refuse to renew the medical cannabis pharmacy agent registration card;  
3032 or  
3033 (iii) assess the the medical cannabis pharmacy agent an administrative  
3034 penalty.
- 3035 (2) The department shall deposit an administrative penalty imposed under this section in  
3036 the General Fund.
- 3037 (3) The department may, for a person subject to an uncontested citation, a stipulated  
3038 settlement, or a finding of a violation in an adjudicative proceeding under this section:
- 3039 (a) assess the person a fine in an amount that the department sets, in accordance  
3040 with Section 63J-1-504, of up to \$5,000 per violation, in accordance with a fine  
3041 schedule that the department establishes by rule in accordance with Title 63G,  
3042 Chapter 3, Utah Administrative Rulemaking Act; or
- 3043 (b) order the person to cease and desist from the action that creates a violation.
- 3044 (4) The department may not revoke a medical cannabis pharmacy's license without first  
3045 directing the medical cannabis pharmacy to appear before an adjudicative proceeding  
3046 conducted under Title 63G, Chapter 4, Administrative Procedures Act.
- 3047 (5) If, within 20 calendar days after the day on which the department issues a citation for a  
3048 violation of this chapter, the person that is the subject of the citation fails to request a  
3049 hearing to contest the citation, the citation becomes the department's final order.
- 3050 (6) The department may, for a person who fails to comply with a citation under this  
3051 section:
- 3052 (a) refuse to issue or renew the person's license agent registration card; or  
3053 (b) suspend, revoke, or place on probation the person's license or agent  
3054 registration card.

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3055 (7) If the department makes a final determination under this section that an individual  
3056 violated a provision of this chapter, the individual is guilty of an infraction.

### 26-61b-703. Report.

3059 (1) By the November interim meeting each year, the department shall report annually to  
3060 the Health and Human Services Interim Committee on:

3061 (a) the number of applications and renewal applications filed for medical cannabis  
3062 cards;

3063 (b) the number of qualifying patients and designated caregivers;

3064 (c) the nature of the debilitating medical conditions of the qualifying patients;

3065 (d) the age and county of residence of cardholders;

3066 (e) the number of medical cannabis cards revoked;

3067 (f) the number of practitioners providing recommendations for qualifying patients;

3068 (g) the number of license applications and renewal license applications received;

3069 (h) the number of licenses the department has issued in each county;

3070 (i) the number of licenses the department has revoked;

3071 (j) the quantity and timeliness of state central fill shipments, including the amount

3072 of time between recommendation to the state central fill medical cannabis

3073 pharmacy and arrival of a state central fill shipment at a local health

3074 department;

3075 (k) the market share of state central fill shipments;

3076 (l) the expenses incurred and revenues generated from the medical cannabis  
3077 program;

3078 (m) the expenses incurred and revenues generated from the state central fill

3079 medical cannabis pharmacy, including a profit and loss statement; and

3080 (n) an analysis of product availability, including the price differential between

3081 comparable products, in medical cannabis pharmacies and the state central fill

3082 medical cannabis pharmacy.

3083 (2) The department may not include personally identifying information in the report  
3084 described in this section.

3085

# WORKING DRAFT -- FOR DISCUSSION PURPOSES ONLY

## 30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

- (i) in accordance with Subsection (7), the past conduct and demonstrated moral standards of each of the parties;
- (ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;
- (iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;
- (iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and
- (v) those factors outlined in Section 30-3-10.2.

(b) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases where there is:

- (i) domestic violence in the home or in the presence of the child;
- (ii) special physical or mental needs of a parent or child, making joint legal custody unreasonable;
- (iii) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or
- (iv) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

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3116 (c) (i) The person who desires joint legal custody shall file a  
3117 proposed parenting plan in accordance with Sections 30-3-10.8 and 30-  
3118 3-10.9.

3119 (ii) A presumption for joint legal custody may be rebutted by a showing by a  
3120 preponderance of the evidence that it is not in the best interest of the  
3121 child.

3122 (d) A child may not be required by either party to testify unless the trier of  
3123 fact determines that extenuating circumstances exist that would necessitate the  
3124 testimony of the child be heard and there is no other reasonable method to  
3125 present the child's testimony.

3126 (e) (i) The court may inquire of a child and take into consideration  
3127 the child's desires regarding future custody or parent-time schedules, but  
3128 the expressed desires are not controlling and the court may determine  
3129 the child's custody or parent-time otherwise.

3130 (ii) The desires of a child 14 years of age or older shall be given added  
3131 weight, but is not the single controlling factor.

3132 (f) (i) If an interview with a child is conducted by the court pursuant to  
3133 Subsection (1)(e), the interview shall be conducted by the judge in  
3134 camera.

3135 (ii) The prior consent of the parties may be obtained but is not necessary if  
3136 the court finds that an interview with a child is the only method to  
3137 ascertain the child's desires regarding custody.

3138 (2) In awarding custody, the court shall consider, among other factors the court finds  
3139 relevant, which parent is most likely to act in the best interests of the child, including  
3140 allowing the child frequent and continuing contact with the noncustodial parent as the  
3141 court finds appropriate.

3142 (3) If the court finds that one parent does not desire custody of the child, the court shall  
3143 take that evidence into consideration in determining whether to award custody to the  
3144 other parent.

3145 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate  
3146 against a parent due to a disability, as defined in Section 57-21-2, in awarding

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3147 custody or determining whether a substantial change has occurred for the  
3148 purpose of modifying an award of custody.

3149 (b) The court may not consider the disability of a parent as a factor in  
3150 awarding custody or modifying an award of custody based on a determination  
3151 of a substantial change in circumstances, unless the court makes specific  
3152 findings that:

3153 (i) the disability significantly or substantially inhibits the parent's  
3154 ability to provide for the physical and emotional needs of the child at  
3155 issue; and

3156 (ii) the parent with a disability lacks sufficient human, monetary, or  
3157 other resources available to supplement the parent's ability to provide for  
3158 the physical and emotional needs of the child at issue.

3159 (c) Nothing in this section may be construed to apply to adoption  
3160 proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

3161 (5) This section establishes neither a preference nor a presumption for or against joint  
3162 physical custody or sole physical custody, but allows the court and the family the  
3163 widest discretion to choose a parenting plan that is in the best interest of the child.

3164 (6) When an issue before the court involves custodial responsibility in the event of a  
3165 deployment of one or both parents who are servicemembers, and the servicemember  
3166 has not yet been notified of deployment, the court shall resolve the issue based on the  
3167 standards in Sections 78B-20-306 through 78B-20-309.

3168 (7) In considering the past conduct and demonstrated moral standards of each of the  
3169 parties under Subsection (1)(a)(i) or any other factor a court finds relevant, the court  
3170 may not discriminate against a parent because of or otherwise consider the parent's:

3171 (a) lawful possession or use of cannabis in a medicinal dosage form, a cannabis  
3172 product in a medicinal dosage form, or a medical cannabis device, in  
3173 accordance with Title 26, Chapter 61b, Medical Cannabis Act; or

3174 (b) the parent's status as a:

3175 (i) cannabis production establishment agent, as that term is defined in  
3176 Section 4-41b-102;

3177 (ii) medical cannabis pharmacy agent, as that term is defined in Section 26-  
3178 61b-102;

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3179 (iii) a state central fill agent, as that term is defined in Section 26-61b-102; or

3180 (iv) a medical cannabis cardholder in accordance with Title 26, Chapter 61b,  
3181 Medical Cannabis Act.

## 3182 3183 **41-6a-517 (Superseded 07/01/19). Definitions -- Driving with any measurable** 3184 **controlled substance in the body -- Penalties -- Arrest without warrant.**

3185 (1) As used in this section:

3186 (a) "Controlled substance" means the same as that term is defined in  
3187 Section 58-37-2.

