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MARTY J. JACKLEY
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August 14, 2023

RECEIVED

AUG 14 2023

SD Secretary of State

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

RE: Draft Attorney General's Statement (Proposed Initiated Measure
Repealing SDCL Ch. 34-20G, Medical Cannabis)

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated Measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed Attorney General's Statement for this Initiated Measure.

By copy of this letter, I am providing a copy of the Statement to the sponsor.

Very truly yours,

Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Filed this 14th day of
August 2023

SECRETARY OF STATE

Cc/encl: Travis Ismay
Reed Holwegner – Legislative Research Council

RECEIVED

AUG 14 2023

SD Secretary of State

INITIATED MEASURE

ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure Repealing South Dakota's Medical Marijuana Program.

Explanation:

In the 2020 General Election, the voters approved the creation of the South Dakota medical marijuana program. By approving that program, the voters legalized the possession, use, cultivation, manufacture, and sale of marijuana and marijuana products, under certain conditions, for medical purposes.

This initiated measure repeals South Dakota's medical marijuana program. If approved, that repeal makes all possession, use, cultivation, manufacture, and sale of marijuana and marijuana products a crime.

This initiated measure does not affect laws dealing with hemp. Marijuana remains illegal under Federal law.

Filed this 14th day of

August 2023

Monae L. Johnson

SECRETARY OF STATE

70162070000017672125

Attorney General

FROM THE DESK OF

JUN 25 2023

Travis Ismay

June 2, 2023

Office of the Attorney General
1302 E Hwy 14
Suite 1
Pierre SD 57501-8501

RECEIVED

AUG 14 2023

SD Secretary of State

Dear Attorney General Marty Jackey,

I have enclosed a ballot initiative to repeal the medical marijuana law in South Dakota. I would like to give a special thanks to the LRC and their staff for informing me on the proper procedure of constructing a ballot initiative. If there's anything that I need to adhere to or change, please contact me by email at tdismay@icloud.com. or call at (605)490-6010 I anxiously await your comments.

Sincerely yours,

Travis Ismay



Filed this 14th day of
August 2023



SECRETARY OF STATE

Initiative petition

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be REPEALED by the voters of the state of South Dakota at the next general election on November 5, 2024

Title: The REPEAL of 34-20G the medical cannabis law.

Section 1. That § 34-20G-1. be REPEALED:

—Terms used in this chapter mean:

- (1) "Allowable amount of cannabis,"
 - (a) Three ounces of cannabis or less;
 - (b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;
 - (c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and
 - (d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;
- (2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:
 - (a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;
 - (b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;
 - (c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-up care to the patient to monitor the medical use of cannabis; and
 - (d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;
- (3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;
- (4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;
- (5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;
- (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;
- (7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;
- (8) "Debilitating medical condition,"
 - (a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
 - (b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;
- (9) "Department," the Department of Health;
- (10) "Designated caregiver," an individual who:
 - (a) Is at least twenty-one years of age;
 - (b) Has agreed to assist with a qualifying patient's medical use of cannabis;
 - (c) Has not been convicted of a disqualifying felony offense; and
 - (d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;
- (11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;
- (12) "Edible cannabis products," any product that:
 - (a) Contains or is infused with cannabis or an extract thereof;
 - (b) Is intended for human consumption by oral ingestion; and
 - (c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;
- (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;
- (14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;
- (15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;
- (16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

- (17) ~~"Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;~~
- (18) ~~"Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;~~
- (19) ~~"Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:~~
- (a) ~~The cultivation of cannabis by a nonresident cardholder;~~
- (b) ~~The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or~~
- (c) ~~The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;~~
- (20) ~~"Nonresident cardholder," a person who:~~
- (a) ~~Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;~~
- (b) ~~Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;~~
- (c) ~~Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and~~
- (d) ~~Has submitted any documentation required by the department, and has received confirmation of registration;~~
- (21) ~~"Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;~~
- (22) ~~"Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;~~
- (23) ~~"Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;~~
- (24) ~~"Safety-sensitive job," any position with tasks or duties that an employer reasonably believes could:~~
- (a) ~~Cause the illness, injury, or death of an individual; or~~
- (b) ~~Result in serious property damage;~~
- (25) ~~"Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and~~
- (26) ~~"Written certification," a document dated and signed by a practitioner:~~
- (a) ~~Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;~~
- (b) ~~Affirming that the document is made in the course of a bona fide practitioner-patient relationship;~~
- (c) ~~Specifying the qualifying patient's debilitating medical condition; and~~
- (d) ~~Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43.~~

Section 2. That § 34-20G-2. be REPEALED:

A cardholder is not subject to arrest, prosecution, or penalty of any kind, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

- (1) ~~The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;~~
- (2) ~~Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;~~
- (3) ~~Transferring the cannabis to a testing facility;~~
- (4) ~~Compensating a dispensary or a testing facility for goods or services provided;~~
- (5) ~~Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or~~
- (6) ~~Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the person giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.~~

Section 3. That § 34-20G-3. be REPEALED:

No nonresident cardholder is subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for transporting, purchasing, possessing, or using medical cannabis in accordance with this chapter if the nonresident cardholder does not possess more than three ounces of cannabis and the quantity of cannabis products established by rules promulgated by the department under § 34-20G-72.

Section 4. That § 34-20G-4. be REPEALED:

There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis in accordance with this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis that does not exceed the allowable amount of cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptom associated with the qualifying patient's debilitating medical condition under this chapter.

Section 5. That § 34-20G-5. be REPEALED:

~~No practitioner is subject to arrest, prosecution, or penalty of any kind, or denied any right or privilege, including civil penalty or disciplinary action by the South Dakota Board of Medical and Osteopathic Examiners or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in this chapter prevents a practitioner from being sanctioned for:~~

- ~~(1) Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner-patient relationship; or~~
- ~~(2) Failing to properly evaluate a patient's medical condition.~~

Section 6. That § 34-20G-6. be REPEALED:

~~No person licensed by the state or any other governmental entity to engage in any profession, occupation, or other activity is subject to disciplinary action, denial of the rights and privileges of such license, or otherwise penalized by the licensing authority for lawfully engaging in any activity authorized under this chapter or providing any service to a person engaged in activity that is authorized by this chapter merely because that activity is prohibited by federal law.~~

Section 7. That § 34-20G-7. be REPEALED:

~~No person is subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- ~~(1) Providing or selling cannabis paraphernalia to a cardholder, nonresident cardholder, or to a medical cannabis establishment;~~
- ~~(2) Being in the presence or vicinity of the medical use of cannabis that is exempt from criminal or civil penalty by this chapter;~~
- ~~(3) Allowing the person's property to be used for an activity that is exempt from criminal or civil penalty by this chapter; or~~
- ~~(4) Assisting a registered qualifying patient with the act of using or administering cannabis.~~

Section 8. That § 34-20G-8. be REPEALED:

~~No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, transport, or store cannabis or cannabis products;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary.~~

Section 9. That § 34-20G-9. be REPEALED:

~~No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~
- ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or~~
- ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary.~~

Section 10. That § 34-20G-10. be REPEALED:

~~No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;~~
- ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis or cannabis products;~~
- ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;~~
- ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided; or~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary.~~

Section 11. That § 34-20G-11. be REPEALED:

~~No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;~~
- ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;~~
- ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~
- ~~(4) Receive compensation for services under this section.~~

Section 12. That § 34-20G-12. be REPEALED:

~~A cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction may sell or donate cannabis seeds to a cultivation facility in this state.~~

Section 13. That § 34-20G-13. be REPEALED:

~~Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under this chapter, or acts incidental to such use, may not be seized or forfeited. This chapter does not prevent the seizure or forfeiture of cannabis exceeding the amount allowed under this chapter, or prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used in accordance with this chapter.~~

Section 14. That § 34-20G-14. be REPEALED:

~~Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support a search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.~~

Section 15. That § 34-20G-15. be REPEALED:

~~For the purposes of state law, an activity related to medical cannabis is lawful as long as it is conducted in accordance with this chapter.~~

Section 16. That § 34-20G-16. be REPEALED:

~~No law enforcement officer employed by an agency that receives state or local government funds may 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 the federal Controlled Substances Act, 21 U.S.C. § 801 et seq., if the officer has reason to believe that the activity is in compliance with this chapter. No officer may expend any state or local resources, including the officer's time, to provide any information or logistical support related to any activity to any federal law enforcement authority or prosecuting entity.~~

Section 17. That § 34-20G-17. be REPEALED:

~~No contract entered into by a cardholder, a medical cannabis establishment, or medical cannabis establishment agent, or by a person who allows property to be used for an activity that is exempt from state criminal penalties by this chapter is unenforceable on the basis that activity related to cannabis is prohibited by federal law.~~

Section 18. That § 34-20G-18. be REPEALED:

~~This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in, the following conduct:~~

- ~~(1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;~~
- ~~(2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;~~
- ~~(2) Smoking or vaping cannabis;~~
- ~~(a) On any form of public transportation;~~
- ~~(b) In any public place or any place that is open to the public; or~~
- ~~(c) If under the age of twenty-one;~~
- ~~(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis; or~~
- ~~(5) Performing any safety-sensitive job under the influence of cannabis.~~

Section 19. That § 34-20G-19. be REPEALED:

~~A cardholder may not be refused enrollment by a school or a lease by a landlord, or otherwise be penalized by a school or landlord solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation. This section does not prevent a landlord from imposing reasonable restrictions on the medical use of cannabis by a cardholder who resides at the landlord's property.~~

Section 20. That § 34-20G-20. be REPEALED:

~~For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient's use of cannabis in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.~~

Section 21. That § 34-20G-21. be REPEALED:

~~No person may be denied custody of, visitation rights with, or parenting time with a minor solely because the person is a cardholder. There is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor. Nothing in this chapter supersedes or otherwise affects custody decisions, visitation rights, or parenting time based upon the best interests of the child.~~

Section 22. That § 34-20G-22. be REPEALED:

~~Except as provided in this chapter, a registered qualifying patient who uses cannabis for a medical purpose shall be afforded all the same rights under state and local law, as the person would be afforded if the person were solely prescribed a pharmaceutical medication, as it pertains to:~~

- ~~(1) Any interaction with a person's employer;~~
- ~~(2) Drug testing by a person's employer; or~~
- ~~(3) Drug testing required by any state or local law, agency, or government official.~~

Section 23. That § 34-20G-23. be REPEALED:

~~The rights provided by §§ 34-20G-19 to 34-20G-25, inclusive, do not apply to the extent that they conflict with an employer's obligations under federal law or regulation or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or regulation.~~

Section 24. That § 34-20G-24. be REPEALED:

~~No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. No employer is prohibited from establishing and enforcing a drug-free workplace policy that may include a drug testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy.~~

Section 25. That § 34-20G-25. be REPEALED:

~~No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.~~

Section 25.1. That § 34-20G-25.1. be REPEALED:

~~A health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, may adopt restrictions on the use of medical cannabis by a cardholder who resides at, is actively receiving treatment or care from, or is visiting the facility. The restrictions may include a provision that the facility will not store or maintain the cardholder's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for cardholders, and that the medical cannabis be used only in a place specified by the facility. Nothing in this section requires a facility to adopt such restrictions or requires a facility to allow the consumption of medical cannabis on the grounds of the facility.~~

~~No employee or agent of a facility may be subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a cardholder, or distribution of medical cannabis to a cardholder who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated.~~

Section 26. That § 34-20G-26. be REPEALED:

~~Any resident of this state may petition the department to add a serious medical condition or treatment to the list of debilitating medical conditions as defined by this chapter. The department shall consider a petition in the manner required by rules promulgated by the department pursuant to this chapter, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.~~

Section 27. That § 34-20G-27. be REPEALED:

~~Nothing in this chapter requires:~~

- ~~(1) A government medical assistance program or private health insurer, workers' compensation insurance carrier, or self-insured employer providing workers' compensation benefits, to reimburse a person for costs associated with the medical use of cannabis;~~
- ~~(2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke or vape cannabis on or in that property;~~
- ~~(3) A landlord to allow the cultivation of cannabis on the rental property; or~~
- ~~(4) A state or local government to allow any conduct otherwise permitted by this chapter within a building owned, leased, or occupied by the state or local government.~~

Section 28. That § 34-20G-28. be REPEALED:

~~Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.~~

Section 29. That § 34-20G-29. be REPEALED:

~~No later than November 19, 2021, the department shall issue registry identification cards to qualifying patients who submit the following, in accordance with rules promulgated by the department:~~

- ~~(1) A written certification issued by a practitioner within ninety days immediately preceding the date of an application;~~
- ~~(2) The application or renewal fee;~~

- ~~(3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;~~
- ~~(4) The name, address, and telephone number of the qualifying patient's practitioner;~~
- ~~(5) The name, address, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient;~~
- ~~(6) If more than one designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition;~~
- ~~(7) The name of no more than two dispensaries that the qualifying patient designates, if any; and~~
- ~~(8) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.~~

Section 30. That § 34-20G-30. be REPEALED:

~~If the qualifying patient is unable to submit the information required by § 34-20G-29 due to the person's age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.~~

Section 31. That § 34-20G-31. be REPEALED:

~~Except as provided in § 34-20G-32, the department shall:~~

- ~~(1) Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within fifteen days of receiving a completed application or renewal application;~~
- ~~(2) Issue registry identification cards to a qualifying patient and to a qualifying patient's designated caregiver, if any, within five days of approving the application or renewal. A designated caregiver shall have a registry identification card for each of the qualifying patients; and~~
- ~~(3) Enter the registry identification number of any dispensary the patient designates into the verification system.~~

Section 32. That § 34-20G-32. be REPEALED:

~~The department may conduct a background check of a designated caregiver in order to carry out the provisions of § 34-20G-31.~~

Section 33. That § 34-20G-33. be REPEALED:

~~The department may not issue a registry identification card to a qualifying patient who is younger than eighteen years of age unless:~~

- ~~(1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and~~
- ~~(2) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - ~~(a) Allow the qualifying patient's medical use of cannabis;~~
 - ~~(b) Serve as the qualifying patient's designated caregiver; and~~
 - ~~(c) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.~~~~

Section 34. That § 34-20G-34. be REPEALED:

~~The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:~~

- ~~(1) Does not provide the required information, fee, or materials;~~
- ~~(2) Does not meet the requirement to obtain a registry identification card as defined in § 34-20G-1;~~
- ~~(3) Previously had a registry identification card revoked; or~~
- ~~(4) Provided false information.~~

