Medical cannabis legislation summary from 2023 session

Utah Department of Health & Human Services

This document outlines amendments to Utah medical cannabis laws that were made during the 2023 Utah General Legislative Session. It is not intended to be comprehensive as many amendments are not mentioned below. A complete copy of the legislation mentioned below is available at le.utah.gov. This summary is for general information purposes only and should not be used as legal advice. The legislation listed below becomes effective on 5/3/2023 unless otherwise specified.

House Bill 72 Medical Cannabis Governance Revisions

- Moves oversight and regulation of medical cannabis pharmacies and couriers from the Utah Department of Health and Human Services (DHHS) to the Utah Department of Agriculture and Food (UDAF). This change results in 3 DHHS employees moving to UDAF. The bill creates a transition period between 7/1/2023 and 1/1/2024 when the UDAF may seek assistance from DHHS as UDAF carries out its new duties. DHHS and UDAF plan on UDAF taking on its new duties beginning on 7/1/2023.
- Creates a 9-member Medical Cannabis Policy Advisory Board staffed by DHHS composed of various stakeholders including a medical provider, medical researcher, patient advocate, medical cannabis card holder, representatives of the cannabis industry, law enforcement, and a member of the public.
- Extends a sunset date for the medical cannabis governance structure working group which is composed of 6 lawmakers. During the next year this working group will conduct further assessment of the state's governance structure over medical cannabis and may make further recommendations to the Health and Human Services Interim Committee. The recommendations may go beyond those incorporated in HB 72.
- Based on the Cannabis Research Review Board's evaluation of the safety of medical cannabis products, the board may provide recommendations to the Medical Cannabis Policy Advisory Board regarding restrictions for a substance found in a medical cannabis product that: (a) is likely harmful to human health, or (b) is associated with a substance that is likely harmful to human health.

Medical cannabis legislation summary from 2023 session

Utah Department of Health & Human Services

Senate Bill 137 Medical Cannabis Amendments

- Extends the medical cannabis card issuance period from 6 months to 1 year.
- Increases a medical provider's patient cap from 275 or 600 patients to 1.5% of the total number of registered medical cannabis patient cardholders. If a medical provider receives payment from a patient's insurance plan for services, then the patient whose insurance plan was billed does not count toward the 1.5% patient cap. The patient cap will be set quarterly during each calendar year. The number of medical cannabis patient card holders reached 66,908 on March 1, 2023 which sets the patient cap at 1,003. This patient cap will remain in place until July 1, 2023 when it will be updated according to 1.5% of the number of medical cannabis patient card holders at that time.
- Allows a qualified medical provider (QMP), QMP employee, or medical cannabis pharmacy employee to submit an initial application, renewal application, or application payment on behalf of an individual applying for a medical cannabis card. (Effective 5/3/2023 but more time is necessary to implement this change in the EVS software).
- Allows a physician assistant (PA) who is qualified to specialize in mental health care to diagnose PTSD that becomes a qualifying condition for a patient.
- Allows the Compassionate Use Board (CUB) to restrict the ability of a patient younger than 21 or an adult without a qualifying condition to purchase a device or product intended for vaporization of medical cannabis.
- Allows DHHS to revoke a medical cannabis patient card if the recommending medical provider withdraws the provider's recommendation for medical cannabis.
- Allows certain patients to do their initial medical cannabis visit virtually (all others must do them in-person). This is for patients on hospice, those who have a terminal illness, or who are a resident of an assisted living facility or a nursing care facility.
- Clarifies that a medical cannabis pharmacy may engage in advertising and targeted marketing under certain circumstances.
- Requires that a medical cannabis pharmacy provide terpene profile information for the 5 highest terpene for the following medical cannabis products: cannabis flower, vaporizer cartridges, or concentrate (effective 1/1/2024).
- Allows an individual living in certain care facilities, who is in hospice, or who has a terminal illness to use an expired government issued photo identification to obtain a medical cannabis card. Other patients must have a current and valid government issued photo

