The Utah Medical Cannabis Act

Be It Enacted by the People of the State of Utah:

Section 1. Section **4-41b-101** is enacted to read:

CHAPTER 41b. CANNABIS PRODUCTION ESTABLISHMENTS

Part 1. General Provisions

4-41b-101. Title.

(1) This chapter is known as "Cannabis Production Establishments."

Section 2. **Section 4-41b-102** is enacted to read:

4-41b-102. Definitions.

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 58-37-3.6b.

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

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to cannabis production establishments or to cannabis dispensaries.

(3) "Cannabis cultivation facility agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of a cannabis cultivation facility.

(4) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.

(5) "Cannabis dispensary agent" means the same as that term is defined in Section 26-60b-102.

(6) "Cannabis processing facility" means a person that:

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

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

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

(d) sells or intends to sell a cannabis product to a cannabis dispensary.

(7) "Cannabis processing facility agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of a cannabis processing facility.

(8) "Cannabis product" means the same as that term is defined in Section 58-37-3.6b.

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

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

(11) "Cannabis production establishment agent registration card" means a registration card, issued by the department, that authorizes an individual to act as a cannabis production establishment agent and designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(12) "Community location" means a public or private school, a church, a public library, a public playground, or a public park.

(13) "Independent cannabis testing laboratory" means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who is an owner, officer, director, board member, employee, or volunteer of an independent cannabis testing laboratory.

(15) "Inventory control system" means the system described in Section 4-41b-103.

(16) "Medical cannabis card" means the same as that term is defined in Section 26-60b-102.

(17) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109.

(18) "Physician" means the same as that term is defined in Section 26-60b-107.

(19) "State electronic verification system" means the system described in Section 26-60b-103.

Section 3. Section **4-41b-103** is enacted to read:

4-41b-103. Inventory control system.

(1) A cannabis production establishment and a cannabis dispensary shall maintain an inventory control system that meets the requirements of this section.

(2) An inventory control system shall track cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall, and has a root ball, until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card.

(3) An inventory control system shall store in real time a record of the amount of cannabis and cannabis products in the cannabis production establishment's or cannabis dispensary's possession.

(4) An inventory control system shall include a video recording system that:

(a) tracks all handling and processing of cannabis or a cannabis product in the cannabis production establishment or cannabis dispensary;

(b) is tamper proof; and

(c) is capable of storing a video record for 45 days.

(5) An inventory control system installed in a cannabis production establishment or cannabis dispensary shall maintain compatibility with the state electronic verification system.

(6) A cannabis production establishment or cannabis dispensary shall allow the department or the Department of Health access to the cannabis production establishment's or cannabis dispensary's inventory control system during an inspection.

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

Section 4. Section **4-41b-104** is enacted to read:

4-41b-104. Preemption.

This chapter preempts any ordinance or rule enacted by a political subdivision of the state regarding a cannabis production establishment.

Section 5. Section **4-41b-201** is enacted to read:

Part 2. Cannabis Production Establishment

4-41b-201. Cannabis production establishment -- License.

(1) A person may not operate a cannabis production establishment without a license issued by the department under this chapter.

(2) Subject to Subsections (6) and (7) and to Section 4-41b-204, the department shall, within 90 days after receiving a complete application, issue a license to operate a cannabis production establishment to a person who submits to the department:

(a) a proposed name and address where the person will operate the cannabis production establishment that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area;

(b) the name and address of any individual who has a financial or voting interest of two percent or greater in the proposed cannabis production establishment or who has the power to direct or cause the management or control of a proposed medical cannabis production establishment;

(c) an operating plan that complies with Section 4-41b-203 and that includes operating procedures to comply with the requirements of this chapter and with any laws adopted by the municipality or county that are consistent with Section 4-41b-405;

(d) financial statements demonstrating that the person possesses a minimum of $500,000 in liquid assets available for each cannabis cultivation facility for which the person applies or a minimum of $100,000 in liquid assets available for each cannabis processing facility or independent cannabis testing laboratory for which the person applies;

(e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis production establishment is in compliance with the restrictions;

(f) if the municipality or county where the proposed cannabis production establishment would be located requires a local permit or license, a copy of the application for the local permit or license; and

(g) an application fee established by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this chapter.

(3) If the department determines that a cannabis production establishment is eligible for a license under this section, the department shall charge the cannabis establishment an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

(4) Except as provided in Subsection (5), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

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

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

(a) that holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility in the state;

(b) that has an owner, officer, director, or employee whose immediate family member holds a license or has an ownership interest in a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility; or

(c) who proposes to operate the independent cannabis testing laboratory at the same physical location as a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

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

(b) is less than 21 years of age.

(8) The department may revoke a license under this part if the cannabis production establishment is not operating within one year of the issuance of the initial license.

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

(10) The department shall begin accepting applications under this part no later than January 1, 2020.

Section 6. Section **4-41b-202** is enacted to read:

4-41b-202. Renewal.

(1) The department shall renew a person's license issued under Section 4-41b-201 every two years, if, at the time of renewal:

(a) the person meets the requirements of Section 4-41b-201; and

(b) the person pays the department a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.

Section 7. Section **4-41b-203** is enacted to read:

4-41b-203. Operating plan.

(1) A person applying for a cannabis production facility license shall submit to the department a proposed operation plan that complies with this section and that includes:

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

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

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

(ii) any highly skilled or experienced prospective employee;

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

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system;

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

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

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

(2) A cannabis cultivation facility's operating plan shall include the cannabis cultivation facility's intended cannabis cultivation practices, including the cannabis cultivation facility's intended pesticide use, fertilizer use, square footage under cultivation, and anticipated cannabis yield.

(3) A cannabis processing facility's operating plan shall include the cannabis processing facility's intended cannabis processing practices, including the cannabis processing facility's intended offered variety of cannabis product, cannabinoid extraction method, cannabinoid extraction equipment, processing equipment, processing techniques, and sanitation and food safety procedures.

(4) An independent cannabis testing laboratory's operating plan shall include the independent cannabis testing laboratory's intended cannabis and cannabis product testing capability and cannabis and cannabis product testing equipment.

Section 8. **Section 4-41b-204** is enacted to read:

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

(1) Except as otherwise provided in Subsection (2), the department may issue not more than 15 licenses to operate cannabis cultivation facilities.

(2) After January 1, 2022, the department may issue additional licenses to operate cannabis cultivation facilities if the department determines, after an analysis of the current and anticipated market for medical cannabis and medical cannabis products, that additional licenses are needed to provide an adequate supply, quality, or variety of medical cannabis and medical cannabis products to medical cannabis card holders in Utah.

(3) If there are more qualified applicants than there are available licenses for cannabis cultivation facilities, the department shall evaluate the applicants and award licenses to the applicants that best demonstrate:

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

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients.

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

Section 9. Section **4-41b-301** is enacted to read:

Part 3. Cannabis Production Establishment Agents

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

(1) An individual may not act as a cannabis production establishment agent unless the individual is registered by the department as a cannabis production establishment agent.

(2) A physician may not serve as a cannabis production establishment agent.

(3) An independent cannabis testing laboratory agent may not act as an agent for a cannabis dispensary, a cannabis processing facility, or a cannabis cultivation facility.