Section 35. That § 34-20G-35. be REPEALED:

~~The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:~~

- ~~(1) The designated caregiver does not meet the requirements of a designated caregiver as defined in § 34-20G-1;~~
- ~~(2) The applicant does not provide the information required;~~
- ~~(3) The designated caregiver previously had a registry identification card revoked; or~~
- ~~(4) The applicant or the designated caregiver provide false information.~~

Section 36. That § 34-20G-36. be REPEALED:

~~The department shall give written notice to the qualifying patient of the reason for:~~

- ~~(1) Denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver; or~~
- ~~(2) Revoking the registry identification card of the qualifying patient or the qualifying patient's designated caregiver.~~

Section 37. That § 34-20G-37. be REPEALED:

~~Denial of an application or renewal under § 34-20G-34 or 34-20G-35 is considered a final department action, subject to judicial review.~~

Section 42. That § 34-20G-42. be REPEALED:

~~A registry identification card shall contain all of the following:~~

- ~~(1) The name of the cardholder;~~
- ~~(2) A designation of whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(3) The date of issuance and expiration date of the registry identification card;~~
- ~~(4) A random ten digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;~~
- ~~(5) If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver will assist;~~
- ~~(6) A clear indication of whether the cardholder has been designated to cultivate cannabis plants for the qualifying patient's medical use;~~
- ~~(7) A photograph of the cardholder; and~~
- ~~(8) The phone number or website address where the card can be verified.~~

Section 43. That § 34-20G-43. be REPEALED:

~~The registry identification card of a qualifying patient and designated caregiver, if any, expires on the date noted by the practitioner in the qualifying patient's written certification, not to exceed one year after the date of issue.~~

Section 44. That § 34-20G-44. be REPEALED:

~~The department shall maintain a confidential list of:~~

- ~~(a) The name, address, phone number, and registry identification card number of each person to whom the department has issued a registry identification card; and~~
- ~~(b) The name, address, and phone number of a registered qualifying patient's parent or legal guardian if the patient is under age eighteen.~~

~~The list may not be combined or linked in any manner with any other list or database, nor may it be used for any purpose not provided for in this chapter.~~

Section 45. That § 34-20G-45. be REPEALED:

~~Within one hundred twenty days of July 1, 2021, the department shall establish a secure phone or web based verification system. The verification system shall allow law enforcement personnel and medical cannabis establishments to enter a registry identification number and determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:~~

- ~~(1) Whether the identification card is valid;~~
- ~~(2) The name of the cardholder;~~
- ~~(3) Whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(4) Whether the cardholder is permitted to cultivate cannabis plants;~~
- ~~(5) The registry identification number of any affiliated registered qualifying patient; and~~
- ~~(6) The registry identification of the qualifying patient's dispensary or dispensaries, if any.~~

Section 46. That § 34-20G-46. be REPEALED:

~~The following notifications are required:~~

- ~~(1) A registered qualifying patient shall notify the department of any change in the applicant's name or address, or if the patient ceases to have a debilitating medical condition, within ten days of the change;~~

- (2) ~~A registered designated caregiver shall notify the department of any change in the caregiver's name or address, or if the caregiver becomes aware the qualifying patient passed away, within ten days of the change;~~
- (3) ~~Before a registered qualifying patient changes a designated caregiver, the patient shall notify the department;~~
- (4) ~~If a registered qualifying patient changes a preference as to who may cultivate cannabis for the patient, the patient shall notify the department;~~
- (5) ~~If a cardholder loses a registry identification card, the cardholder shall notify the department within ten days of becoming aware the card has been lost; and~~
- (6) ~~Before a registered qualifying patient changes a designated dispensary, the patient shall notify the department.~~

Section 47. That § 34-20G-47. be REPEALED:

~~Any notification that a registered qualifying patient is required to make under this chapter may be made by the patient's designated caregiver if the qualifying patient is unable to make the notification due to age or medical condition.~~

Section 48. That § 34-20G-48. be REPEALED:

~~If a cardholder notifies the department of any item listed in § 34-20G-46, but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with a new random ten digit alphanumeric identification number within ten days of receiving the updated information and a twenty dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.~~

Section 49. That § 34-20G-49. be REPEALED:

~~If the registered qualifying patient's certifying practitioner notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card is void. However, the registered qualifying patient shall have fifteen days to dispose of or give away any cannabis in the registered qualifying patient's possession.~~

Section 50. That § 34-20G-50. be REPEALED:

~~A medical cannabis establishment shall notify the department within one business day of any theft or significant loss of cannabis.~~

Section 51. That § 34-20G-51. be REPEALED:

~~Except as provided in § 34-20G-18 and this section, a person may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and such defense is presumed valid where the evidence shows that:~~

- (1) ~~A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;~~
- (2) ~~The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, two flowering cannabis plants, two cannabis plants that are not flowering, and the cannabis produced by these plants;~~
- (2) ~~The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or tools, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and~~
- (4) ~~Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access.~~

Section 52. That § 34-20G-52. be REPEALED:

~~An affirmative defense and motion to dismiss shall fail if the prosecution proves that:~~

- (1) ~~The person had a registry identification card revoked for misconduct; or~~
- (2) ~~The purpose for the possession or cultivation of cannabis was not solely for palliative or therapeutic use by the person with a debilitating medical condition who raised the defense.~~

Section 53. That § 34-20G-53. be REPEALED:

~~A person is not required to possess a registry identification card to raise the affirmative defense set forth in § 34-20G-51.~~

Section 54. That § 34-20G-54. be REPEALED:

~~If a person demonstrates the person's medical purpose for using cannabis pursuant to this chapter, except as provided in § 34-20G-18, the person is not subject to the following for the person's use of cannabis for medical purposes:~~

- ~~(1) Disciplinary action by an occupational or professional licensing board or bureau; or~~
- ~~(2) Forfeiture of any interest in or right to any property other than cannabis.~~

Section 55. That § 34-20G-55. be REPEALED:

~~Not later than ninety days after receiving an application for a medical cannabis establishment, the department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit alphanumeric identification number if all of the following conditions are satisfied:~~

- ~~(1) The prospective medical cannabis establishment has submitted all of the following:
 - ~~(a) The application fee;~~
 - ~~(b) An application, including:~~
 - ~~(i) The legal name of the prospective medical cannabis establishment;~~
 - ~~(ii) The physical address of the prospective medical cannabis establishment that is not within one thousand feet of a public or private school existing before the date of the medical cannabis establishment application;~~
 - ~~(iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and~~
 - ~~(iv) Any additional information requested by the department;~~
 - ~~(c) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record-keeping and adequate security measures;~~
 - ~~(d) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment does not violate the restrictions;~~
 - ~~(e) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit;~~~~
- ~~(2) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked;~~
- ~~(3) None of the principal officers or board members is under twenty-one years of age; and~~
- ~~(4) At least one principal officer is a resident of this state.~~

Section 56. That § 34-20G-56. be REPEALED:

~~If a local government has enacted a numerical limit on the number of medical cannabis establishments in the locality and a greater number of applicants seek registration, the department shall solicit and consider input from the local government as to its preference for registration.~~

Section 57. That § 34-20G-57. be REPEALED:

~~The department shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical cannabis establishment if the establishment's registration certificate is not under suspension and has not been revoked.~~

Section 58. That § 34-20G-58. be REPEALED:

~~A local government may enact an ordinance not in conflict with this chapter, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality.~~

Section 58.1. That § 34-20G-58.1. be REPEALED:

~~For purposes of this chapter, any municipality that has not enacted a zoning ordinance pursuant to title 11 governing the location of medical cannabis establishments may enact an ordinance to regulate the place of operation of any cannabis-related establishment under this section.~~

~~A municipality may prohibit the location of a medical cannabis establishment in an area in a sensitive land use area and may establish reasonable setbacks. For purposes of this section, a sensitive land use area includes churches, schools, day cares, public service and recreation facilities, places frequented by people under age twenty one, and parks.~~

~~A municipality may require a minimum distance between cannabis related establishments.~~

Section 59. That § 34-20G-59. be REPEALED:

~~No local government may prohibit a dispensary, either expressly or through the enactment of an ordinance that makes the operation of the dispensary impracticable in the jurisdiction.~~

Section 60. That § 34-20G-60. be REPEALED:

~~A local government may require a medical cannabis establishment to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, permit, or registration.~~

Section 61. That § 34-20G-61. be REPEALED:

~~Each medical cannabis establishment shall conduct a background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the medical cannabis establishment.~~

Section 62. That § 34-20G-62. be REPEALED:

~~A medical cannabis establishment may not employ any person who:~~

- ~~(1) Was convicted of a disqualifying felony offense; or~~
- ~~(2) Is under twenty one years of age.~~

Section 63. That § 34-20G-63. be REPEALED:

~~Each medical cannabis establishment shall have operating documents that include procedures for the oversight of the medical cannabis establishment and procedures to ensure accurate record keeping.~~

Section 64. That § 34-20G-64. be REPEALED:

~~A medical cannabis establishment shall implement appropriate security measures designed to deter and prevent the theft of cannabis and unauthorized entrance into any area containing cannabis.~~

Section 65. That § 34-20G-65. be REPEALED:

~~All cultivation, harvesting, manufacturing and packaging of cannabis shall take place in a secure facility at a physical address provided to the department during the registration process. The secure facility may only be accessed by agents of the medical cannabis establishment, emergency personnel, and adults who are twenty one years of age and older and who are accompanied by a medical cannabis establishment agent.~~

Section 65.1. That § 34-20G-65.1. be REPEALED:

~~A sample of cannabis or cannabis products submitted to a testing facility must be collected by a designated representative of the testing facility. Testing is only required for cannabis and cannabis products intended for retail sale to a cardholder or nonresident cardholder.~~

Section 66. That § 34-20G-66. be REPEALED:

~~No medical cannabis establishment other than a cannabis product manufacturer may produce cannabis concentrates, cannabis extractions, or other cannabis products.~~

Section 67. That § 34-20G-67. be REPEALED:

~~A medical cannabis establishment may not share office space with or refer a patient to a practitioner.~~

Section 68. That § 34-20G-68. be REPEALED:

~~A medical cannabis establishment may not permit any person to consume cannabis on the property of a medical cannabis establishment.~~

Section 69. That § 34-20G-69. be REPEALED:

~~A medical cannabis establishment is subject to inspection by the department during business hours.~~

Section 70. That § 34-20G-70. be REPEALED:

~~Before cannabis may be dispensed to a cardholder or nonresident cardholder, a dispensary agent:~~

- ~~(1) Shall verify that the registry identification card or registration presented to the dispensary is valid;~~
- ~~(2) Shall verify the identity of the person by requiring the person to present a valid photographic identification document issued by this state, another state, tribe, or the federal government;~~
- ~~(3) May not dispense an amount of cannabis to a person that would cause the person to possess more than the allowable amount of cannabis; and~~
- ~~(4) Shall verify that the dispensary is the current dispensary that was designated by the cardholder or nonresident cardholder.~~

Section 71. That § 34-20G-71. be REPEALED:

~~A dispensary may not dispense more than three ounces of cannabis to a nonresident cardholder or a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. A dispensary shall ensure compliance with the limitation under this section by maintaining internal, confidential records that include records specifying how much cannabis is dispensed to a nonresident cardholder or registered qualifying patient and whether it is dispensed directly to a registered qualifying patient or to the designated caregiver.~~

Section 72. That § 34-20G-72. be REPEALED:

~~The department shall promulgate rules pursuant to chapter 1-26:~~

- ~~(1) Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;~~
- ~~(2) Establishing the form and content of registration and renewal applications submitted under this chapter;~~
- ~~(3) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:
 - ~~(a) The preference of the local government;~~
 - ~~(b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;~~
 - ~~(c) The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and~~
 - ~~(d) The business plan proposed by the applicant, that in the case of a cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;~~~~
- ~~(4) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;~~
- ~~(5) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:
 - ~~(a) Oversight requirements;~~
 - ~~(b) Record-keeping requirements;~~
 - ~~(c) Security requirements, including lighting, physical security, and alarm requirements;~~
 - ~~(d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;~~~~

- ~~(e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;~~
 - ~~(f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;~~
 - ~~(g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;~~
 - ~~(h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;~~
 - ~~(i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;~~
 - ~~(j) Requirements and procedures for the safe and accurate packaging, labeling, distribution, and tracking of medical cannabis;~~
 - ~~(k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and~~
 - ~~(l) Requirements for samples of cannabis and cannabis products submitted to testing facilities, including batch sizes to not exceed fifty pounds of cannabis intended for retail sale, batch sizes for homogenous cannabis products intended for retail sale, and procedures to ensure representative sampling;~~
 - ~~(6) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;~~
 - ~~(7) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:

 - ~~(a) The length of time it typically takes for a product to take effect;~~
 - ~~(b) Disclosing ingredients and possible allergens;~~
 - ~~(c) A nutritional fact panel; and~~
 - ~~(d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;~~~~
 - ~~(8) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:

 - ~~(a) A practitioner's statement confirming that the patient has a debilitating medical condition; and~~
 - ~~(b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;~~~~
 - ~~(9) Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and~~
 - ~~(10) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:

 - ~~(a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;~~
 - ~~(b) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter;~~
 - ~~(c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;~~
 - ~~(d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration; and~~
 - ~~(e) The department may accept donations from private sources to reduce application and renewal fees.~~~~
- ~~A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.~~

Section 73. That § 34-20G-73. be REPEALED:

~~A cardholder or medical cannabis establishment who fails to provide a notice required by this chapter is subject to a civil penalty of no more than one hundred fifty dollars. Any civil penalty collected shall be deposited in the state general fund.~~

Section 74. That § 34-20G-74. be REPEALED:

~~In addition to any other penalty under law, a medical cannabis establishment or an agent of a medical cannabis establishment who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony. A person convicted under this section may not continue to be affiliated with the medical cannabis establishment and is disqualified from any future affiliation with any medical cannabis establishment under this chapter.~~

Section 75. That § 34-20G-75. be REPEALED:

~~In addition to any other penalty under law, a cardholder or nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony.~~

Section 76. That § 34-20G-76. be REPEALED:

~~A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a Class 2 misdemeanor. The penalty is in addition to any other penalty that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by this chapter. If a person convicted of violating this section is a cardholder, the person is disqualified from being a cardholder under this chapter.~~

Section 77. That § 34-20G-77. be REPEALED:

~~A person who knowingly submits false records or documentation required by the department to certify a medical cannabis establishment under this chapter is guilty of Class 6 felony.~~

Section 78. That § 34-20G-78. be REPEALED:

~~A practitioner who knowingly refers patients to a medical cannabis establishment or to a designated caregiver, who advertises in a medical cannabis establishment, or who issues written certifications while holding a financial interest in a medical cannabis establishment is guilty of a Class 2 misdemeanor.~~

Section 79. That § 34-20G-79. be REPEALED:

~~It is a Class 2 misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained under this chapter.~~

Section 80. That § 34-20G-80. be REPEALED:

~~The department may on its own motion or on complaint, after investigation and opportunity for a public hearing at which the medical cannabis establishment has been afforded an opportunity to be heard, suspend or revoke a registration certificate for multiple negligent or knowing violations or for a serious and knowing violation by the registrant or any of its agents of this chapter.~~

Section 81. That § 34-20G-81. be REPEALED:

~~The department shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing, by mailing the same in writing to the medical cannabis establishment at the address on the registration certificate. A suspension may not be for a longer period than six months.~~

Section 82. That § 34-20G-82. be REPEALED:

~~A medical cannabis establishment may continue to possess cannabis during a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may continue to cultivate and possess cannabis plants during a suspension, but it may not dispense, transfer, or sell cannabis.~~

Section 83. That § 34-20G-83. be REPEALED:

~~The department shall immediately revoke the registry identification card of any cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under this chapter, and the cardholder is disqualified from being a cardholder under this chapter.~~

Section 84. That § 34-20G-84. be REPEALED:

~~The department may revoke the registry identification card of any cardholder who knowingly commits multiple unintentional violations or a serious knowing violation of this chapter.~~

Section 85. That § 34-20G-85. be REPEALED:

~~Revocation under § 34-20G-80, 34-20G-83, or 34-20G-84 is a final decision of the department subject to judicial review.~~

Section 86. That § 34-20G-86. be REPEALED:

~~Data in a registration application and supporting data submitted by a qualifying patient, designated caregiver, nonresident cardholder, or medical cannabis establishment, including data on designated caregiver or practitioner, is not a public record open to public access, inspection, or copying under chapter 1-27. All other public records concerning registered medical cannabis establishments are governed by chapter 1-27.~~

Section 87. That § 34-20G-87. be REPEALED:

~~Data kept or maintained by the department may not be used for any purpose not provided for in this chapter and may not be combined or linked in any manner with any other list or database.~~

Section 88. That § 34-20G-88. be REPEALED:

~~Confidential data or data that is not a public record kept or maintained by the department may only be disclosed as necessary to:~~

- ~~(1) Verify a registration certificate or registry identification card pursuant to this chapter;~~
- ~~(2) Notify law enforcement of an apparent criminal violation of this chapter or respond to law enforcement or prosecutorial officials engaged in the investigation or enforcement of the criminal provisions of this chapter;~~
- ~~(3) Notify state and local law enforcement about falsified or fraudulent information submitted for the purpose of obtaining or renewing a registry identification card;~~
- ~~(4) Notify the applicable licensing board if there is reason to believe that a practitioner provided a written certification and the department has reason to believe the practitioner otherwise violated the standard of care for evaluating a medical condition or respond to the board, if the board is seeking data relevant to an investigation of a person who holds a license issued by the board;~~
- ~~(5) Any judicial authority under grand jury subpoena or court order or equivalent judicial process for investigation of criminal, civil, or administrative violations related to the use of medical cannabis;~~
- ~~(6) An authorized employee of the department performing official duties associated with the medical cannabis program; or~~
- ~~(7) A practitioner to determine if a person in the practitioner's care engages in the medical use of cannabis so the practitioner may assess possible drug interactions or assess other medically necessary concerns.~~

Section 89. That § 34-20G-89. be REPEALED:

~~Any information kept or maintained by a medical cannabis establishment may only identify a cardholder by registry identification number and may not contain names or other personal identifying information.~~

Section 90. That § 34-20G-90. be REPEALED:

~~At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.~~

Section 91. That § 34-20G-91. be REPEALED:

~~Any department hard drive or other data recording media that is no longer in use and that contains cardholder information shall be destroyed.~~

Section 92. That § 34-20G-92. be REPEALED:

~~The Executive Board of the Legislative Research Council shall appoint an oversight committee comprised of one member of the House of Representatives, one member of the Senate, one Division of Criminal Investigation agent, one staff member from the Office of the Attorney General, two representatives of law enforcement, one representative from the department, one practitioner with experience in medical cannabis issues, one nurse, one board member or principal officer of a cannabis testing facility, one person with experience in policy development or implementation in the field of medical cannabis, and three qualifying patients.~~

Section 93. That § 34-20G-93, be REPEALED:

~~The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the Legislature and the department regarding:~~

- ~~(1) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;~~
- ~~(2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;~~
- ~~(3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;~~
- ~~(4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;~~
- ~~(5) Any recommended additions or revisions to the department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature; and~~
- ~~(6) Any research studies regarding health effects of medical cannabis for patients.~~

Section 94. That § 34-20G-94, be REPEALED:

~~The department shall report annually to the Legislature on the number of applications for registry identification cards received; the number of qualifying patients and designated caregivers approved; the number of registry identification cards revoked; the number of each type of medical cannabis establishment registered; the expenses incurred and revenues generated from the medical cannabis program; the number of patient cardholders by medical condition; qualifying patient demographics by age and sex; the number and specialty of the practitioners providing written certifications; the number of medical cannabis establishments by type; the number of licensing violations determined by the department; the impact of medical cannabis on public safety, public health, and behavioral health services; any other information regarding the effects of medical cannabis on the public; and any recommendations. The department may not include identifying information on a qualifying patient, designated caregiver, or practitioner in the report.~~

Section 95. That § 34-20G-95, be REPEALED:

~~The Department of Education and the department shall establish policy to allow students who are medical cannabis cardholders to have their medicine administered in school in accordance with their physician's recommendation. This policy shall be implemented the first day of the new school year following passage of this chapter. The departments shall implement substantively identical provisions to Colorado Revised Statute 22-1-119.3 as of January 1, 2019.~~

From: Karen Mesch <kimesch312@gmail.com>
Sent: Tuesday, August 1, 2023 8:23 AM
To: ATG Ballot Comments
Subject: [EXT] Objection to repeal Marijuana

Attorney General,

I am writing this email opposing the repeal of medical Marijuana in South Dakota.

I have a friend that has a legal Marijuana card because the "weed" controls his body from having seizures. He tried quitting Marijuana only to have 8 seizures from 4:10 am to 4:30 pm and ended up calling 911 because he had a high fever also. The ICU unit at avera hospital noted on their records that because of trying to stop smoking Marijuana, it was causing his system to have withdrawal seizures. He spent the memorial weekend in ICU.

He just isn't smoking Marijuana to get high, he has medical conditions of:

Seizures
Bi-polar
Anxiety

That he has to deal with every day along with taking his prescribed medications for these illnesses. His doctor is wanting him to continue with edibles or smoking to help control the above medical conditions.

I'm sure that the dispensaries that are in business aren't in favor of this repeal either.

I hope and would like you to object to this repeal and let the legal medical Marijuana in place that is helping hundreds of people in this wonderful state.

I come from Illinois that has medical & recreational Marijuana and don't have any problems with the way they run their state. I would advise you to contact the Attorney General of Illinois for advice on this subject.

I vote for not appealing medical Marijuana for people that medically need it.

Sincerely,

Karen Mesch
P O BOX 837
Yankton, SD 57078
847-915-2716

From: maureen shepherd <nanamoshep@hotmail.com>
Sent: Tuesday, August 1, 2023 8:28 AM
To: ATG Ballot Comments
Subject: [EXT] Cannabis

Dear Attorney General Marty Jackley,
I am asking you to please keep the medical cannabis in place.
I use it for my RA pain & anxiety. Three physicians have recommended I use it.
It truly helps & I rarely have to use narcotics for my pain.
I do not want to become dependent on narcotics.
Those of us that truly suffer real pain have found real relief!!!
Thank you,
Maureen Shepherd
Sent from my iPhone

From: Dylan <ddylan631@gmail.com>
Sent: Tuesday, August 1, 2023 12:26 PM
To: ATG Ballot Comments
Subject: [EXT] Repeal of MMJ

I'm not sure what the point of democracy is if our state continuously goes against the will of the people. If 70% voted it in there shouldn't be anything else to be said about the matter. Me and many of my republican colleagues see this as political suicide. The Republican Party will never get mine or any of my colleagues vote again. This is an absolute travesty and should be criminal. I urge you to axe this proposal as it just shows that the will of the people is not a concern of our governing body. -sincerely A concerned South Dakota citizen AND taxpayer

From: Peg Coutermarsh <jeromy22896@icloud.com>
Sent: Tuesday, August 1, 2023 7:13 PM
To: ATG Ballot Comments
Subject: Re: [EXT] Marijuana petition

Is there an answer?
Where do we sign?

Peg C

> On Jul 29, 2023, at 9:26 AM, Peg Coutermarsh <jeromy22896@icloud.com> wrote:
>
> Where do we sign?
> Do we have to get to your office for this?
>
> Peg Coutermarsh
> 605-939-1694 (leave message)

From: Scott Chaussee <605b420@gmail.com>
Sent: Tuesday, August 1, 2023 8:38 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Cannabis

Why ??? It passed with 70% of voters. This is Ridiculous !!! I'll be looking for a home in Minnesota if it gets repealed. I know I know ... big deal ... but it's NOT a Threat. Beaver creek is looking really good !!!

From: Roger Graffunder <roger356653@gmail.com>
Sent: Wednesday, August 2, 2023 8:00 AM
To: ATG Ballot Comments
Subject: [EXT]

What are you doing this is ridicules it helps alot of us with pain and medical purposes get real already and quit this nonsense

From: Heather Munro <munro.head40@gmail.com>
Sent: Wednesday, August 2, 2023 1:20 PM
To: ATG Ballot Comments
Subject: [EXT] Initiated Measure to repeal Medical Marijuana

The voters spoke and voted FOR the program PERIOD.

Heather Munro
Sent from my iPhone

From: Jesse Wyrick <j.beezwax69@gmail.com>
Sent: Wednesday, August 2, 2023 3:41 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana Recriminations

In general, it is unwise and counter productive to the financial interests of South Dakota to take profitable businesses away at a time of historic inflation. Gasoline is nearly \$5.00 per gallon in our state, and the credit rating of the United States has recently been downgraded.

Moreover, it is just plain wrong to take precious freedom away from people who have already succeeded in achieving that goal. Not to mention that thousands of South Dakota residents who suffer from medical problems that marijuana alleviates would be devastated by this proposal. Many may flee the state and resettle in Minnesota.

To those who claim we should respect the federal government, I would ask them why is the federal government allowed to have cocaine in the White House?

From: Chuck M <mcchuck47@gmail.com>
Sent: Thursday, August 3, 2023 8:39 AM
To: ATG Ballot Comments
Subject: [EXT] Medical cannabis

We voted for this amendment and it passed by 70%. The people of our state approved, one guy you had your chance to vote. Leave the bill alone. What happened to you supporting the people and the constitution? I will be voting democrat from now on.

Sent from my iPhone

From: Kelly Beinhorn <kellydanb@swiftel.net>
Sent: Friday, August 4, 2023 10:33 AM
To: ATG Ballot Comments
Subject: [EXT] Keep Medical Marijuana

South Dakota voted overwhelmingly for medical marijuana. It needs to be available to your constituents.

Kelly Beinhorn
236 Pine Ridge Rd
Brookings, SD 57006
605-690-0906
Sent from my iPhone

From: Travis Ismay <tdismay@icloud.com>
Sent: Friday, August 4, 2023 4:49 PM
To: ATG Ballot Comments
Subject: [EXT] Repeal of medical marijuana ballot initiative comment

I respectfully request that the first paragraph of the explanation be removed, "In the 2020 general election, the voters approve the creation of the South Dakota medical marijuana program. By approving that program, the voters legalized the possession, use, cultivation, manufacture, and sale of marijuana and marijuana products, under certain conditions, for medical purposes." This has nothing to do with the ballot initiative itself, only the approval of the sad law 34-20g that this initiative is attempting to repealed.

Thank you for your consideration.

From: Robert Prentice <bobp@mrattitudespeaks.com>
Sent: Friday, August 4, 2023 5:06 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Cannabis Comments

I have been greatly benefiting from SD Medical Cannabis over the last 2 years. It has saved my life. Both for sleep and now that I was diagnosed with Stage 4 Melanoma cancer I could not imagine life without Medical Cannabis. How dare anyone attempt to take my medicine away from me! Come and live in my shoes for a week or so and you would not want anyone taking away your medicine either.

Robert Prentice

Robert A.(Bob) Prentice
605-450-1955
bobp@mrattitudespeaks.com
www.mrattitudespeaks.com

From: Travis Ismay <tdismay@icloud.com>
Sent: Sunday, August 6, 2023 9:09 AM
To: ATG Ballot Comments
Subject: [EXT] Repeal of medical marijuana ballot initiative comment

I respectfully request that the first paragraph of the explanation be removed, "In the 2020 general election, the voters approve the creation of the South Dakota medical marijuana program. By approving that program, the voters legalized the possession, use, cultivation, manufacture, and sale of marijuana and marijuana products, under certain conditions, for medical purposes." This has nothing to do with the ballot initiative itself, only the approval of the sad law 34-20g that this initiative is attempting to repealed.

Thank you for your consideration.

From: Michael Norman <michaelnmaximo@gmail.com>
Sent: Sunday, August 6, 2023 4:40 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana repeal - Do not approve this. Approve recreational marijuana ballots.

Hello,

I am writing as a concerned citizen of South Dakota and want whomever is reading this to not allow this measure to advance.

Medical Marijuana has a strong, scientifically proven, evidence for its benefits, and repealing the program in South Dakota will cost the taxpayers too much to justify. Regardless of personal stances on Marijuana, the fact of the matter is, this will cost money to repeal and destroy all marijuana facilities and crops.

The tension with (worthless) law enforcement and government in South Dakota is at an all time high. The 11,000 patients are registered with the state as users. Granted, some may not be users at all, as evident with fraudulent case of Fred Deutsch illegally obtaining a medical card. I fear, as a non-user, that the state will weaponize this list of registered patients to benefit the for-profit prison system and use this list as evidence of the patient usage of marijuana. Even if the state manages to avoid this catastrophe, allowing this ballot to advance and have the potential to pass will create a new black markets that will put people in harms way. It's not rocket science that doing this will cause many patients to stock up on marijuana products to continue to use it, while simultaneously creating another black market.