3188 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

3189 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

3190 (d) "Prescription" means the same as that term is defined in Section 58-37-  
3191 2.

3192 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate  
3193 or be in actual physical control of a motor vehicle within this state if the person has any  
3194 measurable controlled substance or metabolite of a controlled substance in the  
3195 person's body.

3196 (3) It is an affirmative defense to prosecution under this section that the controlled  
3197 substance was:

3198 (a) involuntarily ingested by the accused;

3199 (b) prescribed by a practitioner for use by the accused; ~~or~~

3200 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal  
3201 dosage form that the accused ingested in accordance with Title 26, Chapter  
3202 61b, Medical Cannabis Act; or

3203 ~~(d)~~ (d) otherwise legally ingested.

3204 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
3205 misdemeanor.

3206 (b) A person who violates this section is subject to conviction and  
3207 sentencing under both this section and any applicable offense under Section  
3208 58-37-8.

3209 (5) A peace officer may, without a warrant, arrest a person for a violation of  
3210 this section when the officer has probable cause to believe the violation has

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3211 occurred, although not in the officer's presence, and if the officer has probable  
3212 cause to believe that the violation was committed by the person.

3213 (6) The Driver License Division shall, if the person is 21 years of age or  
3214 older on the date of arrest:

3215 (a) suspend, for a period of 120 days, the driver license of a person  
3216 convicted under Subsection (2) of an offense committed on or after July 1,  
3217 2009; or

3218 (b) revoke, for a period of two years, the driver license of a person if:

3219 (i) the person has a prior conviction as defined under Subsection 41-  
3220 6a-501(2); and

3221 (ii) the current violation under Subsection (2) is committed on or after  
3222 July 1, 2009, and within a period of 10 years after the date of the prior  
3223 violation.

3224 (7) The Driver License Division shall, if the person is 19 years of age or older but under 21  
3225 years of age on the date of arrest:

3226 (a) suspend, until the person is 21 years of age or for a period of one year,  
3227 whichever is longer, the driver license of a person convicted under Subsection  
3228 (2) of an offense committed on or after July 1, 2011; or

3229 (b) revoke, until the person is 21 years of age or for a period of two years,  
3230 whichever is longer, the driver license of a person if:

3231 (i) the person has a prior conviction as defined under Subsection 41-  
3232 6a-501(2); and

3233 (ii) the current violation under Subsection (2) is committed on or after  
3234 July 1, 2009, and within a period of 10 years after the date of the prior  
3235 violation.

3236 (8) The Driver License Division shall, if the person is under 19 years of age on the date of  
3237 arrest:

3238 (a) suspend, until the person is 21 years of age, the driver license of a  
3239 person convicted under Subsection (2) of an offense committed on or after July  
3240 1, 2009; or

3241 (b) revoke, until the person is 21 years of age, the driver license of a person  
3242 if:

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3243 (i) the person has a prior conviction as defined under Subsection 41-  
3244 6a-501(2); and

3245 (ii) the current violation under Subsection (2) is committed on or after  
3246 July 1, 2009, and within a period of 10 years after the date of the prior  
3247 violation.

3248 (9) The Driver License Division shall subtract from any suspension or revocation period  
3249 the number of days for which a license was previously suspended under Section 53-3-  
3250 223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
3251 which the record of conviction is based.

3252 (10) The Driver License Division shall:

3253 (a) deny, suspend, or revoke a person's license for the denial and  
3254 suspension periods in effect prior to July 1, 2009, for a conviction of a violation  
3255 under Subsection (2) that was committed prior to July 1, 2009; or

3256 (b) deny, suspend, or revoke the operator's license of a person for the  
3257 denial, suspension, or revocation periods in effect from July 1, 2009, through  
3258 June 30, 2011, if:

3259 (i) the person was 20 years of age or older but under 21 years of age  
3260 at the time of arrest; and

3261 (ii) the conviction under Subsection (2) is for an offense that was  
3262 committed on or after July 1, 2009, and prior to July 1, 2011.

3263 (11) A court that reported a conviction of a violation of this section for a violation that  
3264 occurred on or after July 1, 2009, to the Driver License Division may shorten the  
3265 suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the  
3266 suspension period if the person:

3267 (a) completes at least six months of the license suspension;

3268 (b) completes a screening;

3269 (c) completes an assessment, if it is found appropriate by a screening under  
3270 Subsection (11)(b);

3271 (d) completes substance abuse treatment if it is found appropriate by the  
3272 assessment under Subsection (11)(c);



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3273 (e) completes an educational series if substance abuse treatment is not  
3274 required by the assessment under Subsection (11)(c) or the court does not  
3275 order substance abuse treatment;

3276 (f) has not been convicted of a violation of any motor vehicle law in which  
3277 the person was involved as the operator of the vehicle during the suspension  
3278 period imposed under Subsection (7)(a) or (8)(a);

3279 (g) has complied with all the terms of the person's probation or all orders of  
3280 the court if not ordered to probation; and

3281 (h) (i) is 18 years of age or older and provides a sworn statement  
3282 to the court that the person has not consumed a controlled substance not  
3283 prescribed by a practitioner for use by the person or unlawfully  
3284 consumed alcohol during the suspension period imposed under  
3285 Subsection (7)(a) or (8)(a); or

3286 (ii) is under 18 years of age and has the person's parent or legal  
3287 guardian provide an affidavit or other sworn statement to the court  
3288 certifying that to the parent or legal guardian's knowledge the person has  
3289 not consumed a controlled substance not prescribed by a practitioner for  
3290 use by the person or unlawfully consumed alcohol during the suspension  
3291 period imposed under Subsection (7)(a) or (8)(a).

3292 (12) If the court shortens a person's license suspension period in accordance with the  
3293 requirements of Subsection (11), the court shall forward the order shortening the  
3294 person's license suspension period prior to the completion of the suspension period  
3295 imposed under Subsection (7)(a) or (8)(a) to the Driver License Division.

3296 (13) (a) The court shall notify the Driver License Division if a person fails to:

3297 (i) complete all court ordered screening and assessment,  
3298 educational series, and substance abuse treatment; or

3299 (ii) pay all fines and fees, including fees for restitution and treatment  
3300 costs.

3301 (b) Upon receiving the notification, the division shall suspend the person's  
3302 driving privilege in accordance with Subsections 53-3-221(2) and (3).

3303 (14) The court:

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3304 (a) shall order supervised probation in accordance with Section 41-6a-507  
3305 for a person convicted under Subsection (2); and

3306 (b) may order a person convicted under Subsection (2) to participate in a 24-  
3307 7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years  
3308 of age or older.

3309 (15) (a) A court that reported a conviction of a violation of this section to the  
3310 Driver License Division may shorten the suspension period imposed under  
3311 Subsection (6) before completion of the suspension period if the person is  
3312 participating in or has successfully completed a 24-7 sobriety program as  
3313 defined in Section 41-6a-515.5.

3314 (b) If the court shortens a person's license suspension period in accordance  
3315 with the requirements of this Subsection (15), the court shall forward to the  
3316 Driver License Division the order shortening the person's suspension period.

3317 (c) The court shall notify the Driver License Division if a person fails to  
3318 complete all requirements of a 24-7 sobriety program.

3319 (d) Upon receiving the notification described in Subsection (15)(c), the  
3320 division shall suspend the person's driving privilege in accordance with  
3321 Subsections 53-3-221(2) and (3).

### 3322 3323 **41-6a-517 (Effective 07/01/19). Definitions -- Driving with any measurable** 3324 **controlled substance in the body -- Penalties -- Arrest without warrant.**

3325 (1) As used in this section:

3326 (a) "Controlled substance" means the same as that term is defined in  
3327 Section 58-37-2.