(4) The department shall, within 15 business days after receiving a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to an individual who:

(a) provides to the department the individual's name and address and the name and location of a licensed cannabis production establishment where the individual will act as the cannabis production establishment's agent; and

(b) pays a fee to the department, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

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

(6) A cannabis production establishment agent shall comply with a certification standard developed by the department or with a third party certification standard designated by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) The certification standard described in Subsection (6) shall include training:

(a) in Utah medical cannabis law;

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

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

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

(8) The department may revoke or refuse to issue the cannabis production establishment agent registration card of an individual who:

(a) violates the requirements of this chapter; or

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

Section 10. Section **4-41b-302** is enacted to read:

4-41b-302. Cannabis production establishment -- Criminal background checks.

(1) Each applicant shall submit, at the time of application, from each individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

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

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

(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for the individual described in Subsection (1).

Section 11. Section **4-41b-303** is enacted to read:

4-41b-303. Cannabis production establishment agent registration card -- Rebuttable presumption.

(1) A cannabis production establishment agent who is registered with the department under Section 4-41b-301 shall carry the individual's cannabis production establishment agent registration card with the individual at all times when:

(a) the individual is on the premises of a cannabis production establishment where the individual is a cannabis production establishment agent; and

(b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.

(2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis production establishment, or transporting cannabis, a cannabis product, 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) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) An individual who violates Subsection (1) is:

(a) guilty of an infraction; and

(b) is subject to a $100 fine.

Section 12. Section **4-41b-401** is enacted to read:

Part 4. General Cannabis Production Establishment Operating Requirements

4-41b-401. Cannabis production establishment -- General operating requirements.

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

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

(2) A cannabis production establishment shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis production establishment agent registration card issued under Section 4-41b-301; and

(b) at the physical address provided to the department under Section 4-41b-201.

(3) A cannabis production establishment may not employ any person who is younger than 21 years of age.

(4) A cannabis production establishment shall conduct a background check into the criminal history of every person who will become an agent of the cannabis production establishment and may not employ any person who has been convicted of an offense that is a felony under either state or federal law.

(5) A cannabis production establishment may authorize an individual who is not a cannabis production establishment agent to access the cannabis production establishment if the cannabis production establishment tracks and monitors the individual at all times while the individual is at the cannabis production establishment and maintains a record of the individual's access.

(6) A cannabis production establishment shall operate in a facility that has:

(a) a single, secure public entrance;

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

(i) detects and records entry into the cannabis production establishment; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis production establishment is closed; and

(c) a lock on any area where the cannabis production establishment stores cannabis or a cannabis product.

Section 13. Section **4-41b-402** is enacted to read:

4-41b-402. Inspections.

The department may inspect the records and facility of a cannabis production establishment at any time in order to determine if the cannabis production establishment complies with the requirements of this chapter.

Section 14. Section **4-41b-403** is enacted to read:

4-41b-403. Advertising.

(1) A cannabis production establishment may not advertise to the general public in any medium.

(2) Notwithstanding Subsection (1), a cannabis production establishment may advertise employment opportunities at the cannabis production facility.

Section 15. Section **4-41b-404** is enacted to read:

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

(1) Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 60b, Medical Cannabis Act, an individual may not transport cannabis, a cannabis product, or a medical cannabis device unless the individual is:

(a) a registered cannabis production establishment agent; or

(b) a registered cannabis dispensary agent.

(2) Except for an individual with a valid medical cannabis card pursuant to Title 26, Chapter 60b, Medical Cannabis Act, an individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that are related to safety for human cannabis or cannabis product consumption.

(4) An individual who transports cannabis, a cannabis product, or a medical cannabis device with a manifest that does not meet the requirements of this section is:

(a) guilty of an infraction; and

(b) subject to a $100 fine.

Section 16. Section **4-41b-405** is enacted to read:

4-41b-405. Local control.

(1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis production establishment from operating in a location within the municipality's or county's jurisdiction on

the sole basis that the cannabis production establishment possesses, grows, manufactures, or sells cannabis.

(2) A municipality or county may not deny or revoke a permit or license to operate a cannabis production facility on the sole basis that the applicant or cannabis production establishment violates a law of the United States.

Section 17. Section **4-41b-501** is enacted to read:

Part 5. Cannabis Cultivation Facility Operating Requirements

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

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible at the cannabis cultivation facility perimeter.

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

(a) beginning at the time a cannabis plant is 8 inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis transferred to a cannabis dispensary, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) disposal of excess, contaminated, or deteriorated cannabis.

Section 18. Section **4-41b-502** is enacted to read:

4-41b-502. Cannabis -- Labeling and packaging.

(1) Cannabis shall have a label that:

(a) has a unique batch identification number that is connected to the inventory control system; and

(b) does not display images, words, or phrases that are intended to appeal to children.

(2) A cannabis cultivation facility shall package cannabis in a container that:

(a) is tamper evident;

(b) is not appealing to children or similar to a candy container;

(c) is opaque; and

(d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.

Section 19. Section **4-41b-601** is enacted to read:

Part 6. Cannabis Processing Facility Operating Requirements

4-41b-601. Cannabis processing facility -- Operating requirements -- General.

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

(2) If a cannabis processing facility extracts cannabinoids from cannabis using a hydrocarbon process, the cannabis processing facility shall extract the cannabinoids under a blast hood and shall use a system to reclaim solvents.

Section 20. Section **4-41b-602** is enacted to read:

4-41b-602. Cannabis product -- Labeling and packaging.

(1) A cannabis product shall have a label that:

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

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

(c) has a unique identification number that:

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

(ii) identifies the unique cannabis product manufacturing process by which the cannabis product was manufactured;

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

(e) does not display images, words, or phrases that are intended to appeal to children; and

(f) discloses ingredients and possible allergens.

(2) A cannabis processing facility shall package a cannabis product in a container that:

(a) is tamper evident;

(b) is not appealing to children or similar to a candy container;

(c) is opaque; and

(d) complies with child-resistant effectiveness standards established by the United States Consumer Product Safety Commission.

Section 21. Section **4-41b-603** is enacted to read:

4-41b-603. Cannabis product -- Product quality.

(1) A cannabis processing facility may not produce a cannabis product in a physical form that:

(a) is intended to appeal to children; or

(b) is designed to mimic or be mistaken for an existing candy product.

(2) A cannabis processing facility may not manufacture a cannabis product by applying a cannabis agent only to the surface of a pre-manufactured food product that is not produced by the cannabis processing facility.

(3) A cannabis product may vary in the cannabis product's labeled cannabis profile by up to 15% of the indicated amount of a given cannabinoid, by weight.

(4) The department shall adopt, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, human safety standards for manufacture of cannabis products that are consistent, to the extent possible, with rules for similar products that do not contain cannabis.

Section 22. **Section 4-41b-701** is enacted to read:

Part 7. Independent Cannabis Testing Laboratories

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

(1) No cannabis or cannabis product may be offered for sale at a cannabis dispensary unless a representative sample of the cannabis or cannabis product has been tested by an independent cannabis testing laboratory to determine:

(a) the amount of tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain an unhealthy level of a residual solvent.

(2) The department may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the amount of a substance described in Subsection (1) that is safe for human consumption.