Second, Travis Ismay is notoriously ill-informed about rights, and comically uninformed. A video exists where he yells at a city counsel meeting, and claimed that he could do whatever he wants.

The state has more incentive to approve a recreational marijuana ballot than to repeal the medical one. Recreational economic and safety benefits are too high to ignore.

I am appalled at how long it has taken for this counsel to approve the recreational ballot. Do better.

Tim Medsker
3213 W. Main St.
Suite 407
Rapid City, SD 57702

Attorney General

AUG - 2 2023

July 29th, 2023

RE: Repealing Medical Marijuana

Dear Attorney General Marty Jackley,

I am in favor of repealing medical marijuana via a ballot initiative. Years ago when I first heard of medical marijuana, I was in favor of allowing that as an option to those who were either in a situation where they were near certain death (*Prov. 31:6*) or to those who were in very serious pain, both of them as an alternative to legal prescribed drugs that also have side effects.

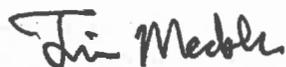
However, the simple fact that an article interviewing business owners regarding this proposed ballot initiative, where they state that there are over 80k in South Dakota who 'need' this is enough information to cite evidence that what was considered an alternative to a select few has become nearly 10% of our state's population. I certainly hope that 10% of our state's population is not in such a predicament, though I know that is not the case.

The case is that medical suddenly becomes anyone who can claim easily unproven or unmerited circumstances to a medical doctor who is in favor of writing medical marijuana cards to those who desire them. I know from people first hand, those who chose to use drugs, whether the state or culture pretends that they are harmless or not (I grew up 35+ years ago a DARE graduate), that anyone who wants a marijuana card can get one.

While the people of South Dakota may very well vote to continue allowing medical marijuana to be legal, the simple fact is the moral choice should be placed before the citizens, who now have clear evidence of the aftermath where they can decide, before their Creator, whether or not this is a measure that should continue to be law or if it should be repealed.

Simply looking to other states, where even harder drugs are becoming decriminalized shows the degradation of society. I myself stand against medical marijuana in its current form. Truly, if such a need was an option, it should only be that for those who have been diagnosed with terminal cancer or those who are already prescribed pain-killers that are regulated by the DEA.

Sincerely,



Tim Medsker
Rapid City, SD

Matt T
Attorney General

AUG - 4 2023

7/31/2023

Mr. Marty Jackley
Office of the Attorney General
1302 E. Hwy 14
Ste 1
Pierre, SD 57501-8501

Mr. Travis Ismay
19073 Gammom Rd.
Newell, SD 57760

Re; Repeal South Dakota's Medical Marijuana Program

Mr's Jackley and Ismay,

I would like to sign the initiated measure petition to repeal South Dakota's Medical Marijuana Program so please add my name to that list and/or let me know how I can add my signature to this important petition to save our families and rid SD'ans of this dangerous gateway drug.

Thank you,

Nancy Pickering
2314 17th Ave. S.
Brookings, SD 57006
NancyPick1207@gmail.com

From: Brent Schroeder <heclasd@gmail.com>
Sent: Thursday, July 27, 2023 5:49 PM
To: ATG Ballot Comments
Subject: [EXT]

The opinion of one person or a handful of people to try and dictate what the majority of the population voted for in my opinion are a bunch of under educated sore lovers.

From: Brent Schroeder <heclasd@gmail.com>
Sent: Thursday, July 27, 2023 5:56 PM
To: ATG Ballot Comments
Subject: [EXT]

I would have no problem having a dialog with someone with that ignorance. Just a person who proposed this? Must have a name or too much of a coward to identify one's self

From: lew culberson <lewisculberson@gmail.com>
Sent: Thursday, July 27, 2023 10:45 PM
To: ATG Ballot Comments
Subject: [EXT]

Wow! Let's step backwards.....Let's Not do the will of the people! So some fellow in Newell can be happy...? Really?.. Mississippi is more prepared for the future than We are! Let that sink in!! This Government has already gone against the will of the people one time! Really think y'all need to do it Twice?

From: Rachel Hagenbaugh <rachelmarie.hagenbaugh@gmail.com>
Sent: Friday, July 28, 2023 7:46 AM
To: ATG Ballot Comments
Subject: [EXT] Proposed Amendment

To my NOT elected public servant

The interest of the people includes having the freedom of incorporating natural medicines

As a daughter of a Marine, while stationed in North Carolina in the 1980s we were injured at Camp Lejeune by the water contamination.

As a mother of young children, I cannot take dozens of medications that make me sicker and kill my body like opiates.

My family relocated from Florida bc of South Dakota voters having faith in cannabis. I purchased a home bc of the vote.

I've been a cannabis patient for many years before coming and would have never considered or thought about moving to South Dakota otherwise.

South Dakota voters already decided that cannabis is what the people want.

You are supposed to be an advocate for South Dakotans not a political tool of the princess governor.

Stop trying to infringe on my right to my medication that was given to by our creator.

We need to be decriminalizing cannabis and release the people in jail.

Marijuana is a derogatory term made off the racism of Mexicans. Please use cannabis instead.

Our forefathers grew, used and smoked cannabis. We should too.

See you in court!

Rachel Hagenbaugh 🇺🇸

Subject:

FW: Contact Us Form

From: ATG Website Contact Form <webmaster@state.sd.us>

Sent: Friday, July 28, 2023 10:53 AM

To: ATG Help <ATGHelp@state.sd.us>

Subject: Contact Us Form

Contact us by Email Form

Name: Janet Olson

Department: ATGHelp@state.sd.us

Address:

City:

State:

Zip Code:

Phone: 307-413-0240

Email: deadwoodjanet@gmail.com

Message: I am a 68 years old with a 39 year history of Primary Progressive MS. Edible THC gummies helps me in many ways. I am less able to fall with increased stability, transfer from wheelchair to recliner, dress myself, do our laundry, clean our bathrooms, make my breakfast fast and lunch and increases my energy so very much. Why don't the voters let what is overwhelmingly approved by us? Uniformed SD politicians is why. Retired SDSU BSN.

From: kasey interpreterservicesinc.com <kasey@interpreterservicesinc.com>
Sent: Friday, July 28, 2023 11:09 AM
To: ATG Ballot Comments
Subject: [EXT] Amendment that would repeal South Dakota's medical marijuana program.

So you want drug dealers and laced drugs to continue to kill our people.???? That's what this would do. Nice. Educate yourselves. This is the dumbest waste of time ever. How about we keep SAFE, TESTED and highly regulated SAFE medical cannabis in our state and In our stores for our patients?!!! it's been voted. Stop wasting time and energy.

California was the first state to legalize medical marijuana in 1996

1996.... Come on SD! Seriously.

My dad's alive today because of this plant given to us by our creator. He sleeps now, helps his PTSD, pain and his diabetes. Educate yourselves people. Educate.

1996! We are in 2023!
Such a waste of time.

Educate.

Thank you!
Kasey Entwisle

From: Amanda Olson <irisrae0731@icloud.com>
Sent: Friday, July 28, 2023 11:15 AM
To: ATG Ballot Comments
Subject: [EXT] Medical marijuana

It would be a terrible idea to repeal medical marijuana. It has gotten many people off of opioids which is known to kill. Marijuana does not kill. 70 percent of voters wanted this. With all the distrust in the government this would make that distrust even worse. As a voter of South Dakota I urge you to not bring this repeal.

Sent from my iPhone

From: amber butler <amberblevel43@gmail.com>
Sent: Friday, July 28, 2023 11:34 AM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana

Hello,

In regards to Jackley attempting to remove medical cannabis in South Dakota. My name is Amber Butler. I have lived in SD my whole life. I am a current amputee and have gotten off all the prescriptions with bad side effects for the phantom pains by using medical marijuana. Is it Mr. Jackley's wish to have ex drug addicts put their sobriety at risk by using pain killer and nerve blockers? I have been clean and serene off hard drugs for 8 years. I don't drink. I work full time and I have to give credit to my mindset to medical marijuana. I am driven and continue to thrive and be alive gratefully because medical marijuana is the option I chose to medicate with. When my leg was amputated I was given fentanyl, oxy, Xanax, and gabapentin for pain management. I felt out of my body and anxious worrying I was going to get readdicted to drugs after all the work in my sobriety. So I opted to use marijuana and forego the nasty side effects of the painkillers and nerve blockers. Losing medical marijuana would create more addicts in our state and what happens when an addict gets taken off their prescription drugs? They turn to street drugs and turn to things they have to do to get their drugs. Crime will escalate. Legalize it recreationally already. It's 2023.

Thank you,
Amber Butler

From: Rheighna VanHooser <rheighna@gmail.com>
Sent: Friday, July 28, 2023 4:00 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana

Its honestly BS that marijuana is even up for debate. We voted on it fair and square and it passed. I work at a medical dispensary in Mitchell SD. I've seen so many benefits when it comes to patients using marijuana. It's helping Cancer Patients, helps people with severe pain, helps people get clean from hard drugs, steers people away from opioids (which there's an epidemic when it comes to opioids), helps people with mood disorders, helps people with PTSD, and helps many many other things.

My husband is originally from Colorado. Now imagine if we passed this recreationally. Last year my sister in law graduated from Color. They handed out \$300k in scholarships to her class alone for scholarships. There's also many other benefits from the taxes. SD could make meals at schools better and healthier, we could fix up our roads and parks, and even fix up our infrastructure. Just like Colorado.

We've also proven that marijuana isn't an issue. We're doing so so well. There's even safety measures on the bags/jars of marijuana making it virtually impossible for kiddos to get into if that's a worry. Even as an adult I struggle with trying to open the bags. Also banning marijuana isn't going to stop people from using it. People still sell it on the streets. Banning it will cause people to go back to the old ways of getting it. Which is going to a dealers house and picking it up. With that you run the risk of it being laced and putting people at risk of being around hard drugs. You'll also be making it so tax payers are paying for people being in prison over a plant. Which is also BS. Police should be focussing more on actual criminals and hard drugs. Again, they shouldn't be focussing on a plant! This is medicine for people. People should have the rights to access it safely.

From: Rheighna VanHooser <rheighna@gmail.com>
Sent: Friday, July 28, 2023 4:02 PM
To: ATG Ballot Comments
Subject: [EXT] Its honestly BS that marijuana is even up for debate. We voted on it fair and square and it passed. I work at a medical dispensary in Mitchell SD. I've seen so many benefits when it comes to patients using marijuana. It's helping Cancer Patients,...

From: Dawn Williams <dbtsgj42@gmail.com>
Sent: Friday, July 28, 2023 9:01 PM
To: ATG Ballot Comments
Subject: [EXT] Removal o the medical marijuana program

70% of the South Dakota voters voted in the medical marijuana program, for good reason. Medical marijuana works. I'm on track to get it myself, as I multiple medical problems and multiple of my medical problems cause me to have almost constant pain, one of which causes me to have a constant headache and or migraine. I go to a pain management center, and unfortunately because the "government" has stuck their noses in between the patient and Doctor care, opioids are very hard to prescribe and have put limits and hardships on those of us who benefit from them, but I am not able to get a stronger dose, because of the government.

I have friends with the same condition that causes my head to hurt all the time, which is called Chiari malformation type 1, basically it is a minor form of spina bifida, where my brain is herniated into the opening of my spinal column and creates pressure from the spinal fluid and moving correctly and causes pressure and head pain. Anyway these friends of mine use marijuana and swear by the help they get from using it.

Why do you want to remove medical marijuana that has so many medical benefits? Glaucoma, seizures, parkinson's, multiple sclerosis, chronic pain from arthritis and so many more.

I also struggle from a bad back, and already have had back surgery, I have bone spurs in both knees, fibromyalgia, Ehlers-Danlos Syndrome, which is very painful, there are 13 kinds, mine is hyper mobility and I am extra bendy, I have cracking and popping of my joints, and it hurts and a few more things.

The government needs to stay out of our healthcare and let the Doctor and patients figure out what is going to help without punishing either of us for doing what is best for the patient and doesn't punish the Doctors!

The government has put junkies/addicts and people who use their pain medication responsibly in the same group, which is not fair to those of us who get benefits AND use our medications responsibly, as I have NEVER ABUSED OR OVERUSED my opiate or any other controlled substance medication I have ever had.

I'm not looking to get high, I just barely can do what I have to, because I have to work through the pain, and sometimes I just can't do what I need to get done, because the government thinks they have to have their noses in my medical treatment. STOP, JUST STOP!

Sincerely,
Dawn Williams, a chronic pain patient

From: Mantis Toboggan <alwaysmantistoboggan@gmail.com>
Sent: Friday, July 28, 2023 9:45 PM
To: ATG Ballot Comments
Subject: [EXT]

Why did Kristy put her face on a Nascar?

From: Gayla Stewart <gaylastewart@icloud.com>
Sent: Friday, July 28, 2023 9:59 PM
To: ATG Ballot Comments
Subject: [EXT] Legalizing marijuana

In this day and age, it's ridiculous for it to still be illegal. Better to make alcohol illegal again

Sent from my iPhone

From: Clifford Ingham <cliffordingham1177@yahoo.com>
Sent: Saturday, July 29, 2023 4:45 AM
To: ATG Ballot Comments
Subject: [EXT] Are you stupid repealing Marijuana

You already got a giant Methamphetamine problem in South Dakota. And nothing for me and you has declined since the legalization of medical marijuana in South Dakota. You're going to take away so many jobs so many alternative ways of fuel clothing, food help with cancer I alone have seen three people beat cancer on their deathbed with Rick Simpson oil, I think you're an idiot. If you're going to try to get this repealed and make a bigger problem, get worse and then have the worst. Nothing phentermine problem or other drugs vamp up almost 200% after the repeal you're not a smart man are you don't do this you got a problem with what I've said you can email me back and say whatever but words don't hurt me , it's the action that has happened since medical marijuana has been legalized in the money saved in the crime gone down. I just don't know why you're doing this seems like you're like maybe a cartel boss or drug dealer yourself or know someone that is that you're in debt to. My name is Clifford Ingham .
Sent from my iPhone

From: Peg Coutermarsh <jeromy22896@icloud.com>
Sent: Saturday, July 29, 2023 9:27 AM
To: ATG Ballot Comments
Subject: [EXT] Marijuana petition

Where do we sign?
Do we have to get to your office for this?