3328 (b) "Practitioner" means the same as that term is defined in Section 58-37-2.

3329 (c) "Prescribe" means the same as that term is defined in Section 58-37-2.

3330 (d) "Prescription" means the same as that term is defined in Section 58-37-  
3331 2.

3332 (2) In cases not amounting to a violation of Section 41-6a-502, a person may not operate  
3333 or be in actual physical control of a motor vehicle within this state if the person has any  
3334 measurable controlled substance or metabolite of a controlled substance in the  
3335 person's body.

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- 3336 (3) It is an affirmative defense to prosecution under this section that the controlled  
3337 substance was:
- 3338 (a) involuntarily ingested by the accused;
- 3339 (b) prescribed by a practitioner for use by the accused or recommended by  
3340 a physician for use by the accused; ~~[e]~~
- 3341 (c) cannabis in a medicinal dosage form or a cannabis product in a medicinal  
3342 dosage form that the accused ingested in accordance with Title 26, Chapter  
3343 61b, Medical Cannabis Act; or
- 3344 ~~[e]~~ (d) otherwise legally ingested.
- 3345 (4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B  
3346 misdemeanor.
- 3347 (b) A person who violates this section is subject to conviction and  
3348 sentencing under both this section and any applicable offense under Section  
3349 58-37-8.
- 3350 (5) A peace officer may, without a warrant, arrest a person for a violation of this section  
3351 when the officer has probable cause to believe the violation has occurred, although not  
3352 in the officer's presence, and if the officer has probable cause to believe that the  
3353 violation was committed by the person.
- 3354 (6) The Driver License Division shall, if the person is 21 years of age or older on the date  
3355 of arrest:
- 3356 (a) suspend, for a period of 120 days, the driver license of a person  
3357 convicted under Subsection (2) of an offense committed on or after July 1,  
3358 2009; or
- 3359 (b) revoke, for a period of two years, the driver license of a person if:
- 3360 (i) the person has a prior conviction as defined under Subsection 41-  
3361 6a-501(2); and
- 3362 (ii) the current violation under Subsection (2) is committed on or after  
3363 July 1, 2009, and within a period of 10 years after the date of the prior  
3364 violation.
- 3365 (7) The Driver License Division shall, if the person is 19 years of age or older but under 21  
3366 years of age on the date of arrest:

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3367 (a) suspend, until the person is 21 years of age or for a period of one year,  
3368 whichever is longer, the driver license of a person convicted under Subsection  
3369 (2) of an offense committed on or after July 1, 2011; or

3370 (b) revoke, until the person is 21 years of age or for a period of two years,  
3371 whichever is longer, the driver license of a person if:

3372 (i) the person has a prior conviction as defined under Subsection 41-  
3373 6a-501(2); and

3374 (ii) the current violation under Subsection (2) is committed on or after  
3375 July 1, 2009, and within a period of 10 years after the date of the prior  
3376 violation.

3377 (8) The Driver License Division shall, if the person is under 19 years of age on the date of  
3378 arrest:

3379 (a) suspend, until the person is 21 years of age, the driver license of a  
3380 person convicted under Subsection (2) of an offense committed on or after July  
3381 1, 2009; or

3382 (b) revoke, until the person is 21 years of age, the driver license of a person  
3383 if:

3384 (i) the person has a prior conviction as defined under Subsection 41-  
3385 6a-501(2); and

3386 (ii) the current violation under Subsection (2) is committed on or after  
3387 July 1, 2009, and within a period of 10 years after the date of the prior  
3388 violation.

3389 (9) The Driver License Division shall subtract from any suspension or revocation period  
3390 the number of days for which a license was previously suspended under Section 53-3-  
3391 223 or 53-3-231, if the previous suspension was based on the same occurrence upon  
3392 which the record of conviction is based.

3393 (10) The Driver License Division shall:

3394 (a) deny, suspend, or revoke a person's license for the denial and  
3395 suspension periods in effect prior to July 1, 2009, for a conviction of a violation  
3396 under Subsection (2) that was committed prior to July 1, 2009; or

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3397 (b) deny, suspend, or revoke the operator's license of a person for the  
3398 denial, suspension, or revocation periods in effect from July 1, 2009, through  
3399 June 30, 2011, if:

3400 (i) the person was 20 years of age or older but under 21 years of age  
3401 at the time of arrest; and

3402 (ii) the conviction under Subsection (2) is for an offense that was  
3403 committed on or after July 1, 2009, and prior to July 1, 2011.

3404 (11) A court that reported a conviction of a violation of this section for a violation that  
3405 occurred on or after July 1, 2009, to the Driver License Division may shorten the  
3406 suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the  
3407 suspension period if the person:

3408 (a) completes at least six months of the license suspension;

3409 (b) completes a screening;

3410 (c) completes an assessment, if it is found appropriate by a screening under  
3411 Subsection (11)(b);

3412 (d) completes substance abuse treatment if it is found appropriate by the  
3413 assessment under Subsection (11)(c);

3414 (e) completes an educational series if substance abuse treatment is not  
3415 required by the assessment under Subsection (11)(c) or the court does not  
3416 order substance abuse treatment;

3417 (f) has not been convicted of a violation of any motor vehicle law in which  
3418 the person was involved as the operator of the vehicle during the suspension  
3419 period imposed under Subsection (7)(a) or (8)(a);

3420 (g) has complied with all the terms of the person's probation or all orders of  
3421 the court if not ordered to probation; and

3422 (h) (i) is 18 years of age or older and provides a sworn statement  
3423 to the court that the person has not consumed a controlled substance not  
3424 prescribed by a practitioner for use by the person or unlawfully  
3425 consumed alcohol during the suspension period imposed under  
3426 Subsection (7)(a) or (8)(a); or

3427 (ii) is under 18 years of age and has the person's parent or legal guardian  
3428 provide an affidavit or other sworn statement to the court certifying that to the

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3429 parent or legal guardian's knowledge the person has not consumed a controlled  
3430 substance not prescribed by a practitioner for use by the person or unlawfully  
3431 consumed alcohol during the suspension period imposed under Subsection  
3432 (7)(a) or (8)(a).

3433 (12) If the court shortens a person's license suspension period in accordance  
3434 with the requirements of Subsection (11), the court shall forward the order  
3435 shortening the person's license suspension period prior to the completion of the  
3436 suspension period imposed under Subsection (7)(a) or (8)(a) to the Driver  
3437 License Division.

3438 (13) (a) The court shall notify the Driver License Division if a person fails to:

3439 (i) complete all court ordered screening and assessment,  
3440 educational series, and substance abuse treatment; or

3441 (ii) pay all fines and fees, including fees for restitution and treatment  
3442 costs.

3443 (b) Upon receiving the notification, the division shall suspend the person's  
3444 driving privilege in accordance with Subsections 53-3-221(2) and (3).

3445 (14) The court:

3446 (a) shall order supervised probation in accordance with Section 41-6a-507  
3447 for a person convicted under Subsection (2); and

3448 (b) may order a person convicted under Subsection (2) to participate in a 24-  
3449 7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years  
3450 of age or older.

3451 (15) (a) A court that reported a conviction of a violation of this section to the  
3452 Driver License Division may shorten the suspension period imposed under  
3453 Subsection (6) before completion of the suspension period if the person is  
3454 participating in or has successfully completed a 24-7 sobriety program as  
3455 defined in Section 41-6a-515.5.

3456 (b) If the court shortens a person's license suspension period in accordance  
3457 with the requirements of this Subsection (15), the court shall forward to the  
3458 Driver License Division the order shortening the person's suspension period.

3459 (c) The court shall notify the Driver License Division if a person fails to  
3460 complete all requirements of a 24-7 sobriety program.

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(d) Upon receiving the notification described in Subsection (15)(c), the division shall suspend the person's driving privilege in accordance with Subsections 53-3-221(2) and (3).