Section 23. Section **4-41b-702** is enacted to read:

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

(1) If an independent cannabis testing laboratory determines that the results of a lab test indicate that a cannabis or cannabis product batch may be unsafe for human consumption, the independent cannabis testing laboratory shall:

(a) report the results and the cannabis or cannabis product batch to:

(i) the department; and

(ii) the cannabis production establishment that prepared the cannabis or cannabis product batch;

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

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

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

Section 24. Section **4-41b-801** is enacted to read:

Part 8. Enforcement

4-41b-801. Enforcement -- Fine -- Citation.

(1) The department may, for a violation of this chapter by a person that is a cannabis production establishment or a cannabis production establishment agent:

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

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

(c) assess the person an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section in the general fund.

(3)(a) The department may take an action described in Subsection (3)(b) if the department concludes, upon inspection or investigation, that, for a person that is a cannabis production establishment or a cannabis production establishment agent:

(i) the person has violated the provisions of this chapter, a rule made under this chapter, or an order issued under this chapter; or

(ii) the person produced cannabis or a cannabis product batch that contains a substance that poses a threat to human health.

(b) If the department makes the determination about a person described in Subsection (3)(a), the department shall:

(i) issue the person a written citation;

(ii) attempt to negotiate a stipulated settlement;

(iii) seize, embargo, or destroy the cannabis or cannabis product batch; and

(iv) direct the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(4) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section:

(a) assess the person a fine, established in accordance with Section 63J-1-504, of up to $5,000 per violation, in accordance with a fine schedule established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(5) The department may not revoke a cannabis production establishment's license without first direct the cannabis production establishment to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(6) If within 20 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(7) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or cannabis production establishment agent registration card; or

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

(8) If the department makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.

Section 25. Section **4-41b-802** is enacted to read:

4-41b-802. Report.

(1) The department shall report annually to the Health and Human Services Interim Committee on the number of applications and renewal applications received, the number of each type of cannabis production facility licensed in each county, the amount of cannabis grown by licensees, the amount of cannabis manufactured into cannabis products by licensees, the number of licenses revoked, and the expenses incurred and revenues generated from the medical cannabis program.

(2) The department may not include personally identifying information in the report.

Section 26. Section **10-9a-104** is amended to read:

10-9a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a municipality may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A municipality may not impose stricter requirements or higher standards than are required by:

(a) Section 4-41b-405;

[~~(a)~~] (b) Section 10-9a-305; [~~and~~]

[~~(b)~~] (c) Section 10-9a-514[.]; and

(d) Section 26-60b-506.

Section 27. Section **17-27a-104** is amended to read:

17-27a-104. Stricter requirements.

(1) Except as provided in Subsection (2), a county may enact an ordinance imposing stricter requirements or higher standards than are required by this chapter.

(2) A county may not impose stricter requirements or higher standards than are required by:

(a) Section 4-41b-405;

[~~(a)~~] (b) Section 17-27a-305; [~~and~~]

[~~(b)~~] (c) Section 17-27a-513[.]; and

(d) Section 26-60b-506.

Section 28. **Section 26-61-202** is amended to read:

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

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

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

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

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

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

(b) [~~cannabinoid~~] dosage amounts and medical dosage forms; and

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

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

(4) The board shall submit the guidelines described in Subsection (3) to:

(a) the director of the Division of Occupational and Professional Licensing; and

(b) the Health and Human Services Interim Committee.

(5) The board shall report the board's findings before November 1 of each year to the Health and Human Services Interim Committee.

(6) Guidelines developed pursuant to this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted pursuant to Title 4, Chapter 41b, Cannabis Production Establishment or Title 26, Chapter 60b, Medical Cannabis Act.

Section 29. Section **26-60b-101** is enacted to read:

CHAPTER 61b. MEDICAL CANNABIS ACT

Part 1. General Provisions

26-60b-101. Title.

This chapter is known as "Medical Cannabis Act."

Section 30. Section **26-60b-102** is enacted to read:

26-60b-102. Definitions.

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 58-37-3.6b.

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

(3) "Cannabis dispensary" means a person that:

(a) acquires or intends to acquire cannabis or a cannabis product from a cannabis production establishment and acquires or intends to acquire a medical cannabis device;

(b) possesses cannabis, a cannabis product, or a medical cannabis device; and

(c) sells or intends to sell cannabis, a cannabis product, or a medical cannabis device.

(4) "Cannabis dispensary agent" means an owner, officer, director, board member, employee, or volunteer of a cannabis dispensary.

(5) "Cannabis dispensary agent registration card" means a registration card issued by the department that authorizes an individual to act as a cannabis dispensary agent.

(6) "Cannabis processing facility" means the same as that term is defined in Section 4-41b-102.

(7) "Cannabis product" means the same as that term is defined in Section 58-37-3.6b.

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

(9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41b-102.

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

(11) "Designated caregiver" means an individual:

(a) whom a patient with a medical cannabis card designates as the patient's caregiver; and

(b) registers with the department under Section 26-60b-202.

(12) "Independent cannabis testing laboratory" means the same as that term is defined in Section 4-41b-102.

(13) "Inventory control system" means the system described in Section 4-41b-103.

(14) "Medical cannabis card" means an official card issued by the department to an individual with a qualifying illness, or the individual's designated caregiver under this chapter, that is connected to the electronic verification system.

(15) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6b.

(16) "Medical Cannabis Restricted Account" means the account created in Section 26-60b-109.

(17) "Physician" means an individual who is qualified to recommend cannabis under Section 26-60b-107.

(18) "Qualifying illness" means a condition described in Section 26-60b-105.

(19) "State electronic verification system" means the system described in Section 26-60b-103.

Section 31. Section **26-60b-103** is enacted to read:

26-60b-103. Electronic verification system.

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

(a) enter into a memorandum of understanding in order to determine the function and operation of an electronic verification system;

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

(c) select a third-party provider described in Subsection (1)(b).

(2) The electronic verification system described in Subsection (1) shall:

(a) allow an individual, with the individual's physician in the physician's office, to apply for a medical cannabis card;

(b) allow a physician to electronically recommend, during a visit with a patient, treatment with cannabis or a cannabis product;

(c) connect with an inventory control system used by a cannabis dispensary to track, in real time, and to archive for no more than 60 days, purchase history of cannabis or a cannabis product by a medical cannabis card holder, including the time and date of the purchase, the quantity and type of cannabis or cannabis product purchased, and any cannabis production establishment and cannabis dispensary associated with the cannabis or cannabis product;

(d) provide access to the Department of Health and the Department of Agriculture and Food to the extent necessary to carry out the Department of Health's and the Department of Agriculture and Food's functions and responsibilities under this chapter and under Title 4, Chapter 41b, Cannabis Production Establishment;

(e) provide access to state or local law enforcement during a traffic stop for the purpose of determining if the individual subject to the traffic stop is complying with state medical cannabis law, or after obtaining a warrant;

(f) create a record each time a person accesses the database that identifies the person who accessed the database and the individual whose records are accessed; and

(g) (9) be operational no later than March 1, 2020.

(3) The Department of Health may release de-identified data collected by the system for the purpose of conducting medical research and for providing the report required by Section 26-60b-602.