Peg Coutermarsh
605-939-1694 (leave message)

From: Terry Johnson <outlook_B59E4372CB0D3AF9@outlook.com>
Sent: Saturday, July 29, 2023 1:35 PM
To: ATG Ballot Comments
Subject: [EXT] Keep Marijuana Legal

I need this more than you could understand. I suffer from Phantom Pain due to the loss of a limb. 24 years ago I lost a leg in a work accident and it took 21 years to find something that helps with it. Out of a 1-10 rating for pain, mine is a 20+. Gummies are the ONLY thing that has helped. CBD/THC. I will find it without your help, but I'm better off with your help.

Sent from [Mail](#) for Windows

From: Jacquelyn Chandler <jacquelynchandler74@gmail.com>
Sent: Saturday, July 29, 2023 5:04 PM
To: ATG Ballot Comments
Subject: [EXT] My comment

I will be voting No on the appeal What else do we need to do to keep marijuana for legal medical use.

Jacquelyn Chandler

From: Roseanna Renaud <renaud4395@gmail.com>
Sent: Saturday, July 29, 2023 6:25 PM
To: ATG Ballot Comments
Subject: [EXT] Repeal of Initiated Measure 26 Medical Marijuana

In 2020 South Dakota Voters spoke loud & clear when 70% of us voted for Initiated Measure 26 Medical Marijuana. Perhaps Mr Travis Ismay's attempt to smother the people's voice would be better served if he focused on real killers like fentanyl & opioids. The terminally ill & long suffering medical patients don't need this cruel saga I currently hold a South Dakota Medical Marijuana Card What would you have me do? Succumb to Big Pharma addiction?

Roseanna Renaud

4924 Shelby Ave #203

Rapid City, SD 57701

From: Joe Servin <joeservin1987@gmail.com>
Sent: Saturday, July 29, 2023 9:05 PM
To: ATG Ballot Comments
Subject: [EXT] Med marijuana

If the people vote to remove medical so be it. But an overwhelming majority voted to have it. I understand some people don't like it but so be it. It's the world we live in. Not everyone will be happy, but majority rules with most other laws. Why not this? Seems voting doesn't matter in this state. Seems as though if you have enough power in this state you can ignore what the majority of people want in this state. If a plant offends someone, they can leave or get over it.

Let people have their medicine and quit lining the pockets of the corrupt pharmaceutical companies. Thanks.

From: Naomi Young <ntwohawkyoung@gmail.com>
Sent: Saturday, July 29, 2023 12:13 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana

Marijuana is a naturally occurring medicine. It can help, and treat, many ailments with little to no side effects. The health benefits and welfare of people who use it medically far outweighs certain people's agendas. This is not a question of whether marijuana is safe, this is an issue of Big Pharma perpetuating the sale of medicine ie. Chemicals, at exorbitant costs financially, not to mention the opioid epidemic that clearly has caused serious damage to our communities. And, more so, an issue of lobbying and supporting Big Pharma to the detriment of the people at large. To go against what the majority of South Dakota citizens already voted on, is not only a slap in the face, but it is wrong according to our rights as citizens of this state. One has to ask themselves personally, where do I stand on this issue? I'm I against it because I believe it is harmful, or am I just selling myself to the highest bidder. I suggest people educate themselves about marijuana, and make a choice based on knowledge and facts, rather than political views and aspirations. And if you are a law maker in this state, base your decision keeping in mind the people you swore an oath to represent.

From: cory@dakotafreepress.com
Sent: Sunday, July 30, 2023 8:25 AM
To: ATG Ballot Comments
Subject: [EXT] Comment on draft explanation of Ismay's proposed initiative to repeal medical marijuana

I submit the following comments on the draft explanation of Travis Ismay's proposed initiative to repeal South Dakota's medical marijuana program:

1. The Attorney General's first sentence and the beginning of the second may bias voters against this initiative. That opening text reminds voters that they approved medical marijuana just three years ago. Mentioning the popular origin of the medical marijuana program does not enhance the understanding of the objective legal effect of the proposed repeal. It only serves to arouse the tendency voters have shown to get owly about efforts to repeal things they approve. For complete objectivity, the Attorney General should strike the first sentence and begin the explanation with, "**South Dakota law allows** the possession, use,...."
2. The second sentence buries the focus of the initiative and the current scope of South Dakota marijuana law by not mentioning medical marijuana until the end. It's a tricky sentence to fix, but I recommend moving "medical marijuana" up at least one step: "South Dakota law allows the possession, use, cultivation, manufacture, and sale of marijuana and marijuana products **for medical purposes, under certain conditions.**"
3. On that same note, "under certain conditions" adds little if any value to the explanation. Ismay's initiative doesn't fuss with any specific conditions; it simply wipes out the entire medical marijuana chapter. I recommend striking that phrase to keep the explanation simple.
4. The fourth sentence again buries the focus on medical marijuana by oddly referring to making "all" possession, use, cultivation, manufacture, and sale of marijuana and marijuana products a crime. While practically true, criminalizing all marijuana activities is not the technical meaning of the words on this petition. Consider: the 2024 Legislature could enact a law legalizing and strictly regulating research on recreational marijuana use. That law could come into effect during Session, while Ismay could be circulating his petition. Ismay's initiative would not repeal statutes allowing researchers to grow and use marijuana, so the Attorney General's explanation would be false. The Attorney General should thus revise the fourth sentence to strictly address the scope of this initiative: "If approved, that repeal makes **the** possession, use, cultivation, manufacture, and sale of marijuana and marijuana products **for medical purposes** a crime."
5. The last sentence about federal law is superfluous. The initiative cannot change federal law. The first paragraph of the draft explanation says medical marijuana is legal in South Dakota, so federal law on marijuana must not be relevant. Mentioning federal law only confuses the issue; for clarity, the Attorney General should strike this last sentence.

Cory Allen Heidelberger
Dakota Free Press
605-291-6459

From: ATG Website Contact Form <webmaster@state.sd.us>
Sent: Sunday, July 30, 2023 10:22 AM
To: ATG Help
Subject: Contact Us Form

Contact us by Email Form

Name: Kay

Department: ATGHelp@state.sd.us

Address:

City:

State:

Zip Code:

Phone: 6052510421

Email: yakatyak@gmail.com

Message: PLEASE DO NOT TAKE AWAY MEDICAL CANNIBIS ! Finally found something that helps control inflation which lowers my pain level. Much better than man made side effect laden narcotics!. You do not know after years of suffering pain at 71 years old I have some relief.

From: James Higgs <james.o.higgs@gmail.com>
Sent: Sunday, July 30, 2023 10:56 AM
To: ATG Ballot Comments
Subject: [EXT] medical marijuana

I have had my medicinal cannabis card for 2 weeks now. I have slept the best every night for the last two weeks than I can remember ever sleeping in my adult life. doctors are so afraid of handing out pain medication, this is the only thing I have found that relaxes my back enough to get a good nights sleep. please dont take this away from me. I know several people that use it for pain management, it will be detrimental if it is lost.

From: steve chambers <unionordie1@live.com>
Sent: Sunday, July 30, 2023 4:27 PM
Cc: ATG Ballot Comments
Subject: [EXT] Repealing medical marijuana

Dear AG

I am a registered voter in Pennington county and I knew exactly what I was voting for when medical marijuana was approved and even before that when I voted for medical and recreational marijuana. Voters approved of this and now wormy politicians are trying to change it because of thier personal views. Politicians work for the voters and when the politicians don't do what the voters say they should be fired and prosecuted for abusing the power the voters gave them

Thank you for listening and not approving this measure to repeal medical marijuana
Steven Anthony Chambers Jr

Sent from my T-Mobile 5G Device

From: Catherine Miller <cmiller-np@hotmail.com>
Sent: Sunday, July 30, 2023 5:12 PM
To: ATG Ballot Comments
Subject: [EXT] Travis Ismay's marijuana petition/ sister in law child porno charges

Hi.

I'm wondering how come we keep getting Travis Ismay on marijuana issues? Yet, there is no longer media coverage on the FBI arrest of his sister-in-law and her spouse, being arrested and charged for child pornography, in which they abused their own child for pornography.

Is that called a smoke screen? Why isn't there any more news on the Vale, SD child pornography ring involving, at least peripherally, the Travis Ismay family?

P.S. Travis Ismay address is Vale, SD, not Newell, SD.

I am not alone in wondering why one issue garners media coverage, yet the other, more heinous charge is going non/underreported.

Me thinks 🤔 it's time to get coverage on the child pornography ring, in Vale, SD, back in the headlines. As well as ways citizens can prevent child pornography and human trafficking.

The abusive language and behavior spilled by Travis Ismay and his cohorts to public officials at public meetings has necessitated law enforcement involvement. It is also recorded.

Do you see a pattern here? I do. Please get media coverage back on the child pornography charges occurring in Vale, SD. Check it out with the FBI. They made the arrests of Travis Ismay's sister-in-law and her spouse. Please consider reviewing the Butte County Commissioner tapes or speaking to anyone witnessing Ismay's and cohorts' behavior at public meetings.

As far as the marijuana issues goes, they say where there is smoke there is fire, but I believe the fire here is the abuse of children and child pornography, and the smoke is purposely taking people onto another issue.

And "someone" is taking them there rudely, profanely, and aggressively. For what purpose? Review the county commissioners meeting records if you doubt that assessment.

Please help us focus on what is truly important.

Kind Regards,
Catherine Miller RN NP

From: Brenan Willey <slipknot88312@gmail.com>
Sent: Sunday, July 30, 2023 6:23 PM
To: ATG Ballot Comments
Subject: [EXT]

South Dakota already has the worst ecomincs compared to all 49 states this I'll hurt our patients I vote no keep medical marjuina

From: ekeland1 <ekeland1@brookings.net>
Sent: Sunday, July 30, 2023 7:12 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana

Sent from my Verizon, Samsung Galaxy smartphone

AG of SD,

What is the reasoning behind overthrowing the will of the people of South Dakota? So you, the Governor and the Republican dominated legislature, now don't need to follow through with the will of the people's vote to end the archaic law forbidding medical use of marijuana. The medical community approve the drug to ease pain. Please reconsider your support for rescinding the law allowing the medical use!

Mark Ekeland
1901 Overlook Ridge Road
Brookings, SD 57006
605-691-4961

From: Travis Keller <tjkeller@yahoo.com>
Sent: Monday, July 31, 2023 12:29 AM
To: ATG Ballot Comments
Subject: [EXT] Public Comment: Ballot Draft Initiated Measure to Repeal SDCL Ch.34-20G, Medical Cannabis

Regarding the Ballot Draft Initiated Measure to Repeal SDCL Ch.34-20G, Medical Cannabis,

I find this measure to be counter productive and contradictory to the wishes of the citizens of South Dakota.

As already established, by the the citizens of South Dakota, via required processes of filing measures, collecting significantly more than the required signatures, getting the measure on a General Election Ballot, and by voters casting their vote overwhelmingly in favor of Medical Cannabis, a Medical Marijuana Program has rightfully become lawful in South Dakota.

This program is managed and governed in accordance with laws created and established by the State Legislature.

Consequently, any attempt to repeal the law is redundant and ignorant not only to the will of the people, as already established, but also to the proven medical benefit and treatment options available to Doctors and their patients.

South Dakota is not a pioneer in entering and establishing a Medical Marijuana Program but is rather falling in line with that of many other States of the Union. Consequently, the issue should be treated as such. Citizens and voters of not only South Dakota, but many other States as well, have already spoken regarding this issue.

A medical marijuana program, governed by State law, should continue in South Dakota.

Regards,
Travis Keller
Rapid City, SD

From: ATG Help
Sent: Monday, July 31, 2023 12:44 PM
To: ATG Ballot Comments
Subject: FW: Contact Us Form

From: ATG Website Contact Form <webmaster@state.sd.us>
Sent: Sunday, July 30, 2023 10:22 AM
To: ATG Help <ATGHelp@state.sd.us>
Subject: Contact Us Form

Contact us by Email Form

Name: Kay
Department: ATGHelp@state.sd.us
Address:
City:
State:
Zip Code:
Phone: 6052510421
Email: yakatyak@gmail.com

Message: PLEASE DO NOT TAKE AWAY MEDICAL CANNIBIS ! Finally found something that helps control inflation which lowers my pain level. Much better than man made side effect laden narcotics!. You do not know after years of suffering pain at 71 years old I have some relief.

From: teatroponic <elenazul.cisneros@gmail.com>
Sent: Monday, July 31, 2023 2:31 PM
To: ATG Ballot Comments
Subject: [EXT]

South Dakota prides itself on Freedom. However it has become clear for many years that freedom only applies to a select few.

Freedom by vote, a right in the United States, is being taken away by a man who has taken it upon himself to derail what the voters of South Dakota already voted for.

South Dakota is not a place for freedom rather it is a place for men to play games with the voices of the voting public by yelling louder, using buzz words and appealing to that one thing inside all men who want power hear, "Listen to me and me alone."

The Attorney General is bowing to this freely.

You might as well tell the rest of the country, "One mind only here is South Dakota."

It's not the Mount Rushmore state. It's the Red Hat , it's only a joke, think like us, state.

This is not America but a fascist state. You don't need to ban tik tok and China, the mentality of control is already here and your proving it.

From: Ellen Davis <ellie74@me.com>
Sent: Monday, July 31, 2023 7:49 PM
To: ATG Ballot Comments
Subject: [EXT] Medical Marijuana Repeal

This Medical marijuana has been so helpful to me. Repeal would be devastating to me personally and I am sure thousands of cardholders would agree.

I am soon to be 85, five years ago I fell and shattered my femur. Unfortunately, the surgeon made a terrible error and left the surgery with an impinged artery. The Dr. would not take responsibility for initiating blood flow study and insisted on leg being immobilized. After many open sores, surgery to correct the error which involved a bypass etc. Many problems including an orthopedic boot which must be worn to even transfer from bed. I was unable to sleep more than 3 or 4 hours at night for past five years until getting a medical card about a month ago. I use a cannabis gummy and this allows me to sleep a normal number of hours.

I am making progress in several areas of health because of it.

Thank you for your attention and please do not support repeal.