### **53-1-106.5. Medical Cannabis Act -- Department duties.**

In addition to the duties described in Section 53-1-106, the department shall:

- (1) provide standards for training peace officers and law enforcement agencies in the use of the state electronic verification system; and
- (2) collaborate with the Department of Health and the Department of Agriculture and Food to provide standards for training peace officers and law enforcement agencies in medical cannabis law.

### **58-17b-302. License required -- License classifications for pharmacy facilities.**

- (1) A license is required to act as a pharmacy, except :
  - (a) as specifically exempted from licensure under Section 58-1-307[-] ; and
  - (b) for the operation of a medical cannabis pharmacy or the state central fill medical cannabis pharmacy under Title 26, Chapter 61b, Medical Cannabis Act.
- (2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:
  - (a) class A pharmacy;
  - (b) class B pharmacy;
  - (c) class C pharmacy;
  - (d) class D pharmacy;
  - (e) class E pharmacy; or
  - (f) dispensing medical practitioner clinic pharmacy.
- (3) (a) Each place of business shall require a separate license.  
(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.
- (4) (a) The division may further define or supplement the classifications of pharmacies.  
(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

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- 3493 (5) Each pharmacy . including the state central fill medical cannabis pharmacy. shall  
3494 have a pharmacist-in-charge, except as otherwise provided by rule.
- 3495 (6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the  
3496 pharmacist-in-charge and the owner of the pharmacy shall be responsible for all  
3497 activities of the pharmacy, regardless of the form of the business organization.

### 58-17b-310. Continuing education.

- 3500 (1) The division in collaboration with the board may establish by rule continuing education  
3501 requirements for each classification of licensure under this chapter.
- 3502 (2) The division shall accept and apply toward the hour requirement in Subsection (1)  
3503 continuing education that a pharmacist completes in accordance with Sections 26-61b-  
3504 404 and 601.

### 58-17b-502. Unprofessional conduct.

3507 "Unprofessional conduct" includes:

- 3508 (1) willfully deceiving or attempting to deceive the division, the board, or their agents as to  
3509 any relevant matter regarding compliance under this chapter;
- 3510 (2) (a) except as provided in Subsection (2)(b):
- 3511 (i) paying or offering rebates to practitioners or any other health care  
3512 providers, or receiving or soliciting rebates from practitioners or any other  
3513 health care provider; or
- 3514 (ii) paying, offering, receiving, or soliciting compensation in the form  
3515 of a commission, bonus, rebate, kickback, or split fee arrangement with  
3516 practitioners or any other health care provider, for the purpose of  
3517 obtaining referrals.
- 3518 (b) Subsection (2)(a) does not apply to:
- 3519 (i) giving or receiving price discounts based on purchase volume;
- 3520 (ii) passing along pharmaceutical manufacturer's rebates; or
- 3521 (iii) providing compensation for services to a veterinarian.
- 3522 (3) misbranding or adulteration of any drug or device or the sale, distribution, or  
3523 dispensing of any outdated, misbranded, or adulterated drug or device;



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- 3524 (4) engaging in the sale or purchase of drugs or devices that are samples or packages  
3525 bearing the inscription "sample" or "not for resale" or similar words or phrases;
- 3526 (5) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug  
3527 Recycling Act, accepting back and redistributing any unused drug, or a part of it, after  
3528 it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined  
3529 in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;
- 3530 (6) an act in violation of this chapter committed by a person for any form of compensation  
3531 if the act is incidental to the person's professional activities, including the activities of a  
3532 pharmacist, pharmacy intern, or pharmacy technician;
- 3533 (7) except as provided in Title 26, Chapter 61b, Medical Cannabis Act, violating:
- 3534 (a) the federal Controlled Substances Act, Title II, P.L. 91-513;
- 3535 (b) Title 58, Chapter 37, Utah Controlled Substances Act; or
- 3536 (c) rules or regulations adopted under either act;
- 3537 (8) requiring or permitting pharmacy interns or technicians to engage in activities outside  
3538 the scope of practice for their respective license classifications, as defined in this  
3539 chapter and division rules made in collaboration with the board, or beyond their scope  
3540 of training and ability;
- 3541 (9) administering:
- 3542 (a) without appropriate training, as defined by rule;
- 3543 (b) without a physician's order, when one is required by law; and
- 3544 (c) in conflict with a practitioner's written guidelines or written protocol for  
3545 administering;
- 3546 (10) disclosing confidential patient information in violation of the provisions of the Health  
3547 Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat.  
3548 1936, as amended, or other applicable law;
- 3549 (11) engaging in the practice of pharmacy without a licensed pharmacist designated as the  
3550 pharmacist-in-charge;
- 3551 (12) failing to report to the division any adverse action taken by another licensing  
3552 jurisdiction, government agency, law enforcement agency, or court for conduct that in  
3553 substance would be considered unprofessional conduct under this section;

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- 3554 (13) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage  
3555 form which is regularly and commonly available from a manufacturer in quantities and  
3556 strengths prescribed by a practitioner; and
- 3557 (14) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act,  
3558 when dispensing a self-administered hormonal contraceptive under a standing order.  
3559

### 58-37-3.6 (Superseded 07/01/19). Exemption for possession or distribution of a 3560 cannabinoid product or expanded cannabinoid product pursuant to an approved 3561 study. 3562

- 3563 (1) As used in this section:

3564 ~~[(a)]~~ (a) "Cannabinoid product" means a product intended for human ingestion  
3565 that:

3566 ~~\_\_\_\_\_ (i) \_\_\_\_\_ contains an extract or concentrate that is obtained from cannabis;~~

3567 ~~\_\_\_\_\_ (ii) \_\_\_\_\_ is prepared in a medicinal dosage form; and~~

3568 ~~\_\_\_\_\_ (iii) \_\_\_\_\_ contains at least 10 units of cannabidiol for every one unit of~~  
3569 ~~tetrahydrocannabinol.]~~

3570 ~~[(b)]~~ (a) "Cannabis" means any part of the plant cannabis sativa,  
3571 whether growing or not.

3572 ~~[(c)]~~ (b) "Drug paraphernalia" means the same as that term is  
3573 defined in Section 58-37a-3.

3574 ~~[(d)]~~ (c) "Expanded cannabinoid product" means a product intended  
3575 for human ingestion that:

3576 (i) contains an extract or concentrate that is obtained from cannabis;

3577 (ii) is prepared in a medicinal dosage form; and

3578 (iii) contains less than 10 units of cannabidiol for every one unit of  
3579 tetrahydrocannabinol.

3580 ~~[(e)]~~ (d) "Medicinal dosage form" means:

3581 (i) a tablet;

3582 (ii) a capsule;

3583 (iii) a concentrated oil;

3584 (iv) a liquid suspension;

3585 (v) a transdermal preparation; or

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3586 (vi) a sublingual preparation.

3587 ~~[(f)]~~ (e) "Tetrahydrocannabinol" means a substance derived from  
3588 cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

3589 (2) Notwithstanding any other provision of this chapter, an individual who possesses or  
3590 distributes a cannabinoid product or an expanded cannabinoid product is not subject  
3591 to the penalties described in this title for the possession or distribution of marijuana or  
3592 tetrahydrocannabinol to the extent that the individual's possession or distribution of the  
3593 cannabinoid product or expanded cannabinoid product complies with Title 26, Chapter  
3594 61, Cannabinoid Research Act.