Section 32. Section **26-60b-104** is enacted to read:

26-60b-104. Preemption.

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

Section 33. Section **26-60b-105** is enacted to read:

26-60b-105. Qualifying illness.

(1) For the purposes of this chapter, the following conditions are considered a qualifying illness:

(a) HIV, acquired immune deficiency syndrome or an autoimmune disorder;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer, cachexia, or a condition manifest by physical wasting, nausea, or malnutrition associated with chronic disease;

(e) Crohn's disease, ulcerative colitis, or a similar gastrointestinal disorder;

(f) epilepsy or a similar condition that causes debilitating seizures;

(g) multiple sclerosis or a similar condition that causes persistent and debilitating muscle spasms;

(h) post-traumatic stress disorder;

(i) autism;

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

(k) chronic or debilitating pain in an individual, if:

(i) a physician determines that the individual is at risk of becoming chemically dependent on, or overdosing on, opiate-based pain medication; or

(ii) a physician determines that the individual is allergic to opiates or is otherwise medically unable to use opiates.

(2) In addition to the conditions described in Subsection (1), a condition approved under Section 26-60b-106, in an individual, on a case-by-case basis, is considered a qualifying illness for the purposes of this chapter.

Section 34. **Section 26-60b-106** is enacted to read:

26-60b-106. Compassionate Use Board.

(1) The department shall establish a Compassionate Use Board consisting of:

(a) five physicians who are knowledgeable about the medicinal use of cannabis and certified by the appropriate board in one of the following specialties: neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, and gastroenterology; and

(b) the director of the Department of Health or the director's designee as a non-voting member.

(2) (a) Two of the members of the board first appointed shall serve for a term of three years and two of the members of the board first appointed shall serve for a term of four years.

(b) After the first members' terms expire, members of the board shall serve for a term of four years and shall be eligible for reappointment.

(c) Any member of the board may serve until a successor is appointed.

(d) The director of the Department of Health or the director's designee shall serve as the chair of the board.

(3) A quorum of the Compassionate Use Board shall consist of three members.

(4) A member of the board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with Section 63A-3-106, Section 63A-3-107, and rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend to the department approval for an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use if:

(i) the individual offers, in the board's discretion, satisfactory evidence that the individual suffers from a condition that substantially impairs the individual's quality of life and is intractable; and

(ii) the board determines it is in the best interest of the patient to allow the compassionate use of medical cannabis;

(b) meet to receive or review compassionate use petitions quarterly, unless no petitions are pending, or as often as necessary if there are more petitions than the board can receive or review during the board's regular schedule;

(c) complete a review of each petition and recommend approval or denial of the applicant for qualification for a medical cannabis card within 90 days of receipt; and

(d) report, before November 1 of each year, to the Health and Human Services Interim Committee, the number of compassionate use approvals the board issued during the past year and the types of conditions for which the board approved compassionate use.

(6) The department shall review any compassionate use approved by the board under this section to determine if the board properly exercised the board's discretion under this section.

(7) If the department determines the board properly approved an individual for compassionate use under this section, the department shall issue a medical cannabis card.

(8) Any individually identifiable health information contained in a petition received under this section shall be a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board may recommend to the Health and Human Services Interim Committee:

(a) a condition to designate as a qualifying illness under Section 26-60b-105; or

(b) a condition to remove as a qualifying illness under Section 26-60b-105.

Section 35. Section **26-60b-107** is enacted to read:

26-60b-107. Physician qualification.

(1) For the purposes of this chapter, a physician means an individual, other than a veterinarian, who is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act and who possesses the authority, in accordance with the individual's scope of practice, to prescribe Schedule II controlled substances.

(2) A physician may recommend cannabis if the physician recommends cannabis to no more than 20% of the physician's patients at any given time.

(3) A physician may recommend cannabis to greater than 20% of the physician's patients if the physician is certified, by the appropriate American medical board, in one of the following specialties: anesthesiology, gastroenterology, neurology, oncology, pain and palliative care, physiatry, or psychiatry.

(4) A physician may recommend cannabis to an individual under this chapter only in the course of a physician-patient relationship after the physician has completed a full assessment of the patient's condition and medical history.

(5)(a) Except as provided in Subsection (5)(b), a physician eligible to recommend cannabis or a cannabis product under this section may not advertise that the physician recommends cannabis or a cannabis product.

(b) A physician may advertise via a website that displays only:

(i) a green cross;

(ii) the location and hours of operation of the physician's office;

(iii) a qualifying illness that the physician treats; and

(iv) a scientific study regarding cannabis use.

Section 36. Section **26-60b-108** is enacted to read:

26-60b-108. Standard of care -- Medical practitioners not liable -- No private right of action.

A physician who recommends treatment with cannabis or a cannabis product to an individual in accordance with this chapter may not, based on the recommendation, be subject to civil liability, criminal liability, or licensure sanctions under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

Section 37. Section **26-60b-109** is enacted to read:

26-60b-109. Medical Cannabis Restricted Account -- Creation.

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

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

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

(b) money deposited into the account by the department under this chapter;

(c) appropriations made to the account by the Legislature; and

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

(3) Interest earned on the account is deposited in the account.

(4) Money in the account may only be used to fund the state medical cannabis program, including Title 26, Chapter 60b, Medical Cannabis Act and Title 4, Chapter 41b, Cannabis Production Establishments.

Section 38. Section **26-60b-110** is enacted to read:

26-60b-110. Nondiscrimination for use of cannabis, a cannabis product, or a medical cannabis device.

(1) For purposes of medical care, including organ and tissue transplants, the use of cannabis by a patient who holds a medical cannabis card in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) No landlord may refuse to lease to and may not otherwise penalize a person solely for the person's status as a medical cannabis card holder, unless failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law.

Section 39. Section **26-60b-201** is enacted to read:

Part 2. Medical Cannabis Card Registration

26-60b-201. Medical cannabis card -- Application -- Fees -- Database.

(1) The Department of Health shall, no later than March 1, 2020, and within 15 days after an individual submits an application in compliance with this section, issue a medical cannabis card to an individual who complies with this section.

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

(a) the individual is at least 18 years old, the individual is a Utah resident, and treatment with medical cannabis has been recommended by the individual's physician under Subsection (4); or

(b) the individual is the parent or legal guardian of a minor, the individual is at least 18 years old, the individual is a Utah resident, and treatment with medical cannabis has been recommended by the minor's physician under Subsection (4).

(3) An individual who is eligible for a medical cannabis card under Subsection (2) shall submit an application for a medical cannabis card to the department via an electronic application connected to the electronic verification system, with the recommending physician while in the recommending physician's office, and that includes the individual's name, gender, age, and address.

(4) A physician who recommends treatment with medical cannabis to an individual or minor shall:

(a) state in the physician's recommendation that the individual suffers from a qualifying illness, including the type of qualifying illness, and that the individual may benefit from treatment with cannabis or a cannabis product; and

(b) before recommending cannabis or a cannabis product, look up the individual in the controlled substance database created in Section 58-37f-201.

(5) A medical cannabis card issued by the department under this section is valid for the lesser of an amount of time determined by the physician or six months.