Ellen Davis
1201 Lewis
Vermillion 57069

Sent from my iPhone

From: Tracy Weiland <weiland.tracy@yahoo.com>
Sent: Monday, July 31, 2023 8:58 PM
To: ATG Ballot Comments
Subject: [EXT] Repeal

How far in the dark ages does this state want to be. Ignorance should not be a reason to repeal. The help provided to so many should speak volumes. Repeal and it says we endorse watching people suffer

Sent from Yahoo Mail on Android

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
<http://atg.sd.gov>

MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY ATTORNEY GENERAL

July 27, 2023

RECEIVED
JUL 27 2023
S.D. SEC. OF STATE

Honorable Monae L. Johnson
Secretary of State
500 E. Capitol
Pierre, SD 57501

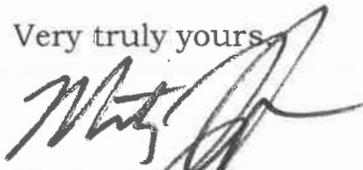
RE: Draft Attorney General's Statement (Proposed Initiated Measure
Repealing SDCL Ch. 34-20G, Medical Cannabis)

Dear Secretary Johnson,

Enclosed is a copy of a proposed Initiated Measure, in final form, that the sponsor submitted to this Office. In accordance with state law, I hereby file the enclosed *draft* Attorney General's Statement for the purposes of receiving public comment on the same.

By copy of this letter, I am providing a copy of the *draft* Statement to the sponsor.

Very truly yours,


Marty J. Jackley
ATTORNEY GENERAL

MJJ/dd
Enc.

Filed this 27th day of
July 2023


SECRETARY OF STATE

Cc/encl: Travis Ismay
Reed Holwegner – Legislative Research Council

RECEIVED
JUL 27 2023
S.D. SEC. OF STATE

INITIATED MEASURE

DRAFT ATTORNEY GENERAL'S STATEMENT

Title: An Initiated Measure Repealing South Dakota's Medical Marijuana Program.

Explanation:

In the 2020 General Election, the voters approved the creation of the South Dakota medical marijuana program. By approving that program, the voters legalized the possession, use, cultivation, manufacture, and sale of marijuana and marijuana products, under certain conditions, for medical purposes.

This initiated measure repeals South Dakota's medical marijuana program. If approved, that repeal makes all possession, use, cultivation, manufacture, and sale of marijuana and marijuana products a crime.

This initiated measure does not affect laws dealing with hemp. Marijuana remains illegal under Federal law.

Filed this 27th day of
July 2023

Monae Johnson

SECRETARY OF STATE

70162070000017672125

Attorney General

FROM THE DESK OF

JUN 25 2023

Travis Ismay

June 2, 2023

Office of the Attorney General
1302 E Hwy 14
Suite 1
Pierre SD 57501-8501

Dear Attorney General Marty Jackey,

I have enclosed a ballot initiative to repeal the medical marijuana law in South Dakota. I would like to give a special thanks to the LRC and their staff for informing me on the proper procedure of constructing a ballot initiative. If there's anything that I need to adhere to or change, please contact me by email at tdismay@icloud.com. or call at (605)490-6010 I anxiously await your comments.

Sincerely yours,

Travis Ismay



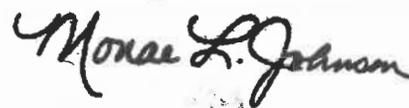
RECEIVED

JUL 27 2023

S.D. SEC. OF STATE

Filed this 27th day of

July 2023



SECRETARY OF STATE

Initiative petition

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be REPEALED by the voters of the state of South Dakota at the next general election on November 5, 2024

Title: The REPEAL of 34-20G the medical cannabis law.

Section 1. That § 34-20G-1. be REPEALED:

— Terms used in this chapter mean:

- (1) "Allowable amount of cannabis,"
 - (a) Three ounces of cannabis or less;
 - (b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;
 - (c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and
 - (d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;
- (2) "Bona fide practitioner-patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:
 - (a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;
 - (b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;
 - (c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-up care to the patient to monitor the medical use of cannabis; and
 - (d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;
- (3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;
- (4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;
- (5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;
- (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;
- (7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;
- (8) "Debilitating medical condition,"
 - (a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
 - (b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;
- (9) "Department," the Department of Health;
- (10) "Designated caregiver," an individual who:
 - (a) Is at least twenty-one years of age;
 - (b) Has agreed to assist with a qualifying patient's medical use of cannabis;
 - (c) Has not been convicted of a disqualifying felony offense; and
 - (d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;
- (11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;
- (12) "Edible cannabis products," any product that:
 - (a) Contains or is infused with cannabis or an extract thereof;
 - (b) Is intended for human consumption by oral ingestion; and
 - (c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;
- (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;
- (14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;
- (15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;
- (16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

- (17) ~~"Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;~~
- (18) ~~"Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;~~
- (19) ~~"Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:~~
- (a) ~~The cultivation of cannabis by a nonresident cardholder;~~
- (b) ~~The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or~~
- (c) ~~The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;~~
- (20) ~~"Nonresident cardholder," a person who:~~
- (a) ~~Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;~~
- (b) ~~Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;~~
- (c) ~~Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and~~
- (d) ~~Has submitted any documentation required by the department, and has received confirmation of registration;~~
- (21) ~~"Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;~~
- (22) ~~"Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;~~
- (23) ~~"Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;~~
- (24) ~~"Safety sensitive job," any position with tasks or duties that an employer reasonably believes could:~~
- (a) ~~Cause the illness, injury, or death of an individual; or~~
- (b) ~~Result in serious property damage;~~
- (25) ~~"Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and~~
- (26) ~~"Written certification," a document dated and signed by a practitioner:~~
- (a) ~~Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;~~
- (b) ~~Affirming that the document is made in the course of a bona fide practitioner-patient relationship;~~
- (c) ~~Specifying the qualifying patient's debilitating medical condition; and~~
- (d) ~~Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43.~~

Section 2. That § 34-20G-2. be REPEALED:

~~A cardholder is not subject to arrest, prosecution, or penalty of any kind, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- (1) ~~The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;~~
- (2) ~~Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;~~
- (3) ~~Transferring the cannabis to a testing facility;~~
- (4) ~~Compensating a dispensary or a testing facility for goods or services provided;~~
- (5) ~~Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or~~
- (6) ~~Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the person giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.~~

Section 3. That § 34-20G-3. be REPEALED:

~~No nonresident cardholder is subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for transporting, purchasing, possessing, or using medical cannabis in accordance with this chapter if the nonresident cardholder does not possess more than three ounces of cannabis and the quantity of cannabis products established by rules promulgated by the department under § 34-20G-72.~~

Section 4. That § 34-20G-4. be REPEALED:

~~There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis in accordance with this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis that does not exceed the allowable amount of cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptom associated with the qualifying patient's debilitating medical condition under this chapter.~~

Section 5. That § 34-20G-5. be REPEALED:

~~No practitioner is subject to arrest, prosecution, or penalty of any kind, or denied any right or privilege, including civil penalty or disciplinary action by the South Dakota Board of Medical and Osteopathic Examiners or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in this chapter prevents a practitioner from being sanctioned for:~~

- ~~(1) Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner-patient relationship; or~~
- ~~(2) Failing to properly evaluate a patient's medical condition.~~

Section 6. That § 34-20G-6. be REPEALED:

~~No person licensed by the state or any other governmental entity to engage in any profession, occupation, or other activity is subject to disciplinary action, denial of the rights and privileges of such license, or otherwise penalized by the licensing authority for lawfully engaging in any activity authorized under this chapter or providing any service to a person engaged in activity that is authorized by this chapter merely because that activity is prohibited by federal law.~~

Section 7. That § 34-20G-7. be REPEALED:

~~No person is subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- ~~(1) Providing or selling cannabis paraphernalia to a cardholder, nonresident cardholder, or to a medical cannabis establishment;~~
- ~~(2) Being in the presence or vicinity of the medical use of cannabis that is exempt from criminal or civil penalty by this chapter;~~
- ~~(3) Allowing the person's property to be used for an activity that is exempt from criminal or civil penalty by this chapter; or~~
- ~~(4) Assisting a registered qualifying patient with the act of using or administering cannabis.~~

Section 8. That § 34-20G-8. be REPEALED:

~~No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, transport, or store cannabis or cannabis products;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary.~~

Section 9. That § 34-20G-9. be REPEALED:

~~No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~
- ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or~~
- ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary.~~

Section 10. That § 34-20G-10. be REPEALED:

~~No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;~~
- ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis or cannabis products;~~
- ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;~~
- ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided; or~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary.~~

Section 11. That § 34-20G-11. be REPEALED:

~~No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;~~
- ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;~~
- ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~
- ~~(4) Receive compensation for services under this section.~~

Section 12. That § 34-20G-12. be REPEALED:

~~A cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction may sell or donate cannabis seeds to a cultivation facility in this state.~~

Section 13. That § 34-20G-13. be REPEALED:

~~Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under this chapter, or acts incidental to such use, may not be seized or forfeited. This chapter does not prevent the seizure or forfeiture of cannabis exceeding the amount allowed under this chapter, or prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used in accordance with this chapter.~~

Section 14. That § 34-20G-14. be REPEALED:

~~Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support a search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.~~

Section 15. That § 34-20G-15. be REPEALED:

~~For the purposes of state law, an activity related to medical cannabis is lawful as long as it is conducted in accordance with this chapter.~~

Section 16. That § 34-20G-16. be REPEALED:

~~No law enforcement officer employed by an agency that receives state or local government funds may 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 the federal Controlled Substances Act, 21 U.S.C. § 801 et seq., if the officer has reason to believe that the activity is in compliance with this chapter. No officer may expend any state or local resources, including the officer's time, to provide any information or logistical support related to any activity to any federal law enforcement authority or prosecuting entity.~~

Section 17. That § 34-20G-17. be REPEALED:

~~No contract entered into by a cardholder, a medical cannabis establishment, or medical cannabis establishment agent, or by a person who allows property to be used for an activity that is exempt from state criminal penalties by this chapter is unenforceable on the basis that activity related to cannabis is prohibited by federal law.~~

Section 18. That § 34-20G-18. be REPEALED:

~~This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in, the following conduct:~~

- ~~(1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;~~
- ~~(2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;~~
- ~~(3) Smoking or vaping cannabis:
 - ~~(a) On any form of public transportation;~~
 - ~~(b) In any public place or any place that is open to the public; or~~
 - ~~(c) If under the age of twenty-one;~~~~
- ~~(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis; or~~
- ~~(5) Performing any safety sensitive job under the influence of cannabis.~~

Section 19. That § 34-20G-19. be REPEALED:

~~A cardholder may not be refused enrollment by a school or a lease by a landlord, or otherwise be penalized by a school or landlord solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulation. This section does not prevent a landlord from imposing reasonable restrictions on the medical use of cannabis by a cardholder who resides at the landlord's property.~~

Section 20. That § 34-20G-20. be REPEALED:

~~For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient's use of cannabis in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.~~

Section 21. That § 34-20G-21. be REPEALED:

~~No person may be denied custody of, visitation rights with, or parenting time with a minor solely because the person is a cardholder. There is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor. Nothing in this chapter supersedes or otherwise affects custody decisions, visitation rights, or parenting time based upon the best interests of the child.~~

Section 22. That § 34-20G-22. be REPEALED:

~~Except as provided in this chapter, a registered qualifying patient who uses cannabis for a medical purpose shall be afforded all the same rights under state and local law, as the person would be afforded if the person were solely prescribed a pharmaceutical medication, as it pertains to:~~

- ~~(1) Any interaction with a person's employer;~~
- ~~(2) Drug testing by a person's employer; or~~
- ~~(3) Drug testing required by any state or local law, agency, or government official.~~

Section 23. That § 34-20G-23. be REPEALED:

~~The rights provided by §§ 34-20G-19 to 34-20G-25, inclusive, do not apply to the extent that they conflict with an employer's obligations under federal law or regulation or to the extent that they would disqualify an employer from a monetary or licensing related benefit under federal law or regulation.~~

Section 24. That § 34-20G-24. be REPEALED:

~~No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. No employer is prohibited from establishing and enforcing a drug-free workplace policy that may include a drug testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy.~~

Section 25. That § 34-20G-25. be REPEALED:

~~No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.~~

Section 25.1. That § 34-20G-25.1. be REPEALED:

~~A health care facility, as defined in § 34-12-1-1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, may adopt restrictions on the use of medical cannabis by a cardholder who resides at, is actively receiving treatment or care from, or is visiting the facility. The restrictions may include a provision that the facility will not store or maintain the cardholder's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for cardholders, and that the medical cannabis be used only in a place specified by the facility. Nothing in this section requires a facility to adopt such restrictions or requires a facility to allow the consumption of medical cannabis on the grounds of the facility.~~

~~No employee or agent of a facility may be subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a cardholder, or distribution of medical cannabis to a cardholder who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated.~~

Section 26. That § 34-20G-26. be REPEALED:

~~Any resident of this state may petition the department to add a serious medical condition or treatment to the list of debilitating medical conditions as defined by this chapter. The department shall consider a petition in the manner required by rules promulgated by the department pursuant to this chapter, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.~~

Section 27. That § 34-20G-27. be REPEALED:

~~Nothing in this chapter requires:~~

- ~~(1) A government medical assistance program or private health insurer, workers' compensation insurance carrier, or self-insured employer providing workers' compensation benefits, to reimburse a person for costs associated with the medical use of cannabis;~~
- ~~(2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke or vape cannabis on or in that property;~~
- ~~(3) A landlord to allow the cultivation of cannabis on the rental property; or~~
- ~~(4) A state or local government to allow any conduct otherwise permitted by this chapter within a building owned, leased, or occupied by the state or local government.~~

Section 28. That § 34-20G-28. be REPEALED:

~~Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.~~

Section 29. That § 34-20G-29. be REPEALED:

~~No later than November 18, 2021, the department shall issue registry identification cards to qualifying patients who submit the following, in accordance with rules promulgated by the department:~~

- ~~(1) A written certification issued by a practitioner within ninety days immediately preceding the date of an application;~~
- ~~(2) The application or renewal fee;~~

- ~~(3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;~~
- ~~(4) The name, address, and telephone number of the qualifying patient's practitioner;~~
- ~~(5) The name, address, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient;~~
- ~~(6) If more than one designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition;~~
- ~~(7) The name of no more than two dispensaries that the qualifying patient designates, if any; and~~
- ~~(8) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.~~

Section 30. That § 34-20G-30. be REPEALED:

~~If the qualifying patient is unable to submit the information required by § 34-20G-29 due to the person's age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.~~