3595 ~~[(3) Notwithstanding any other provision of this chapter, an individual who grows,  
3596 processes, or possesses cannabis is not subject to the penalties described in this title  
3597 for the growth, processing, or possession of marijuana to the extent that the individual  
3598 is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is  
3599 in compliance with any rules made pursuant to Section 4-41-204.~~

3600 ~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses or  
3601 uses cannabis in a medicinal dosage form is not subject to the penalties described in  
3602 this title for the possession or use of marijuana or tetrahydrocannabinol to the extent  
3603 that the individual's possession or use of the cannabis complies with Title 58, Chapter  
3604 85, Utah Right to Try Act.]~~

3605  
3606 **58-37-3.6 (Effective 07/01/19). Exemption for possession or distribution of a**  
3607 **cannabinoid product or expanded cannabinoid product pursuant to an approved**  
3608 **study.**

3609 (1) As used in this section:

3610 ~~[(a) "Cannabidiol product" means the same as that term is defined in Section  
3611 4-41-102.]~~

3612 ~~[(b)]~~ (a) "Cannabinoid product" means a product intended for  
3613 human ingestion that:

- 3614 (i) contains an extract or concentrate that is obtained from cannabis;  
3615 (ii) is prepared in a medicinal dosage form; and  
3616 (iii) contains at least 10 units of cannabidiol for every one unit of  
3617 tetrahydrocannabinol.

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3618 ~~[(e)]~~ (b) "Cannabis" means any part of the plant cannabis sativa,  
3619 whether growing or not.

3620 ~~[(d)]~~ (c) "Drug paraphernalia" means the same as that term is  
3621 defined in Section 58-37a-3.

3622 ~~[(e)]~~ (d) "Expanded cannabinoid product" means a product intended  
3623 for human ingestion that:

- 3624 (i) contains an extract or concentrate that is obtained from cannabis;
- 3625 (ii) is prepared in a medicinal dosage form; and
- 3626 (iii) contains less than 10 units of cannabidiol for every one unit of  
3627 tetrahydrocannabinol.

3628 ~~[(f)]~~ (e) "Medicinal dosage form" means:

- 3629 (i) a tablet;
- 3630 (ii) a capsule;
- 3631 (iii) a concentrated oil;
- 3632 (iv) a liquid suspension;
- 3633 (v) a transdermal preparation; or
- 3634 (vi) a sublingual preparation.

3635 ~~[(g)]~~ (f) "Tetrahydrocannabinol" means a substance derived from  
3636 cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

3637 (2) Notwithstanding any other provision of this chapter:

- 3638 (a) an individual who possesses or distributes a cannabinoid product or an  
3639 expanded cannabinoid product is not subject to the penalties described in this  
3640 title for the possession or distribution of marijuana or tetrahydrocannabinol to  
3641 the extent that the individual's possession or distribution of the cannabinoid  
3642 product or expanded cannabinoid product complies with Title 26, Chapter 61,  
3643 Cannabinoid Research Act; and

3644 ~~[(b)—an individual who grows, processes, possesses, transports, or distributes  
3645 cannabidiol for medicinal use or a hemp-grade product that is intended to be  
3646 processed into cannabidiol for medicinal use, is not subject to the penalties  
3647 described in this title to the extent that the individual's growth, processing,  
3648 possession, transportation, or distribution of the cannabidiol or hemp-grade  
3649 product is in compliance with Title 4, Chapter 43, Cannabidiol Producers; and]~~

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3650 ~~[(e)]~~ (b) a person who processes, possesses, or sells cannabidiol is  
3651 not subject to the penalties described in this title if:

3652 (i) the person is a cannabidiol-qualified pharmacy; or

3653 (ii) the person is an individual whose physician has recommended  
3654 use of the cannabidiol and the individual purchased the cannabidiol from  
3655 a cannabidiol-qualified pharmacy.

3656 ~~[(3) Notwithstanding any other provision of this chapter, an individual who grows,  
3657 processes, or possesses cannabis is not subject to the penalties described in this title  
3658 for the growth, processing, or possession of marijuana to the extent that the individual  
3659 is authorized to grow, process, or possess the cannabis under Section 4-41-203 and is  
3660 in compliance with any rules made pursuant to Section 4-41-204.~~

3661 ~~[(4) Notwithstanding any other provision of this chapter, an individual who possesses or  
3662 uses cannabis in a medicinal dosage form is not subject to the penalties described in  
3663 this title for the possession or use of marijuana or tetrahydrocannabinol to the extent  
3664 that the individual's possession or use of the cannabis complies with Title 58, Chapter  
3665 85, Utah Right to Try Act.]~~

## 3666 **58-37-3.7. Exemption for possession or use of cannabis to treat a** 3667 **qualifying condition.**

3669 (1) As used in this section:

3670 (a) "Cannabis" means marijuana.

3671 (b) "Cannabis product" means a product that:

3672 (i) is intended for human ingestion; and

3673 (ii) contains cannabis or tetrahydrocannabinol.

3674 (c) "Drug paraphernalia" means the same as that term is defined in Section 58-  
3675 37a-3.

3676 (d) "Marijuana" means the same as that term is defined in Section 58-37-2.

3677 (e) (i) "Medical cannabis device" means a device that an individual uses  
3678 to ingest cannabis in a medicinal dosage form or a cannabis product in a  
3679 medicinal dosage form.

3680 (ii) "Medical cannabis device" does not include a device that:

3681 (A) facilitates cannabis combustion; or

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3682 (B) an individual uses to ingest substances other than cannabis.

3683 (f) "Medicinal dosage form" means the same as that term is defined in Section 26-  
3684 61b-102.

3685 (g) "Tetrahydrocannabinol" means a substance derived from cannabis or a  
3686 synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

3687 (2) Notwithstanding any other provision of law, except as otherwise provided in this  
3688 section:

3689 (a) an individual is not subject to the penalties described in this title for the following  
3690 conduct if the individual engaged in the conduct in accordance with Title 4,  
3691 Chapter 41b, Cannabis Production Establishment, or Title 26, Chapter 61b,  
3692 Medical Cannabis Act:

3693 (i) possessing, ingesting, producing, manufacturing, dispensing,  
3694 distributing, selling, or offering to sell cannabis or a cannabis  
3695 product;

3696 (ii) possessing cannabis or a cannabis product with the intent to  
3697 engage in any of the conduct described in Subsection (2)(a)(i);

3698 (b) an individual is not subject to the penalties described in this title  
3699 regarding drug paraphernalia if the individual, in accordance with Title 4,  
3700 Chapter 41b, Cannabis Production Establishment, or Title 26, Chapter  
3701 61b, Medical Cannabis Act:

3702 (i) possesses, manufactures, distributes, sells, or offers to sell a  
3703 medical cannabis device; or

3704 (ii) possesses a medical cannabis device with the intent to engage in  
3705 any of the conduct described in Subsection (2)(b)(i).

3706 (4) (a) As used in this Subsection (4), "smoking" does not include the  
3707 vaporization or heating of cannabis.

3708 (b) It is not lawful for the medical cannabis cardholder, as that term is defined in  
3709 Section 26-61b-102, to smoke or combust cannabis or to use a device to  
3710 facilitate the smoking or combustion of cannabis.

3711 (c) An individual convicted of violating this Subsection (4) is guilty of a class C  
3712 misdemeanor.

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3713 (5) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter  
3714 41b, Cannabis Production Establishment, or Title 26, Chapter 61b, Medical Cannabis  
3715 Act, is not subject to the penalties described in this chapter for:

3716 (a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis  
3717 product; or

3718 (b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.  
3719

### 58-37-3.8. Affirmative defense.

3720  
3721 (1) As used in this section:

3722 (a) "Cannabis" means the same as that term is defined in Section 58-37-3.7.

3723 (b) "Cannabis product" means the same as that term is defined in Section 58-37-  
3724 3.7.

3725 (c) "Medical cannabis card" means the same as that term is defined in Section 26-  
3726 61b-102.

3727 (d) "Medical cannabis device" means the same as that term is defined in Section  
3728 58-37-3.7.