(6) An individual who has been issued a medical cannabis card under this section may:

(a) carry a valid medical cannabis card with the patient's name;

(b) purchase, possess, and transport, in accordance with this chapter, cannabis, a cannabis product, or a medical cannabis device;

(c) use or assist with the use of medical cannabis or medical cannabis products to treat the qualifying illness or symptoms associated with the qualifying illness of the person for whom medical cannabis has been recommended; and

(d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100 miles of the medical cannabis card holder's primary residence, grow up to six cannabis plants for personal medical use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.

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

(8)(a) A person may submit, to the department, a request to conduct a medical research study using medical cannabis cardholder data contained in the electronic verification system.

(b) The department shall review a request submitted under Subsection (8)(a) to determine if the medical research study is valid.

(c) If the department determines that the medical research study is valid under Subsection (8)(b), the department shall notify a relevant medical cannabis cardholder asking for the medical cannabis cardholder's participation in the study.

(d) The department may release, for the purposes of a study, information about a medical cannabis cardholder who consents to participation under Subsection (8)(c).

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

Section 40. Section **26-60b-202** is enacted to read:

26-60b-202. Medical cannabis card --- Designated caregiver -- Registration -- Renewal -- Revocation.

(1) An individual may designate up to two individuals to serve as designated caregivers for the individual if:

(a) the individual has a valid medical cannabis card under Section 26-60b-201; and

(b) a physician determines that, due to physical difficulty or undue hardship, the individual needs assistance to obtain cannabis or a cannabis product from a cannabis dispensary.

(2) An individual registered as a designated caregiver under this section may:

(a) carry a valid medical cannabis card with the designating patient's name and the designated caregiver's name;

(b) purchase, possess, and transport, in accordance with this chapter, cannabis, a cannabis product, or a medical cannabis device on behalf of the designating patient;

(c) accept reimbursement from the designating patient for direct costs incurred by the designated caregiver for assisting with the designating patient's medicinal use of cannabis; and

(d) after January 1, 2021, if a licensed cannabis dispensary is not operating within 100 miles of the designating patient's primary residence, assist the designating patient with growing up to six cannabis plants for personal medicinal use within an enclosed and locked space and not within view from a public place and that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the space and following the shortest route or ordinary pedestrian travel to the property boundary of the community location or residential area.

(3) The department shall, within 30 days after an individual submits an application in compliance with this section, issue a medical cannabis card to an individual designated as a caregiver under Subsection (1) and who complies with this section.

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

(a) is at least 18 years old;

(b) is a Utah resident;

(c) pays, to the department, a fee established by the department in accordance with Section 63J-1-504, plus the cost of a criminal background check required by Section 26-60b-203; and

(d) has not been convicted of an offense that is a felony under either state or federal law, unless any sentence imposed was completed seven or more years earlier.

(5) An individual who is eligible for a medical cannabis card as a designated caregiver shall submit an application for a medical cannabis card to the department via an electronic application connected to the electronic verification system and shall include the individual's name, gender, age, and address and the name of the patient that designated the individual under Subsection (1).

(6) A medical cannabis card issued by the department under this section is valid for the lesser of an amount of time determined by the physician, by the patient, or 6 months.

(7) A medical cannabis card is renewable for a designated caregiver if, at the time of renewal:

(a) the individual with a medical cannabis card described in Subsection (1) renews the caregiver's designation; and

(b) the designated caregiver meets the requirements of Subsection (4).

(8) A designated caregiver may not charge an individual a fee to act as the individual's designated caregiver or for services provided.

(9) The Department of Health may revoke a designated caregiver's medical cannabis card if the individual:

(a) violates this chapter; or

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

Section 41. Section **26-60b-203** is enacted to read:

26-60b-203. Designated caregiver -- Criminal background check.

(1) An individual registered as a designated caregiver under Section 26-60b-202 shall submit to a criminal background check in accordance with Subsection (2).

(2) Each designated caregiver shall:

(a) submit, to the department, a fingerprint card in a form acceptable to the department and the Department of Public Safety; and

(b) consent to a fingerprint background check by:

(i) the Utah Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(3) The Department of Public Safety shall complete a Federal Bureau of Investigation Criminal Background Check for each designated caregiver under Subsection (2) and report the results of the background check to the department.

Section 42. Section **26-60b-204** is enacted to read:

26-60b-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) An individual who has a medical cannabis card and who possesses cannabis or a cannabis product outside of the individual's residence shall:

(a) carry, with the individual at all times, the individual's medical cannabis card;

(b) carry, with the cannabis or cannabis product, a label that identifies that the cannabis or cannabis product was originally sold from a licensed cannabis dispensary and includes an identification number that links the cannabis or cannabis product to the inventory control system; and

(c) possess not more than four ounces of unprocessed cannabis or an amount of cannabis product that contains 20 or fewer grams of tetrahydrocannabinol or cannabidiol.

(2)(a) Except as described in Subsection (2)(b), an individual who has a medical cannabis card may not use cannabis or a cannabis product in public view.

(b) An individual may use cannabis or a cannabis product in public view in the event of a medical emergency.

(3) If an individual possesses cannabis or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

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

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

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

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

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis, a cannabis product, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

(5) An individual who possesses cannabis, a cannabis product, or a medical cannabis device in violation of Subsection (1)(a) or Subsection 1(b) is guilty of an infraction and subject to a $100 fine.

Section 43. Section **26-60b-301** is enacted to read:

Part 3. Cannabis Dispensary License

26-60b-301. Cannabis dispensary -- License -- Eligibility.

(1) A person may not operate as a cannabis dispensary without a license issued by the department issued under this part.

(2) Subject to Subsections (5) and to Section 26-60b-304, the department shall, within 90 business days after receiving a complete application, issue a license to operate a cannabis dispensary to a person who submits to the department:

(a) a proposed name and address where the person will operate the cannabis dispensary that is not within 600 feet of a community location or within 300 feet of an area zoned exclusively for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area;

(b) the name and address of any individual who has a financial or voting interest of two percent or greater in the proposed cannabis dispensary or who has the power to direct or cause the management or control of a proposed cannabis production establishment;

(c) financial statements demonstrating that the person possesses a minimum of $250,000 in liquid assets available for each application submitted to the department;

(d) an operating plan that complies with Section 26-60b-303 and that includes operating procedures to comply with the operating requirements for a cannabis dispensary described in this chapter and with any laws adopted by the municipality or county that are consistent with Section 26-60b-506;

(e) if the municipality or county where the proposed cannabis production establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed cannabis dispensary is in compliance with the restrictions;

(f) if the municipality or county where the proposed cannabis dispensary would be located requires a local permit or license, a copy of the application for the local permit or license; and

(g) an application fee established by the department in accordance with Section 63J-1-504 that is necessary to cover the department's cost to implement this part;

(4) If the department determines that a cannabis dispensary is eligible for a license under this section, the department shall charge the cannabis dispensary an initial license fee in an amount determined by the department in accordance with Section 63J-1-504.

(5) The department may not issue a license to operate a cannabis dispensary to an applicant if any individual who has a financial or voter interest of two percent or greater in the cannabis dispensary applicant or who has power to direct or cause the management or control of the applicant:

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

(b) is less than 21 years of age.