Section 31. That § 34-20G-31. be REPEALED:

~~Except as provided in § 34-20G-32, the department shall:~~

- ~~(1) Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within fifteen days of receiving a completed application or renewal application;~~
- ~~(2) Issue registry identification cards to a qualifying patient and to a qualifying patient's designated caregivers, if any, within five days of approving the application or renewal. A designated caregiver shall have a registry identification card for each of the qualifying patients; and~~
- ~~(3) Enter the registry identification number of any dispensary the patient designates into the verification system.~~

Section 32. That § 34-20G-32. be REPEALED:

~~The department may conduct a background check of a designated caregiver in order to carry out the provisions of § 34-20G-31.~~

Section 33. That § 34-20G-33. be REPEALED:

~~The department may not issue a registry identification card to a qualifying patient who is younger than eighteen years of age unless:~~

- ~~(1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and~~
- ~~(2) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - ~~(a) Allow the qualifying patient's medical use of cannabis;~~
 - ~~(b) Serve as the qualifying patient's designated caregiver; and~~
 - ~~(c) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.~~~~

Section 34. That § 34-20G-34. be REPEALED:

~~The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:~~

- ~~(1) Does not provide the required information, fee, or materials;~~
- ~~(2) Does not meet the requirement to obtain a registry identification card as defined in § 34-20G-1;~~
- ~~(3) Previously had a registry identification card revoked; or~~
- ~~(4) Provided false information.~~

Section 35. That § 34-20G-35. be REPEALED:

~~The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:~~

- ~~(1) The designated caregiver does not meet the requirements of a designated caregiver as defined in § 34-20G-1;~~
- ~~(2) The applicant does not provide the information required;~~
- ~~(3) The designated caregiver previously had a registry identification card revoked; or~~
- ~~(4) The applicant or the designated caregiver provide false information.~~

Section 36. That § 34-20G-36. be REPEALED:

~~The department shall give written notice to the qualifying patient of the reason for:~~

- ~~(1) Denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver; or~~
- ~~(2) Revoking the registry identification card of the qualifying patient or the qualifying patient's designated caregiver.~~

Section 37. That § 34-20G-37. be REPEALED:

~~Denial of an application or renewal under § 34-20G-34 or 34-20G-35 is considered a final department action, subject to judicial review.~~

Section 42. That § 34-20G-42. be REPEALED:

~~A registry identification card shall contain all of the following:~~

- ~~(1) The name of the cardholder;~~
- ~~(2) A designation of whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(3) The date of issuance and expiration date of the registry identification card;~~
- ~~(4) A random ten-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;~~
- ~~(5) If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver will assist;~~
- ~~(6) A clear indication of whether the cardholder has been designated to cultivate cannabis plants for the qualifying patient's medical use;~~
- ~~(7) A photograph of the cardholder; and~~
- ~~(8) The phone number or website address where the card can be verified.~~

Section 43. That § 34-20G-43. be REPEALED:

~~The registry identification card of a qualifying patient and designated caregiver, if any, expires on the date noted by the practitioner in the qualifying patient's written certification, not to exceed one year after the date of issue.~~

Section 44. That § 34-20G-44. be REPEALED:

~~The department shall maintain a confidential list of:~~

- ~~(a) The name, address, phone number, and registry identification card number of each person to whom the department has issued a registry identification card; and~~
 - ~~(b) The name, address, and phone number of a registered qualifying patient's parent or legal guardian if the patient is under age eighteen.~~
- ~~The list may not be combined or linked in any manner with any other list or database, nor may it be used for any purpose not provided for in this chapter.~~

Section 45. That § 34-20G-45. be REPEALED:

~~Within one hundred twenty days of July 1, 2021, the department shall establish a secure phone or web-based verification system. The verification system shall allow law enforcement personnel and medical cannabis establishments to enter a registry identification number and determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:~~

- ~~(1) Whether the identification card is valid;~~
- ~~(2) The name of the cardholder;~~
- ~~(3) Whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(4) Whether the cardholder is permitted to cultivate cannabis plants;~~
- ~~(5) The registry identification number of any affiliated registered qualifying patient; and~~
- ~~(6) The registry identification of the qualifying patient's dispensary or dispensaries, if any.~~

Section 46. That § 34-20G-46. be REPEALED:

~~The following notifications are required:~~

- ~~(1) A registered qualifying patient shall notify the department of any change in the applicant's name or address, or if the patient ceases to have a debilitating medical condition, within ten days of the change;~~

- ~~(2) A registered designated caregiver shall notify the department of any change in the caregiver's name or address, or if the caregiver becomes aware the qualifying patient passed away, within ten days of the change;~~
- ~~(3) Before a registered qualifying patient changes a designated caregiver, the patient shall notify the department;~~
- ~~(4) If a registered qualifying patient changes a preference as to who may cultivate cannabis for the patient, the patient shall notify the department;~~
- ~~(5) If a cardholder loses a registry identification card, the cardholder shall notify the department within ten days of becoming aware the card has been lost; and~~
- ~~(6) Before a registered qualifying patient changes a designated dispensary, the patient shall notify the department.~~

Section 47. That § 34-20G-47. be REPEALED:

~~Any notification that a registered qualifying patient is required to make under this chapter may be made by the patient's designated caregiver if the qualifying patient is unable to make the notification due to age or medical condition.~~

Section 48. That § 34-20G-48. be REPEALED:

~~If a cardholder notifies the department of any item listed in § 34-20G-46, but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with a new random ten digit alphanumeric identification number within ten days of receiving the updated information and a twenty dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.~~

Section 49. That § 34-20G-49. be REPEALED:

~~If the registered qualifying patient's certifying practitioner notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card is void. However, the registered qualifying patient shall have fifteen days to dispose of or give away any cannabis in the registered qualifying patient's possession.~~

Section 50. That § 34-20G-50. be REPEALED:

~~A medical cannabis establishment shall notify the department within one business day of any theft or significant loss of cannabis.~~

Section 51. That § 34-20G-51. be REPEALED:

~~Except as provided in § 34-20G-18 and this section, a person may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and such defense is presumed valid where the evidence shows that:~~

- ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;~~
- ~~(2) The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, two flowering cannabis plants, two cannabis plants that are not flowering, and the cannabis produced by those plants;~~
- ~~(3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and~~
- ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access.~~

Section 52. That § 34-20G-52. be REPEALED:

~~An affirmative defense and motion to dismiss shall fail if the prosecution proves that:~~

- ~~(1) The person had a registry identification card revoked for misconduct; or~~
- ~~(2) The purpose for the possession or cultivation of cannabis was not solely for palliative or therapeutic use by the person with a debilitating medical condition who raised the defense.~~

Section 53. That § 34-20G-53. be REPEALED:

~~A person is not required to possess a registry identification card to raise the affirmative defense set forth in § 34-20G-51.~~

Section 54. That § 34-20G-54. be REPEALED:

~~If a person demonstrates the person's medical purpose for using cannabis pursuant to this chapter, except as provided in § 34-20G-18, the person is not subject to the following for the person's use of cannabis for medical purposes:~~

- ~~(1) Disciplinary action by an occupational or professional licensing board or bureau; or~~
- ~~(2) Forfeiture of any interest in or right to any property other than cannabis.~~

Section 55. That § 34-20G-55. be REPEALED:

~~Not later than ninety days after receiving an application for a medical cannabis establishment, the department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten digit alphanumeric identification number if all of the following conditions are satisfied:~~

- ~~(1) The prospective medical cannabis establishment has submitted all of the following:
 - ~~(a) The application fee;~~
 - ~~(b) An application, including:
 - ~~(i) The legal name of the prospective medical cannabis establishment;~~
 - ~~(ii) The physical address of the prospective medical cannabis establishment that is not within one thousand feet of a public or private school existing before the date of the medical cannabis establishment application;~~
 - ~~(iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and~~
 - ~~(iv) Any additional information requested by the department;~~
 - ~~(v) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record keeping and adequate security measures;~~~~
 - ~~(c) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment does not violate the restrictions;~~
 - ~~(d) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit;~~~~
- ~~(2) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked;~~
- ~~(3) None of the principal officers or board members is under twenty one years of age; and~~
- ~~(4) At least one principal officer is a resident of this state.~~

Section 56. That § 34-20G-56. be REPEALED:

~~If a local government has enacted a numerical limit on the number of medical cannabis establishments in the locality and a greater number of applicants seek registration, the department shall solicit and consider input from the local government as to its preference for registration.~~

Section 57. That § 34-20G-57. be REPEALED:

~~The department shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical cannabis establishment if the establishment's registration certificate is not under suspension and has not been revoked.~~

Section 58. That § 34-20G-58. be REPEALED:

~~A local government may enact an ordinance not in conflict with this chapter, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality.~~

Section 58.1. That § 34-20G-58.1. be REPEALED:

~~For purposes of this chapter, any municipality that has not enacted a zoning ordinance pursuant to title 11 governing the location of medical cannabis establishments may enact an ordinance to regulate the place of operation of any cannabis-related establishment under this section.~~

~~A municipality may prohibit the location of a medical cannabis establishment in an area in a sensitive land use area and may establish reasonable setbacks. For purposes of this section, a sensitive land use area includes churches, schools, day cares, public service and recreation facilities, places frequented by people under age twenty one, and parks.~~

~~A municipality may require a minimum distance between cannabis-related establishments.~~

Section 59. That § 34-20G-59. be REPEALED:

~~No local government may prohibit a dispensary, either expressly or through the enactment of an ordinance that makes the operation of the dispensary impracticable in the jurisdiction.~~

Section 60. That § 34-20G-60. be REPEALED:

~~A local government may require a medical cannabis establishment to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, permit, or registration.~~

Section 61. That § 34-20G-61. be REPEALED:

~~Each medical cannabis establishment shall conduct a background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the medical cannabis establishment.~~

Section 62. That § 34-20G-62. be REPEALED:

~~A medical cannabis establishment may not employ any person who:~~

- ~~(1) Was convicted of a disqualifying felony offense; or~~
- ~~(2) Is under twenty one years of age.~~

Section 63. That § 34-20G-63. be REPEALED:

~~Each medical cannabis establishment shall have operating documents that include procedures for the oversight of the medical cannabis establishment and procedures to ensure accurate record keeping.~~

Section 64. That § 34-20G-64. be REPEALED:

~~A medical cannabis establishment shall implement appropriate security measures designed to deter and prevent the theft of cannabis and unauthorized entrance into any area containing cannabis.~~

Section 65. That § 34-20G-65. be REPEALED:

~~All cultivation, harvesting, manufacturing and packaging of cannabis shall take place in a secure facility at a physical address provided to the department during the registration process. The secure facility may only be accessed by agents of the medical cannabis establishment, emergency personnel, and adults who are twenty one years of age and older and who are accompanied by a medical cannabis establishment agent.~~

Section 65.1. That § 34-20G-65.1. be REPEALED:

~~A sample of cannabis or cannabis products submitted to a testing facility must be collected by a designated representative of the testing facility. Testing is only required for cannabis and cannabis products intended for retail sale to a cardholder or nonresident cardholder.~~

Section 66. That § 34-20G-66. be REPEALED:

~~No medical cannabis establishment other than a cannabis product manufacturer may produce cannabis concentrates, cannabis extractions, or other cannabis products.~~

Section 67. That § 34-20G-67. be REPEALED:

~~A medical cannabis establishment may not share office space with or refer a patient to a practitioner.~~

Section 68. That § 34-20G-68. be REPEALED:

~~A medical cannabis establishment may not permit any person to consume cannabis on the property of a medical cannabis establishment.~~

Section 69. That § 34-20G-69. be REPEALED:

~~A medical cannabis establishment is subject to inspection by the department during business hours.~~

Section 70. That § 34-20G-70. be REPEALED:

~~Before cannabis may be dispensed to a cardholder or nonresident cardholder, a dispensary agent:~~

- ~~(1) Shall verify that the registry identification card or registration presented to the dispensary is valid;~~
- ~~(2) Shall verify the identity of the person by requiring the person to present a valid photographic identification document issued by this state, another state, tribe, or the federal government;~~
- ~~(3) May not dispense an amount of cannabis to a person that would cause the person to possess more than the allowable amount of cannabis; and~~
- ~~(4) Shall verify that the dispensary is the current dispensary that was designated by the cardholder or nonresident cardholder.~~

Section 71. That § 34-20G-71. be REPEALED:

~~A dispensary may not dispense more than three ounces of cannabis to a nonresident cardholder or a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. A dispensary shall ensure compliance with the limitation under this section by maintaining internal, confidential records that include records specifying how much cannabis is dispensed to a nonresident cardholder or registered qualifying patient and whether it is dispensed directly to a registered qualifying patient or to the designated caregiver.~~

Section 72. That § 34-20G-72. be REPEALED:

~~The department shall promulgate rules pursuant to chapter 1-26:~~

- ~~(1) Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;~~
- ~~(2) Establishing the form and content of registration and renewal applications submitted under this chapter;~~
- ~~(3) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:
 - ~~(a) The preference of the local government;~~
 - ~~(b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;~~
 - ~~(c) The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and~~
 - ~~(d) The business plan proposed by the applicant, that in the case of a cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;~~~~
- ~~(4) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;~~
- ~~(5) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:
 - ~~(a) Oversight requirements;~~
 - ~~(b) Record-keeping requirements;~~
 - ~~(c) Security requirements, including lighting, physical security, and alarm requirements;~~
 - ~~(d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;~~~~

- (e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;
 - (f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;
 - (g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;
 - (h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;
 - (i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;
 - (j) Requirements and procedures for the safe and accurate packaging, labeling, distribution, and tracking of medical cannabis;
 - (k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and
 - (l) Requirements for samples of cannabis and cannabis products submitted to testing facilities, including batch sizes to not exceed fifty pounds of cannabis intended for retail sale, batch sizes for homogenous cannabis products intended for retail sale, and procedures to ensure representative sampling;
- (6) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;
- (7) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:
- (a) The length of time it typically takes for a product to take effect;
 - (b) Disclosing ingredients and possible allergens;
 - (c) A nutritional fact panel; and
 - (d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;
- (8) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:
- (a) A practitioner's statement confirming that the patient has a debilitating medical condition; and
 - (b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;
- (9) Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and
- (10) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:
- (a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;
 - (b) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter;
 - (c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;
 - (d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration; and
 - (e) The department may accept donations from private sources to reduce application and renewal fees.
- A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.