3729 (e) "Medical cannabis pharmacy" means the same as that term is defined in  
3730 Section 26-61b-102.

3731 (f) "Medicinal dosage form" means the same as that term is defined in Section 26-  
3732 61b-102.

3733 (f) "Qualified medical provider" means the same as that term is defined in Section  
3734 26-61b-102.

3735 (g) "Qualifying condition" means the same as that term is defined in Section 26-  
3736 61b-102.

3737 (h) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-  
3738 37-3.7.

3739 (2) Before January 1, 2021, it is an affirmative defense to criminal charges against an  
3740 individual under this chapter for the use or possession of marijuana,  
3741 tetrahydrocannabinol, or marijuana drug paraphernalia if:

3742 (a) at the time of the arrest, the individual:

3743 (i) (A) had been diagnosed with a qualifying condition at the time  
3744 of arrest; and

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3745 (B) at the time of the arrest, had a pre-existing relationship with a  
3746 qualified medical provider who believed that the individual's illness  
3747 described in Subsection (2)(a)(i)(A) can benefit from the use in  
3748 question; or

3749 (ii) at the time of the arrest:

3750 (A) for possession, was a medical cannabis cardholder; or

3751 (B) for use, was a medical cannabis patient cardholder or a minor with  
3752 a qualifying condition under the supervision of a medical cannabis  
3753 guardian cardholder; and

3754 (b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in a  
3755 quantity described in Subsection 26-61b-502(2).

3756 (3) It is an affirmative defense to a criminal charge against an individual for the use or  
3757 possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under  
3758 this chapter if the individual:

3759 (a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

3760 (b) has a currently valid medical cannabis card or the equivalent of a medical  
3761 cannabis card under the laws of another state, district, territory, commonwealth,  
3762 or insular possession of the United States; and

3763 (c) had been diagnosed with a qualifying condition as described in Section 26-61b-  
3764 105; and

3765 (d) if the marijuana or tetrahydrocannabinol is in a medicinal dosage form in a  
3766 quantity described in Subsection 26-61b-502(2).

3767 (4) A court shall, for a charge that the court dismisses under Subsection (2) or Subsection  
3768 (3), dismiss the charge without prejudice.

### 3770 **58-37-3.9. Enforcement.**

3771 (1) A law enforcement officer employed by an agency that receives state or local  
3772 government funds may not expend any state or local resources, including the officer's  
3773 time, to:

3774 (a) effect any arrest or seizure of cannabis, as that term is defined in Section 58-  
3775 37-3.7, or conduct any investigation, on the sole basis of activity the officer  
3776 believes to constitute a violation of federal law if the officer has reason to



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3777 believe that the activity is in compliance with the state medical cannabis laws;

3778 or

3779 (b) provide any information or logistical support related to an activity described in

3780 Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

3781 (2) An agency or political subdivision of the state may not take an adverse action against  
3782 a person for providing a professional service, in accordance with the state medical  
3783 cannabis laws, to a medical cannabis pharmacy, as that term is defined in Section 26-  
3784 61b-102, or a cannabis production establishment, as that term is defined in Section 4-  
3785 41b-102, on the sole basis that the service is a violation of federal law.

### 3786 **58-67-304. License renewal requirements.**

3787  
3788 (1) As a condition precedent for license renewal, each licensee shall, during each two-  
3789 year licensure cycle or other cycle defined by division rule:

3790 (a) complete qualified continuing professional education requirements in  
3791 accordance with the number of hours and standards defined by division rule  
3792 made in collaboration with the board;

3793 (b) appoint a contact person for access to medical records and an alternate  
3794 contact person for access to medical records in accordance with Subsection 58-  
3795 67-302(1)(j);

3796 (c) if the licensee practices medicine in a location with no other persons  
3797 licensed under this chapter, provide some method of notice to the licensee's  
3798 patients of the identity and location of the contact person and alternate contact  
3799 person for the licensee; and

3800 (d) if the licensee is an associate physician licensed under Section 58-67-  
3801 302.8, successfully complete the educational methods and programs described  
3802 in Subsection 58-67-807(4).

3803 (2) If a renewal period is extended or shortened under Section 58-67-303, the continuing  
3804 education hours required for license renewal under this section are increased or  
3805 decreased proportionally.

3806 (3) An application to renew a license under this chapter shall:

3807 (a) require a physician to answer the following question: "Do you perform  
3808 elective abortions in Utah in a location other than a hospital?"; and

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(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) and continuing education that a physician completes in accordance with Sections 26-61b-107 and 601.

### **58-85-102. Definitions.**

As used in this chapter:

~~[(1) "Cannabis" means cannabis that has been grown by a state-approved grower and processed into a medicinal dosage form.]~~

~~[(2) "Cannabis-based treatment" means a course of treatment involving cannabis.]~~

~~[(3)]~~ (1) "Eligible patient" means an individual who has been diagnosed with a terminal illness by a physician.

~~[(4) "Health care facility" means the same as that term is defined in Section 26-55-102.]~~

~~[(5)]~~ (2) "Insurer" means the same as that term is defined in Section 31A-1-301.

~~[(6)]~~ (3) "Investigational device" means a device that:

(a) meets the definition of "investigational device" in 21 C.F.R. Sec. 812.3; and

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3841 (b) has successfully completed the United States Food and Drug  
3842 Administration Phase 1 testing for an investigational device described in 21  
3843 C.F.R. Part 812.

3844 ~~[(7)]~~ (4) "Investigational drug" means a drug that:

3845 (a) meets the definition of "investigational new drug" in 21 C.F.R. Sec.  
3846 312.3; and

3847 (b) has successfully completed the United States Food and Drug  
3848 Administration Phase 1 testing for an investigational new drug described in 21  
3849 C.F.R. Part 312.

3850 ~~[(8)]—"Medicinal dosage form" means the same as that term is defined in Section 58-37-3.6.]~~

3851 ~~[(9)]~~ (5) "Physician" means an individual who is licensed under:

3852 (a) Title 58, Chapter 67, Utah Medical Practice Act; or

3853 (b) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

3854 ~~[(10)]—"State-approved grower and processor" means a person who grows cannabis  
3855 pursuant to state law and processes the cannabis into a medicinal dosage form.]~~

3856 ~~[(11)]~~ (6) "Terminal illness" means a condition of a patient that:

3857 (a) as determined by a physician:

3858 (i) is likely to pose a greater risk to the patient than the risk posed to  
3859 the patient by treatment with an investigational drug or investigational  
3860 device; and

3861 (ii) will inevitably lead to the patient's death; and

3862 (b) presents the patient, after the patient has explored conventional therapy  
3863 options, with no treatment option that is satisfactory or comparable to treatment  
3864 with an investigational drug or device.

3866 **58-85-104. Standard of care -- Medical practitioners not liable -- No private right  
3867 of action.**

3868 (1) ~~[(a)]~~ It is not a breach of the applicable standard of care for a physician, other  
3869 licensed health care provider, or hospital to treat an eligible patient with an  
3870 investigational drug or investigational device under this chapter.