identification or one that expired within the past 6 months.
- Consolidates criminal background check requirements for medical cannabis card guardians and caregivers so individuals with both cards are only required to complete 1 federal criminal background check.
- Requires that a pharmacy agent and courier agent who allow their agent registration to expire for more than 5 days reapply for an initial card and complete a criminal background check process again.
- Adds “family medicine” specialty to the list of medical specialties that members of the CUB may have as a requirement to become a CUB member.
- Expands the percentage of financial or voting interest in a medical cannabis pharmacy from 2% or greater to 10% or greater for an individual owner who must submit a federal criminal background check as part of an application for initial licensure or renewal of a medical cannabis pharmacy or medical cannabis courier license.

House Bill 230 Center for Medical Cannabis Research

- Creates the Center for Medical Cannabis Research (Center) within the University of Utah and establishes duties of the Center.
- Requires that the DHHS work with the Center to create guidance on medical cannabis use.
- Allows the Center to be funded by the DHHS Qualified Patient Enterprise Fund.

Senate Bills 40 & 38 Health and Human Services Recodification

- Recodifies and repeals portions of the Utah Health Code and the Utah Human Services Code due to the merging of the Department of Health and Department of Human Services to become a single agency: the Department of Health and Human Services.
- Example: 26-61a-201 becomes 26B-4-213.

Senate Bill 91 Medical Cannabis Regulation Amendments

- Allows the UDAF to ban ingredients found in medical cannabis upon recommendation of a public health authority, such as DHHS. Ingredients of concern include synthetic, or artificially derived cannabinoids that are not naturally found in cannabis plants.

- Modifies the labeling requirement for medical cannabis products to include mention of how cannabis may increase risk of mental illness.
- Raw cannabis or a cannabis product sold in a vaporizer cartridge must include a warning label that states:
    - "WARNING: Vaping of cannabis-derived products has been associated with lung injury."
    - "WARNING: Inhalation of cannabis smoke has been associated with lung injury."
- Requires heavy metal testing of medical cannabis vaporizer cartridges.
- Allows a cannabis production establishment to maintain a liquid cash account instead of a surety bond.
- Removes the cap on licenses for independent testing laboratories that test medical cannabis.

House Bill 227 Hemp Amendments

- Modifies the definition of a cannabinoid product allowed to be registered by UDAF so that the combined amount of total THC and any THC analog in a cannabinoid product does NOT exceed 10% of the total cannabinoid content, and does NOT exceed a total of THC and any THC analog that is greater than:
    - 5 milligrams per serving, and
    - 150 milligrams per package.
- Allows UDAF to require the registration of non-cannabinoid hemp producers, separating fiber and non-cannabinoid production from cannabinoid producers, and minimizing regulations on non-cannabinoid producers.
- Creates an industrial hemp producer registration process which will be at no-cost but allows UDAF to verify compliant material.
- Prohibits the sale of a cannabinoid product registered in the cannabinoids product program that contains THC or a THC analog to an individual who is not at least 21 years old.
- Allows a cannabinoid processor to produce products that may not be sold in the state. This change removed the statute that required producers to only manufacture products that could be registered in the state. It also allows a cannabinoid processor to make products and sell them out of state even if the product is not registerable in Utah as long as products remain under 0.3% total THC.

Medical cannabis legislation summary from 2023 session

Utah Department of Health & Human Services

- Requires a warning label about the possible health effects of inhaling cannabinoids products be added to all cannabinoid products that are designed to be inhaled, registered, and sold in Utah.
- Allows UDAF to keep funds gathered from fines associated with unlicensed establishments, unregistered products, and the sale of products to underage individuals.
- Authorizes UDAF to make rules:
    - To require UDAF testing of cannabinoid profiles of a cannabinoid product at the cannabinoid processor's expense which may include a Certificate of Analysis (CoA) from UDAF on cannabinoid profiles prior to product registration.
    - To ban or limit the presence of a substance if the UDAF receives a recommendation from the public health authority.