(6) The department may revoke a license under this part if the cannabis dispensary is not operating within one year of the issuance of the initial license.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Medical Cannabis Restricted Account.

(8) The department shall begin accepting applications under this part no later than March 1, 2020.

Section 44. Section **26-60b-302** is enacted to read:

26-60b-302. Renewal.

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

(a) the person meets the requirements of Section 26-60b-301; and

(b) the person pays the department a license renewal fee in an amount determined by the department in accordance with Section 63J-1-504.

(2)(a) If a licensed cannabis dispensary abandons the cannabis dispensary's license, the department shall publish notice of an available license in a newspaper of general circulation for the

geographic area in which the cannabis dispensary license is available or on the Utah Public Notice Website established in Section 63F-1-701.

(b) The department may establish criteria, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for what actions by a cannabis dispensary constitute abandonment of a cannabis dispensary license.

Section 45. Section **26-60b-303** is enacted to read:

26-60b-303. Operating plan.

(1) A person applying for a cannabis dispensary license shall submit to the department a proposed operation plan for the cannabis dispensary that complies with this section and that includes:

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

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

(i) each officer, director, or owner of the proposed cannabis dispensary; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis dispensary's employee training standards;

(d) a security plan; and

(e) a description of the cannabis dispensary's inventory control system, including a plan to make the inventory control system compatible with the electronic verification system.

Section 46. **Section 26-60b-304** is enacted to read:

26-60b-304. Maximum number of licenses.

(1) The department may not issue more than the greater of, in each county in the state:

(a) one cannabis dispensary license; or

(b) an amount of cannabis dispensary licenses equal to the number of residents in the county divided by 150,000, rounded up to the nearest greater whole number.

(2) If there are more qualified applicants than there are available licenses for cannabis dispensaries, the department shall evaluate the applicants and award the license to the applicant that best demonstrates:

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

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community;

(d) the suitability of the proposed location and its accessibility for qualifying patients; and

(e) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients.

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

Section 47. Section **26-60b-401** is enacted to read:

Part 4. Cannabis Dispensary Agents

26-60b-401. Cannabis dispensary agent -- Registration.

(1) An individual may not serve as a cannabis dispensary agent of a cannabis dispensary unless the individual is registered by the department as a cannabis dispensary agent.

(2) A physician may not act as a cannabis dispensary agent.

(3) The department shall, within 15 days after receiving a complete application from a cannabis dispensary on behalf of a prospective cannabis dispensary agent, register and issue a cannabis dispensary agent registration card to an individual who:

(a) provides to the department the individual's name and address and the name and location of the licensed cannabis dispensary where the individual seeks to act as the cannabis dispensary agent; and

(b) pays a fee to the department, in an amount determined by the department in accordance with Section 63J-1-504, that is necessary to cover the department's cost to implement this part.

(4) The department shall designate, on an individual's cannabis dispensary agent registration card, the name of the cannabis dispensary where the individual is registered as an agent.

(5) A cannabis dispensary agent shall comply with a certification standard developed by the department, or a third party certification standard designated by the department, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The certification standard described in Subsection (5) shall include training in:

(a) Utah medical cannabis law; and

(b) cannabis dispensary best practices.

(7) The department may revoke or refuse to issue the cannabis dispensary agent registration card of an individual who:

(a) violates the requirements of this chapter; or

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

Section 48. Section **26-60b-402** is enacted to read:

26-60b-402. Cannabis dispensary agents -- Criminal background checks.

(1) Each applicant shall submit, at the time of application, from each individual who has a financial or voting interest of two percent or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

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

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

(2) The department shall request that the Department of Public Safety complete a Federal Bureau of Investigation criminal background check for each individual described in Subsection (1).

Section 49. Section **26-60b-403** is enacted to read:

26-60b-403. Cannabis dispensary agent registration card -- Rebuttable presumption.

(1) A cannabis dispensary agent who is registered with the department under section 426-60b-401 shall carry the individual's cannabis dispensary agent registration card with the individual at all times when:

(a) the individual is on the premises of a cannabis dispensary; and

(b) the individual is transporting cannabis, a cannabis product, or a medical cannabis device between two cannabis production establishments or between a cannabis production establishment and a cannabis dispensary.

(2) If an individual handling cannabis, a cannabis product, or a medical cannabis device at a cannabis dispensary, or transporting cannabis, a cannabis product, 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) a law enforcement officer does not have probable cause, based solely on the individual's possession of the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) An individual who violates Subsection (1) is:

(a) guilty of an infraction; and

(b) is subject to a $100 fine.

Section 50. Section **26-60b-501** is enacted to read:

Part 5. Cannabis Dispensary Operation

26-60b-501. Operating requirements -- General.

(1) (a) A cannabis dispensary shall operate in accordance with the operating plan provided to the department under Section 26-60b-303.

(b) A cannabis dispensary shall notify the department before a change in the cannabis dispensary's operating plan.

(2) A cannabis dispensary shall operate:

(a) except as provided in Subsection (5), in a facility that is accessible only by an individual with a valid cannabis dispensary agent registration card or a medical cannabis card; and

(b) at the physical address provided to the department under Section 26-60b-301.

(3) A cannabis dispensary may not employ any person who is younger than 21 years of age.

(4) A cannabis dispensary shall conduct a background check into the criminal history of every person who will become an agent of the cannabis dispensary and may not employ any person who has been convicted of an offense that is a felony under either state or federal law.

(5) A cannabis dispensary may authorize an individual who is not a cannabis dispensary agent to access the cannabis dispensary if the cannabis dispensary tracks and monitors the individual at all times while the individual is at the cannabis dispensary and maintains a record of the individual's access.

(6) A cannabis dispensary shall operate in a facility that has:

(a) a single, secure public entrance;

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

(i) detects and records entry into the cannabis dispensary; and

(ii) provides notice of an unauthorized entry to law enforcement when the cannabis dispensary is closed; and

(c) a lock on any area where the cannabis dispensary stores cannabis or a cannabis product.

(7) A cannabis dispensary shall post, clearly and conspicuously in the cannabis dispensary, the limit on the purchase of cannabis described in Subsection 26-60b-502(3).

(8) A cannabis dispensary may not allow any individual to consume cannabis on the property or premises of the cannabis dispensary.

(9) A cannabis dispensary may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the cannabis dispensary.

Section 51. Section **26-60b-502** is enacted to read:

26-60b-502. Dispensing -- Amount a cannabis dispensary may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) A cannabis dispensary may only sell, subject to this chapter:

(a) cannabis;

(b) a cannabis product;

(c) a medical cannabis device; or

(d) educational materials related to the medical use of cannabis.

(2) A cannabis dispensary may only sell the items listed in Subsection (1) to an individual with a medical cannabis card issued by the department.

(3) A cannabis dispensary may not dispense on behalf of any one individual with a medical cannabis card, in any one 14-day period:

(a) an amount of unprocessed cannabis that exceeds two ounces by weight; or

(b) an amount of cannabis products that contains, in total, greater than 10 grams of tetrahydrocannabinol or cannabidiol.

(4) An individual with a medical cannabis card may not purchase more cannabis or cannabis products than the amounts designated in Subsection (3) in any one 14-day period.