3871 ~~[(b)]—It is not a breach of the applicable standard of care for a physician to  
3872 recommend a cannabis-based treatment to a terminally ill patient under this~~

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~~chapter, or a health care facility to aid or assist in any way a terminally ill patient's use of cannabis.]~~

- (2) A physician, other licensed health care provider, or hospital that treats an eligible patient with an investigational drug or investigational device under this chapter~~[, or a physician who recommends a cannabis-based treatment to a terminally ill patient or a health care facility that facilitates a terminally ill patient's recommended use of a cannabis-based treatment under this chapter,]~~ may not, for any harm done to the eligible patient by the investigational drug or device, ~~[or for any harm done to the terminally ill patient by the cannabis-based treatment,]~~ be subject to:
- (a) civil liability;
  - (b) criminal liability; or
  - (c) licensure sanctions under:
    - (i) for a physician:
      - (A) Title 58, Chapter 67, Utah Medical Practice Act; or
      - (B) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
    - (ii) for the other licensed health care provider, the act governing the other licensed health care provider's license; or
    - (iii) for the hospital ~~[or health care facility]~~, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- (3) This chapter does not:
- (a) require a manufacturer of an investigational drug or investigational device to agree to make an investigational drug or investigational device available to an eligible patient or an eligible patient's physician;
  - (b) require a physician to agree to:
    - (i) administer an investigational drug to an eligible patient under this chapter; or
    - (ii) treat an eligible patient with an investigational device under this chapter; or
    - ~~[(iii) recommend a cannabis-based treatment to a terminally ill patient; or]~~
  - (c) create a private right of action for an eligible patient:

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3904 (i) against a physician or hospital, for the physician's or hospital's  
3905 refusal to:

3906 (A) administer an investigational drug to an eligible patient  
3907 under this chapter; or

3908 (B) treat an eligible patient with an investigational device under  
3909 this chapter; or

3910 [~~(C) recommend a cannabis-based treatment to the terminally ill~~  
3911 ~~patient; or~~]

3912 (ii) against a manufacturer, for the manufacturer's refusal to provide  
3913 an eligible patient with an investigational drug or an investigational  
3914 device under this chapter.

### 3916 **58-85-105. Insurance coverage.**

3917 (1) This chapter does not:

3918 (a) require an insurer to cover the cost of:

3919 (i) administering an investigational drug under this chapter; or

3920 (ii) treating a patient with an investigational device under this chapter;  
3921 or

3922 [~~(iii) a cannabis-based treatment; or~~]

3923 (b) prohibit an insurer from covering the cost of:

3924 (i) administering an investigational drug under this chapter; or

3925 (ii) treating a patient with an investigational device under this chapter;  
3926 [~~or~~

3927 ~~(iii) a cannabis-based treatment].~~

3928 (2) Except as described in Subsection (3), an insurer may deny coverage to an eligible  
3929 patient who is treated with an investigational drug or investigational device, for harm to  
3930 the eligible patient caused by the investigational drug or investigational device.

3931 (3) An insurer may not deny coverage to an eligible patient under Subsection (2) for:

3932 (a) the eligible patient's preexisting condition;

3933 (b) benefits that commenced before the day on which the eligible patient is  
3934 treated with the investigational drug or investigational device; or

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3935 (c) palliative or hospice care for an eligible patient that has been treated with  
3936 an investigational drug or device, but is no longer receiving curative treatment  
3937 with the investigational drug or device.  
3938

### 3939 **59-12-104.9 (Effective 07/01/19). Exemption from sales tax for ~~[cannabinoid~~** 3940 **~~products]~~ cannabis.**

3941 (1) As used in this section:

3942 ~~[(a) — "Cannabidiol product" means the same as that term is defined in Section~~  
3943 ~~4-41-102.~~

3944 ~~— (b) — "Cannabidiol-qualified pharmacy" means the same as that term is~~  
3945 ~~defined in Section 58-88-102.]~~

3946 (a) "Cannabis" means the same as that term is defined in Section 58-37-3.7.

3947 (b) "Cannabis product" means the same as that term is defined in Section 58-37-  
3948 3.7.

3949 (c) "Medical cannabis pharmacy" means the same as that term is defined in  
3950 Section 26-61b-102.

3951 (d) "Medicinal dosage form" means the same as that term is defined in Section 26-  
3952 61b-102.

3953 (2) In addition to the exemptions described in Section 59-12-104, the sale by a  
3954 ~~[cannabidiol-qualified pharmacy of a cannabidiol product]~~ medical cannabis pharmacy  
3955 or state central fill medical cannabis pharmacy of the following is not subject to the  
3956 taxes ~~[imposed by]~~ this chapter~~[-]~~ imposes:

3957 (a) cannabis in a medicinal dosage form;

3958 (b) a cannabis product in a medicinal dosage form; or

3959 (c) a medical cannabis device.  
3960

### 3961 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody** 3962 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or** 3963 **emergency placement.**

3964 (1) A peace officer or child welfare worker may not:

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3965 (a) enter the home of a child who is not under the jurisdiction of the court,  
3966 remove a child from the child's home or school, or take a child into protective  
3967 custody unless authorized under Subsection 78A-6-106(2); or

3968 (b) remove a child from the child's home or take a child into custody under  
3969 this section solely on the basis of :

3970 (i) educational neglect, truancy, or failure to comply with a court order to  
3971 attend school[.] ; or

3972 (ii) the possession or use, in accordance with Title 26, Chapter 61b, Medical  
3973 Cannabis Act, of cannabis in a medicinal dosage form, a cannabis  
3974 product in a medicinal dosage form, or a medical cannabis device, as  
3975 those terms are defined in Section 26-61b-102.

3976 (2) A child welfare worker within the division may take action under Subsection (1)  
3977 accompanied by a peace officer, or without a peace officer when a peace officer is not  
3978 reasonably available.

3979 (3) (a) If possible, consistent with the child's safety and welfare, before taking a  
3980 child into protective custody, the child welfare worker shall also determine  
3981 whether there are services available that, if provided to a parent or guardian of  
3982 the child, would eliminate the need to remove the child from the custody of the  
3983 child's parent or guardian.

3984 (b) If the services described in Subsection (3)(a) are reasonably available,  
3985 they shall be utilized.

3986 (c) In determining whether the services described in Subsection (3)(a) are  
3987 reasonably available, and in making reasonable efforts to provide those  
3988 services, the child's health, safety, and welfare shall be the child welfare  
3989 worker's paramount concern.

3990 (4) (a) A child removed or taken into custody under this section may not be  
3991 placed or kept in a secure detention facility pending court proceedings unless  
3992 the child is detainable based on guidelines promulgated by the Division of  
3993 Juvenile Justice Services.

3994 (b) A child removed from the custody of the child's parent or guardian but  
3995 who does not require physical restriction shall be given temporary care in:

3996 (i) a shelter facility; or

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3997 (ii) an emergency placement in accordance with Section 62A-4a-209.

3998 (c) When making a placement under Subsection (4)(b), the Division of Child  
3999 and Family Services shall give priority to a placement with a noncustodial  
4000 parent, relative, or friend, in accordance with Section 62A-4a-209.

4001 (d) If the child is not placed with a noncustodial parent, a relative, or a  
4002 designated friend, the caseworker assigned to the child shall file a report with  
4003 the caseworker's supervisor explaining why a different placement was in the  
4004 child's best interest.

4005 (5) When a child is removed from the child's home or school or taken into protective  
4006 custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

4007 (a) the parent's rights under this part, including the right to be present and  
4008 participate in any court proceeding relating to the child's case;

4009 (b) that it may be in the parent's best interest to contact an attorney and that,  
4010 if the parent cannot afford an attorney, the court will appoint one;

4011 (c) the name and contact information of a division employee the parent may  
4012 contact with questions;

4013 (d) resources that are available to the parent, including:

4014 (i) mental health resources;

4015 (ii) substance abuse resources; and

4016 (iii) parenting classes; and

4017 (e) any other information considered relevant by the division.

4018 (6) The pamphlet or flier described in Subsection (5) shall be:

4019 (a) evaluated periodically for its effectiveness at conveying necessary  
4020 information and revised accordingly;

4021 (b) written in simple, easy-to-understand language; and

4022 (c) available in English and other languages as the division determines to be  
4023 appropriate and necessary.