(5) A cannabis dispensary shall:

(a) access the electronic verification system before dispensing cannabis or a cannabis product to an individual with a medical cannabis card in order to determine if the individual has met the maximum amount of cannabis or cannabis products described in Subsection (3); and

(b) submit a record to the electronic verification system each time the cannabis dispensary dispenses cannabis or a cannabis product to an individual with a medical cannabis card.

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

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

(7) A cannabis dispensary may give to an individual with a medical cannabis card, at no cost, a product that the cannabis dispensary is allowed to sell under Subsection (1).

Section 52. Section **26-60b-503** is enacted to read:

26-60b-503. Inspections.

The department may inspect the records and facility of a cannabis dispensary at any time in order to determine if the cannabis dispensary complies with the licensing requirements of this part.

Section 53. **Section 26-60b-504** is enacted to read:

26-60b-504. Advertising.

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

(2) A cannabis dispensary may use signage on the outside of the cannabis dispensary that includes only:

(a) the cannabis dispensary's name and hours of operation; and

(b) a green cross.

(3) A cannabis dispensary may maintain a website that includes information about:

(a) the location and hours of operation of the cannabis dispensary;

(b) the products and services available at the cannabis dispensary;

(c) personnel affiliated with the cannabis dispensary;

(d) best practices that the cannabis dispensary upholds; and

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

Section 54. Section **26-60b-505** is enacted to read:

26-60b-505. Cannabis, cannabis product, or medical cannabis device transportation.

(1) Except for an individual with a valid medical cannabis card, an individual may not transport cannabis, a cannabis product, or a medical cannabis device unless the individual is:

(a) a registered cannabis production establishment agent; or

(b) a registered cannabis dispensary agent.

(2) Except for an individual with a valid medical cannabis card, an individual transporting cannabis, a cannabis product, or a medical cannabis device shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) In addition to the requirements in Subsections (1) and (2), the department may establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis, a cannabis product, or a medical cannabis device that are related to safety for human cannabis or cannabis product consumption.

(4) An individual who transports cannabis, a cannabis product, or a medical cannabis device with a manifest that does not meet the requirements of Subsection (2) is:

(a) guilty of an infraction; and

(b) subject to a $100 fine.

Section 55. Section **26-60b-506** is enacted to read:

26-60b-506. Local control.

(1) A municipality or county may not enact a zoning ordinance that prohibits a cannabis dispensary from operating in a location within the municipality's or county's jurisdiction on the sole basis that the cannabis dispensary is a cannabis dispensary.

(2) A municipality or county may not deny or revoke a permit or license to operate a cannabis dispensary on the sole basis that the applicant or cannabis dispensary violates a law of the United States.

(3) A municipality or county may enact ordinances not in conflict with this chapter governing the time, place, and manner of cannabis dispensary operations in the municipality or county.

Section 56. Section **26-60b-601** is enacted to read:

Part 6. Enforcement

26-60b-601. Enforcement -- Fine -- Citation.

(1) The department may, for a violation of this chapter by a person who is a cannabis dispensary or cannabis dispensary agent:

(a) revoke the person's license or cannabis dispensary agent registration card;

(b) refuse to renew the person's license or cannabis dispensary agent registration card; or

(c) assess the person an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section in the general fund.

(3) The department may, for a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section:

(a) assess the person a fine, established in accordance with Section 63J-1-504, of up to $5,000 per violation, in accordance with a fine schedule established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a cannabis dispensary's license without first directing the cannabis dispensary to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or cannabis dispensary agent registration card; or

(b) suspend, revoke, or place on probation the person's license or cannabis dispensary agent registration card.

(7) If the department makes a final determination under this section that an individual violated a provision of this chapter, the individual is guilty of an infraction.

Section 57. **26-60b-602** is enacted to read:

26-60b-602. Report.

(1) The department shall report annually to the Health and Human Services Interim Committee on the number of applications and renewal applications filed for medical cannabis cards, the number of qualifying patients and designated caregivers, the nature of the debilitating medical conditions of the qualifying patients, the age and county of residence of cardholders, the number of medical cannabis cards revoked, the number of practitioners providing recommendations for qualifying patients, the number of license applications and renewal license applications received, the number of licenses issued in each county, the number of licenses revoked, and the expenses incurred and revenues generated from the medical cannabis program.

(2) The department may not include personally identifying information in the report.

Section 58. **Section 30-3-10** is amended to read:

30-3-10. Custody of children in case of separation or divorce -- Custody consideration.

(1) If a husband and wife having 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 the mother or father solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:

(i) 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 shall be 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.

(c) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(d) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the children be heard and there is no other reasonable method to present their testimony.

(e) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 14 years of age or older shall be given added weight, but is not the single controlling factor.

(f) If interviews with the children are conducted by the court pursuant to Subsection (1)(e), they shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with the children is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.

(4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:

(i) the disability does not significantly or substantially inhibit the parent's ability to provide for the physical and emotional needs of the child at issue; or

(ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(5) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(6) In considering the past conduct and demonstrated moral standards of each of the parties as described under Subsection (1)(a)(i), a court may not discriminate against a parent because of the parent's possession or consumption of cannabis, a cannabis product, or a medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act, or because of the parent's status as a cannabis production establishment agent in accordance with Title 4, Chapter 41b, a cannabis dispensary agent in accordance with Title 26, Chapter 60b, or a medical cannabis card holder in accordance with Title 26, Chapter 60b.

Section 59. Section **53-1-106.5** is enacted to read:

53-1-106.5. Medical Cannabis Act -- Department duties.

In addition to the duties described in Section 53-1-106, the department shall provide standards for training peace officers and law enforcement agencies in the use of the electronic verification system and 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.

Section 60. Section **58-37-3.6b** is enacted to read:

58-37-3.6b. Exemption for possession or use of cannabis to treat a qualifying illness.

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.

(c) "Cannabis product" means a product that:

(i) is intended for human ingestion; and

(ii) contains cannabis or tetrahydrocannabinol.

(d) "Designated caregiver" means the same as that term is defined in Section 26-60b-102.

(e) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(f) "Marijuana" means the same as that term is defined in Section 58-37-2.

(g) "Medical cannabis card" means the same as that term is defined in Section 26-60b-102.

(h)(i) "Medical cannabis device" means a device that an individual uses to ingest cannabis or a cannabis product.

(ii) "Medical cannabis device" does not include a device that facilitates cannabis combustion at a temperature of greater than 750 degrees Fahrenheit.

(i) "Qualifying illness" means the same as that term is defined in Section 26-60b-102.

(j) "Tetrahydrocannabinol" means a substance derived from cannabis that meets the description in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual who possesses, produces, manufactures, dispenses, distributes, sells, or offers to sell cannabis or a cannabis product or who possesses with intent to produce, manufacture, dispense, distribute, sell, or offer to sell cannabis or a cannabis product is not subject to the penalties described in this title for the conduct to the extent that the individual's conduct complies with:

(i) Title 4, Chapter 41b, Cannabis Production Establishment; and

(ii) Title 26, Chapter 60b, Medical Cannabis Act;

(b) an individual who possesses, manufactures, distributes, sells, or offers to sell a medical cannabis device or who possesses with intent to manufacture, distribute, sell, or offer to sell a medical cannabis device is authorized and is not subject to the penalties described in this title for the possession, manufacture, distribution, sale, or offer for sale of drug paraphernalia to the extent that the individual's conduct complies with:

(i) Title 4, Chapter 41b, Cannabis Production Establishment; and

(ii) Title 26, Chapter 60b, Medical Cannabis Act.

(3) For purposes of state law, except as otherwise provided in this section, activities related to cannabis shall be considered lawful and any cannabis consumed shall be considered legally ingested, as long as the conduct is in accordance with:

(a) Title 4, Chapter 41b, Cannabis Production Establishment; and

(b) Title 26, Chapter 60b, Medical Cannabis Act.

(4) It is not lawful for a medical cannabis card holder to smoke cannabis or to use a device to facilitate the smoking of cannabis. An individual convicted of violating this section is guilty of an infraction. For purposes of this section, smoking does not include a means of administration that involves cannabis combustion at a temperature that is not greater than 750 degrees Fahrenheit and that does not involve using a flame.

(5) An individual is not exempt from the penalties described in this title for ingesting cannabis or a cannabis product while operating a motor vehicle.

(6) An individual who is assessed a penalty or convicted of an infraction under Title 4, Chapter 41b, Cannabis Production Establishment, or Title 26, Chapter 60b, Medical Cannabis Act, is not subject to the penalties described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section 61. Section **58-37-3.6c** is enacted to read:

58-37-3.7. Affirmative defense.

(1) Before July 1, 2020, it is an affirmative defense to criminal charges against an individual for the use, possession, or manufacture of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter that the individual would be eligible for a medical cannabis card, and that the individuals conduct would have been lawful, after July 1, 2020.

(2) It is an affirmative defense to criminal charges against an individual for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) the individual is a not a resident of Utah or has been a resident of Utah for less than 45 days and was issued a currently valid medical cannabis identification card or its equivalent under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(b) the individual has been diagnosed with a qualifying illness as described in Section 26-60b-105.

(3) A court shall, for charges that the court dismisses under Subsection (1) or Subsection (2), dismiss the charges without prejudice.

Section 62. Section **58-37-3.6d** is enacted to read:

58-37-3.8. Enforcement.

(1) No law enforcement officer employed by an agency that receives state or local government funds shall expend any state or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that such activity is in compliance with the state medical cannabis laws, nor shall any such officer expend any state or local resources, including the officer's time, to provide any information or logistical support related to such activity to any federal law enforcement authority or prosecuting entity.

(2) No agency or political subdivision of Utah may rely on a violation of federal law as the sole basis for taking an adverse action against a person providing professional services to a cannabis dispensary or a cannabis production establishment if the person has not violated the state medical cannabis laws.

Section 63. Section **59-12-104.7** is enacted to read:

59-12-104.7. Exemption from sales tax for medical cannabis.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 58-37-3.6b.

(b) "Cannabis dispensary" means the same as that term is defined in Section 26-60b-102.

(c) "Cannabis product" means the same as that term is defined in Section 58-37-3.6b.

(d) "Medical cannabis device" means the same as that term is defined in Section 58-37-3.6b.

(2) In addition to the exemptions described in Section 59-12-104, the sale, by a licensed cannabis dispensary, of cannabis, a cannabis product, or a medical cannabis device, is not subject to the taxes imposed by this chapter.

Section 64. Section **62A-4a-202.1** is amended to read:

62A-4a-202.1. Entering home of a child -- Taking a child into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or emergency placement.

(1) A peace officer or child welfare worker may not:

(a) enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless authorized under Subsection 78A-6-106(2); or

(b) remove a child from the child's home or take a child into custody under this section solely on the basis of:

(i) educational neglect, truancy, or failure to comply with a court order to attend school[~~.~~]; or

(ii) the possession or use of cannabis, a cannabis product, or a medical cannabis device in the home, if the use and possession of the cannabis, cannabis product, or medical cannabis device is in compliance with Title 26, Chapter 60b, Medical Cannabis Act.

(2) A child welfare worker within the division may take action under Subsection (10) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.

(3) (a) If possible, consistent with the child's safety and welfare, before taking a child into protective custody, the child welfare worker shall also determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(b) If the services described in Subsection (3)(a) are reasonably available, they shall be utilized.

(c) In determining whether the services described in Subsection (3)(a) are reasonably available, and in making reasonable efforts to provide those services, the child's health, safety, and welfare shall be the child welfare worker's paramount concern.

(4) (a) A child removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:

(i) a shelter facility; or

(ii) an emergency placement in accordance with Section 62A-4a-209.

(c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or friend, in accordance with Section 62A-4a-209.

(a) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.

(5) When a child is removed from the child's home or school or taken into protective custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:

(a) the parent's rights under this part, including the right to be present and participate in any court proceeding relating to the child's case;

(b) that it may be in the parent's best interest to contact an attorney and that, if the parent cannot afford an attorney, the court will appoint one;

(c) the name and contact information of a division employee the parent may contact with questions;

(d) resources that are available to the parent, including:

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

(e) any other information considered relevant by the division.

(6) The pamphlet or flier described in Subsection (5) shall be:

(a) evaluated periodically for its effectiveness at conveying necessary information and revised accordingly;

(b) written in simple, easy-to-understand language; and

(c) available in English and other languages as the division determines to be appropriate and necessary.

Section 65. **Section 63I-1-226** is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(2) Section 26-10-11 is repealed July 1, 2020.

(3) Section 26-21-23, Licensing of non-Medicaid nursing facility beds, is repealed July 1, 2018.

(4) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(5) Title 26, Chapter 36a, Hospital Provider Assessment Act, is repealed July 1, 2016.

(6) Section 26-38-2.5 is repealed July 1, 2017.

(7) Section 26-38-2.6 is repealed July 1, 2017.

(8) Title 26, Chapter 56, Hemp Extract Registration Act, is repealed [~~July 1, 2016~~] January 1, 2019.

Section 66. **Section 63I-1-258** is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(2) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(3) Title 58, Chapter 20a, Environmental Health Scientist Act, is repealed July 1, 2018.

(4) Section 58-37-4.3 is repealed [~~July 1, 2016~~] January 1, 2020.

(5) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(6) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2019.

(7) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(8) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(9) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(10) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(11) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2017.

Section 67. **Section 78A-6-508** is amended to read:

78A-6-508. 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

(g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201.

(3) Notwithstanding Subsection (2)(c), the court may not discriminate against a parent because of the parent's possession or consumption of cannabis, a cannabis product, or a medical cannabis device, in accordance with Title 26, Chapter 60b, Medical Cannabis Act.

[~~(3)~~] (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.

[~~(4)~~] (5) (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(b) Nothing in Subsection [~~(4)~~] (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.

[~~(5)~~] (6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.

[~~(6)~~] (7) The following circumstances constitute prima facie evidence of unfitness:

(a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;

(b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;

(c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;

(d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 68. **Override clause.**

This bill overrides, replaces, takes precedent over, and otherwise governs in place of any conflicting or contradictory legislation passed during a general session of the Utah Legislature before enactment of this law.

END OF DIRECT PRIMARY ELECTION INITIATIVE

Persons gathering signatures for the petition may be paid for doing so.