### 4024 **78A-6-508 (Superseded 07/01/19). Evidence of grounds for termination.**

4025 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
4026 evidence of abandonment that the parent or parents:  
4027



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4028 (a) although having legal custody of the child, have surrendered physical  
4029 custody of the child, and for a period of six months following the surrender have  
4030 not manifested to the child or to the person having the physical custody of the  
4031 child a firm intention to resume physical custody or to make arrangements for  
4032 the care of the child;

4033 (b) have failed to communicate with the child by mail, telephone, or  
4034 otherwise for six months;

4035 (c) failed to have shown the normal interest of a natural parent, without just  
4036 cause; or

4037 (d) have abandoned an infant, as described in Subsection 78A-6-316(1).

4038 (2) In determining whether a parent or parents are unfit or have neglected a child the court  
4039 shall consider, but is not limited to, the following circumstances, conduct, or conditions:

4040 (a) emotional illness, mental illness, or mental deficiency of the parent that  
4041 renders the parent unable to care for the immediate and continuing physical or  
4042 emotional needs of the child for extended periods of time;

4043 (b) conduct toward a child of a physically, emotionally, or sexually cruel or  
4044 abusive nature;

4045 (c) habitual or excessive use of intoxicating liquors, controlled substances,  
4046 or dangerous drugs that render the parent unable to care for the child;

4047 (d) repeated or continuous failure to provide the child with adequate food,  
4048 clothing, shelter, education, or other care necessary for the child's physical,  
4049 mental, and emotional health and development by a parent or parents who are  
4050 capable of providing that care;

4051 (e) whether the parent is incarcerated as a result of conviction of a felony,  
4052 and the sentence is of such length that the child will be deprived of a normal  
4053 home for more than one year;

4054 (f) a history of violent behavior; or

4055 (g) whether the parent has intentionally exposed the child to pornography or  
4056 material harmful to a minor, as defined in Section 76-10-1201.

4057 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent or  
4058 otherwise consider a parent's lawful possession or consumption of cannabis in a  
4059 medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical

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4060 cannabis device, as those terms are defined in Section 26-61b-102, in accordance  
4061 with Title 26, Chapter 61b, Medical Cannabis Act.

4062 ~~[(3)]~~ (4) A parent who, legitimately practicing the parent's religious beliefs, does not  
4063 provide specified medical treatment for a child is not, for that reason alone, a  
4064 negligent or unfit parent.

4065 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (2), a parent may not be considered  
4066 neglectful or unfit because of a health care decision made for a child by  
4067 the child's parent unless the state or other party to the proceeding  
4068 shows, by clear and convincing evidence, that the health care decision is  
4069 not reasonable and informed.

4070 (b) Nothing in Subsection ~~[(4)]~~ (5)(a) may prohibit a parent from exercising  
4071 the right to obtain a second health care opinion.

4072 ~~[(5)]~~ (6) If a child has been placed in the custody of the division and the parent or  
4073 parents fail to comply substantially with the terms and conditions of a plan  
4074 within six months after the date on which the child was placed or the plan was  
4075 commenced, whichever occurs later, that failure to comply is evidence of failure  
4076 of parental adjustment.

4077 ~~[(6)]~~ (7) The following circumstances constitute prima facie evidence of unfitness:

4078 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child,  
4079 or of any child, due to known or substantiated abuse or neglect by the parent or  
4080 parents;

4081 (b) conviction of a crime, if the facts surrounding the crime are of such a  
4082 nature as to indicate the unfitness of the parent to provide adequate care to the  
4083 extent necessary for the child's physical, mental, or emotional health and  
4084 development;

4085 (c) a single incident of life-threatening or gravely disabling injury to or  
4086 disfigurement of the child;

4087 (d) the parent has committed, aided, abetted, attempted, conspired, or  
4088 solicited to commit murder or manslaughter of a child or child abuse homicide;

4089 or

4090 (e) the parent intentionally, knowingly, or recklessly causes the death of  
4091 another parent of the child, without legal justification.

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### **78A-6-508 (Effective 07/01/19). Evidence of grounds for termination.**

- (1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:
  - (a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;
  - (b) have failed to communicate with the child by mail, telephone, or otherwise for six months;
  - (c) failed to have shown the normal interest of a natural parent, without just cause; or
  - (d) have abandoned an infant, as described in Subsection 78A-6-316(1).
- (2) In determining whether a parent or parents are unfit or have neglected a child the court shall consider, but is not limited to, the following circumstances, conduct, or conditions:
  - (a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;
  - (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;
  - (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;
  - (d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;
  - (e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;
  - (f) a history of violent behavior; or

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4123 (g) whether the parent has intentionally exposed the child to pornography or  
4124 material harmful to a minor, as defined in Section 76-10-1201.

4125 (3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent  
4126 because of or otherwise consider the parent's lawful possession or consumption of  
4127 ~~[a cannabidiol product in accordance with Title 26, Chapter 65, Cannabidiol Product~~  
4128 Act] cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage  
4129 form, or a medical cannabis device, as those terms are defined in Section 26-61b-102,  
4130 in accordance with Title 26, Chapter 61b, Medical Cannabis Act.

4131 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide  
4132 specified medical treatment for a child is not, for that reason alone, a negligent or unfit  
4133 parent.

4134 (5) (a) Notwithstanding Subsection (2), a parent may not be considered  
4135 neglectful or unfit because of a health care decision made for a child by the  
4136 child's parent unless the state or other party to the proceeding shows, by clear  
4137 and convincing evidence, that the health care decision is not reasonable and  
4138 informed.

4139 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the  
4140 right to obtain a second health care opinion.

4141 (6) If a child has been placed in the custody of the division and the parent or parents fail to  
4142 comply substantially with the terms and conditions of a plan within six months after the  
4143 date on which the child was placed or the plan was commenced, whichever occurs  
4144 later, that failure to comply is evidence of failure of parental adjustment.

4145 (7) The following circumstances constitute prima facie evidence of unfitness:

4146 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child,  
4147 or of any child, due to known or substantiated abuse or neglect by the parent or  
4148 parents;

4149 (b) conviction of a crime, if the facts surrounding the crime are of such a  
4150 nature as to indicate the unfitness of the parent to provide adequate care to the  
4151 extent necessary for the child's physical, mental, or emotional health and  
4152 development;

4153 (c) a single incident of life-threatening or gravely disabling injury to or  
4154 disfigurement of the child;

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4155 (d) the parent has committed, aided, abetted, attempted, conspired, or  
4156 solicited to commit murder or manslaughter of a child or child abuse homicide;  
4157 or

4158 (e) the parent intentionally, knowingly, or recklessly causes the death of  
4159 another parent of the child, without legal justification.  
4160

### 4161 **Repealer.**

#### 4162 This bill repeals:

4163 (1) Section 4-41-201, Title;

4164 (2) Section 4-41-202, Definitions;

4165 (3) Section 4-41-203, Department to cultivate cannabis;

4166 (4) Section 4-41-204, Department to make rules regarding cultivation and  
4167 processing;

4168 (5) Section 4-41-301, Department to establish a state dispensary;

4169 (6) Section 4-41-302, Labeling;

4170 (7) Section 4-41-303, Department to set prices;

4171 (8) Section 4-41-304, Department to make rules regarding purchasers,  
4172 communication -- Report;

4173 (9) Title 4, Chapter 43, Cannabidiol Producers;

4174 (10) Title 7, Chapter 26, Cannabis Payment Processor;

4175 (11) Title 26, Chapter 65, Cannabidiol Product Act;

4176 (12) Section 58-67-808, Recommendation of cannabidiol products;

4177 (13) Section 58-68-808, Recommendation of cannabidiol products;

4178 (14) Section 58-85-103.5, Right to request a recommendation for a cannabis-based  
4179 treatment;

4180 (15) Title 58, Chapter 88, Cannabidiol-qualified Pharmacies; and

4181 (16) Title 59, Chapter 29, Cannabidiol Product Tax Act.