Section 73. That § 34-20G-73. be REPEALED:

A cardholder or medical cannabis establishment who fails to provide a notice required by this chapter is subject to a civil penalty of no more than one hundred fifty dollars. Any civil penalty collected shall be deposited in the state general fund.

Section 74. That § 34-20G-74. be REPEALED:

In addition to any other penalty under law, a medical cannabis establishment or an agent of a medical cannabis establishment who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony. A person convicted under this section may not continue to be affiliated with the medical cannabis establishment and is disqualified from any future affiliation with any medical cannabis establishment under this chapter.

Section 75. That § 34-20G-75. be REPEALED:

In addition to any other penalty under law, a cardholder or nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony.

Section 76. That § 34-20G-76. be REPEALED:

~~A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a Class 2 misdemeanor. The penalty is in addition to any other penalty that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by this chapter. If a person convicted of violating this section is a cardholder, the person is disqualified from being a cardholder under this chapter.~~

Section 77. That § 34-20G-77. be REPEALED:

~~A person who knowingly submits false records or documentation required by the department to certify a medical cannabis establishment under this chapter is guilty of Class 6 felony.~~

Section 78. That § 34-20G-78. be REPEALED:

~~A practitioner who knowingly refers patients to a medical cannabis establishment or to a designated caregiver, who advertises in a medical cannabis establishment, or who issues written certifications while holding a financial interest in a medical cannabis establishment is guilty of a Class 2 misdemeanor.~~

Section 79. That § 34-20G-79. be REPEALED:

~~It is a Class 2 misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained under this chapter.~~

Section 80. That § 34-20G-80. be REPEALED:

~~The department may on its own motion or on complaint, after investigation and opportunity for a public hearing at which the medical cannabis establishment has been afforded an opportunity to be heard, suspend or revoke a registration certificate for multiple negligent or knowing violations or for a serious and knowing violation by the registrant or any of its agents of this chapter.~~

Section 81. That § 34-20G-81. be REPEALED:

~~The department shall provide notice of suspension, revocation, fine, or other censure, as well as the required notice of the hearing, by mailing the same in writing to the medical cannabis establishment at the address on the registration certificate. A suspension may not be for a longer period than six months.~~

Section 82. That § 34-20G-82. be REPEALED:

~~A medical cannabis establishment may continue to possess cannabis during a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may continue to cultivate and possess cannabis plants during a suspension, but it may not dispense, transfer, or sell cannabis.~~

Section 83. That § 34-20G-83. be REPEALED:

~~The department shall immediately revoke the registry identification card of any cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under this chapter, and the cardholder is disqualified from being a cardholder under this chapter.~~

Section 84. That § 34-20G-84. be REPEALED:

~~The department may revoke the registry identification card of any cardholder who knowingly commits multiple unintentional violations or a serious knowing violation of this chapter.~~

Section 85. That § 34-20G-85. be REPEALED:

~~Revocation under § 34-20G-80, 34-20G-83, or 34-20G-84 is a final decision of the department subject to judicial review.~~

Section 86. That § 34-20G-86. be REPEALED:

~~Data in a registration application and supporting data submitted by a qualifying patient, designated caregiver, nonresident cardholder, or medical cannabis establishment, including data on designated caregiver or practitioner, is not a public record open to public access, inspection, or copying under chapter 1-27. All other public records concerning registered medical cannabis establishments are governed by chapter 1-27.~~

Section 87. That § 34-20G-87. be REPEALED:

~~Data kept or maintained by the department may not be used for any purpose not provided for in this chapter and may not be combined or linked in any manner with any other list or database.~~

Section 88. That § 34-20G-88. be REPEALED:

~~Confidential data or data that is not a public record kept or maintained by the department may only be disclosed as necessary to:~~

- ~~(1) Verify a registration certificate or registry identification card pursuant to this chapter;~~
- ~~(2) Notify law enforcement of an apparent criminal violation of this chapter or respond to law enforcement or prosecutorial officials engaged in the investigation or enforcement of the criminal provisions of this chapter;~~
- ~~(3) Notify state and local law enforcement about falsified or fraudulent information submitted for the purpose of obtaining or renewing a registry identification card;~~
- ~~(4) Notify the applicable licensing board if there is reason to believe that a practitioner provided a written certification and the department has reason to believe the practitioner otherwise violated the standard of care for evaluating a medical condition or respond to the board, if the board is seeking data relevant to an investigation of a person who holds a license issued by the board;~~
- ~~(5) Any judicial authority under grand jury subpoena or court order or equivalent judicial process for investigation of criminal, civil, or administrative violations related to the use of medical cannabis;~~
- ~~(6) An authorized employee of the department performing official duties associated with the medical cannabis program; or~~
- ~~(7) A practitioner to determine if a person in the practitioner's care engages in the medical use of cannabis so the practitioner may assess possible drug interactions or assess other medically necessary concerns.~~

Section 89. That § 34-20G-89. be REPEALED:

~~Any information kept or maintained by a medical cannabis establishment may only identify a cardholder by registry identification number and may not contain names or other personal identifying information.~~

Section 90. That § 34-20G-90. be REPEALED:

~~At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.~~

Section 91. That § 34-20G-91. be REPEALED:

~~Any department hard drive or other data recording media that is no longer in use and that contains cardholder information shall be destroyed.~~

Section 92. That § 34-20G-92. be REPEALED:

~~The Executive Board of the Legislative Research Council shall appoint an oversight committee comprised of: one member of the House of Representatives, one member of the Senate, one Division of Criminal Investigation agent, one staff member from the Office of the Attorney General, two representatives of law enforcement, one representative from the department, one practitioner with experience in medical cannabis issues, one nurse, one board member or principal officer of a cannabis testing facility, one person with experience in policy development or implementation in the field of medical cannabis, and three qualifying patients.~~

Section 93. That § 34-20G-93, be REPEALED:

~~The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the Legislature and the department regarding:~~

- ~~(1) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;~~
- ~~(2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;~~
- ~~(3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;~~
- ~~(4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;~~
- ~~(5) Any recommended additions or revisions to the department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature; and~~
- ~~(6) Any research studies regarding health effects of medical cannabis for patients.~~

Section 94. That § 34-20G-94, be REPEALED:

~~The department shall report annually to the Legislature on the number of applications for registry identification cards received; the number of qualifying patients and designated caregivers approved; the number of registry identification cards revoked; the number of each type of medical cannabis establishment registered; the expenses incurred and revenues generated from the medical cannabis program; the number of patient cardholders by medical condition; qualifying patient demographics by age and sex; the number and specialty of the practitioners providing written certifications; the number of medical cannabis establishments by type; the number of licensing violations determined by the department; the impact of medical cannabis on public safety, public health, and behavioral health services; any other information regarding the effects of medical cannabis on the public; and any recommendations. The department may not include identifying information on a qualifying patient, designated caregiver, or practitioner in the report.~~

Section 95. That § 34-20G-95, be REPEALED:

~~The Department of Education and the department shall establish policy to allow students who are medical cannabis cardholders to have their medicine administered in school in accordance with their physician's recommendation. This policy shall be implemented the first day of the new school year following passage of this chapter. The departments shall implement substantively identical provisions to Colorado Revised Statute 22-1-119.3 as of January 1, 2019.~~



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MARTY J. JACKLEY
ATTORNEY GENERAL

MARK W. BARNETT
CHIEF DEPUTY

June 6, 2023

Travis Ismay
19073 Gammon Rd
Newell, SD 57760

Re: **Proposed Initiated Measure Repealing SDCL Ch. 34-20G, Medical Cannabis**

Dear Mr. Ismay:

This letter acknowledges our receipt of the proposed initiated measure that you submitted to this Office. Your proposed measure was received by email on June 5, 2023. As required by SDCL 12-13-25.1, the Attorney General will prepare a draft title and explanation for the measure and file it with the Secretary of State on or before August 4, 2023. You will be provided a copy of the title and explanation at the time it is filed.

Sincerely,

A handwritten signature in black ink, appearing to read "SRB", with a horizontal line extending to the right.

Steven R. Blair
Assistant Attorney General

SRB/dd

cc: Reed Holwegner, Director – Legislative Research Council
Hon. Monae L. Johnson, Secretary of State

70162070000017672125

Attorney General

JUN 25 2023

FROM THE DESK OF

Travis Ismay

June 2, 2023

Office of the Attorney General
1302 E Hwy 14
Suite 1
Pierre SD 57501-8501

Dear Attorney General Marty Jackey,

I have enclosed a ballot initiative to repeal the medical marijuana law in South Dakota. I would like to give a special thanks to the LRC and their staff for informing me on the proper procedure of constructing a ballot initiative. If there's anything that I need to adhere to or change, please contact me by email at tdismay@icloud.com. or call at (605)490-6010 I anxiously await your comments.

Sincerely yours,

Travis Ismay



Initiative petition

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be REPEALED by the voters of the state of South Dakota at the next general election on November 5, 2024

Title: The REPEAL of 34-20G the medical cannabis law.

Section 1. That § 34-20G-1. be REPEALED:

—Terms used in this chapter mean:

- (1) "Allowable amount of cannabis,"
 - (a) Three ounces of cannabis or less;
 - (b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;
 - (c) If the cardholder has a registry identification card allowing cultivation, two flowering cannabis plants and two cannabis plants that are not flowering; and
 - (d) If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;
- (2) "Bona fide practitioner patient relationship," a treatment or consulting relationship between a practitioner and patient, during which:
 - (a) The practitioner completes, at the initial visit, an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;
 - (b) The patient is under the practitioner's care for the debilitating medical condition that qualifies the patient for the medical use of cannabis or has been referred by the practitioner caring for the patient's debilitating medical condition that qualifies the patient for the medical use of cannabis to another practitioner;
 - (c) The patient has a reasonable expectation that the practitioner providing the written certification will continue to provide follow-up care to the patient to monitor the medical use of cannabis; and
 - (d) The relationship is not for the sole purpose of providing a written certification for the medical use of cannabis unless the patient has been referred by a practitioner providing care for the debilitating medical condition that qualifies the patient for the medical use of cannabis;
- (3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;
- (4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;
- (5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;
- (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;
- (7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;
- (8) "Debilitating medical condition,"
 - (a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
 - (b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;
- (9) "Department," the Department of Health;
- (10) "Designated caregiver," an individual who:
 - (a) Is at least twenty-one years of age;
 - (b) Has agreed to assist with a qualifying patient's medical use of cannabis;
 - (c) Has not been convicted of a disqualifying felony offense; and
 - (d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, where the designated caregiver is employed;
- (11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;
- (12) "Edible cannabis products," any product that:
 - (a) Contains or is infused with cannabis or an extract thereof;
 - (b) Is intended for human consumption by oral ingestion; and
 - (c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;
- (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation;
- (14) "Flowering cannabis plant," the reproductive state of the cannabis plant in which the plant shows physical signs of flower budding out of the nodes of the stem;
- (15) "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;
- (16) "Medical cannabis dispensary" or "dispensary," an entity registered with the department pursuant to this chapter that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders;

- (17) ~~"Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;~~
- (18) ~~"Medical cannabis establishment agent," an owner, officer, board member, employee, or volunteer at a medical cannabis establishment;~~
- (19) ~~"Medical use," includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptom associated with the patient's debilitating medical condition. The term does not include:

 - (a) ~~The cultivation of cannabis by a nonresident cardholder;~~
 - (b) ~~The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or~~
 - (c) ~~The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility;~~~~
- (20) ~~"Nonresident cardholder," a person who:

 - (a) ~~Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;~~
 - (b) ~~Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;~~
 - (c) ~~Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and~~
 - (d) ~~Has submitted any documentation required by the department, and has received confirmation of registration;~~~~
- (21) ~~"Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;~~
- (22) ~~"Qualifying patient," a person who has been diagnosed by a practitioner as having a debilitating medical condition;~~
- (23) ~~"Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive;~~
- (24) ~~"Safety-sensitive job," any position with tasks or duties that an employer reasonably believes could:

 - (a) ~~Cause the illness, injury, or death of an individual; or~~
 - (b) ~~Result in serious property damage;~~~~
- (25) ~~"Under the influence of cannabis," any abnormal mental or physical condition that tends to deprive a person of clearness of intellect and control that the person would otherwise possess, as the result of consuming any degree of cannabis or cannabis products; and~~
- (26) ~~"Written certification," a document dated and signed by a practitioner:

 - (a) ~~Stating that the patient has a qualifying debilitating medical condition or symptom associated with the debilitating medical condition;~~
 - (b) ~~Affirming that the document is made in the course of a bona fide practitioner-patient relationship;~~
 - (c) ~~Specifying the qualifying patient's debilitating medical condition; and~~
 - (d) ~~Specifying the expiration date of the qualifying patient's written certification, pursuant to § 34-20G-43.~~~~

Section 2. That § 34-20G-2. be REPEALED:

~~A cardholder is not subject to arrest, prosecution, or penalty of any kind, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- (1) ~~The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;~~
- (2) ~~Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;~~
- (3) ~~Transferring the cannabis to a testing facility;~~
- (4) ~~Compensating a dispensary or a testing facility for goods or services provided;~~
- (5) ~~Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or~~
- (6) ~~Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the person giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.~~

Section 3. That § 34-20G-3. be REPEALED:

~~No nonresident cardholder is subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for transporting, purchasing, possessing, or using medical cannabis in accordance with this chapter if the nonresident cardholder does not possess more than three ounces of cannabis and the quantity of cannabis products established by rules promulgated by the department under § 34-20G-72.~~

Section 4. That § 34-20G-4. be REPEALED:

~~There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis in accordance with this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis that does not exceed the allowable amount of cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptom associated with the qualifying patient's debilitating medical condition under this chapter.~~

Section 5. That § 34-20G-5. be REPEALED:

~~No practitioner is subject to arrest, prosecution, or penalty of any kind, or denied any right or privilege, including civil penalty or disciplinary action by the South Dakota Board of Medical and Osteopathic Examiners or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in this chapter prevents a practitioner from being sanctioned for:~~

- ~~(1) Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner patient relationship; or~~
- ~~(2) Failing to properly evaluate a patient's medical condition.~~

Section 6. That § 34-20G-6. be REPEALED:

~~No person licensed by the state or any other governmental entity to engage in any profession, occupation, or other activity is subject to disciplinary action, denial of the rights and privileges of such license, or otherwise penalized by the licensing authority for lawfully engaging in any activity authorized under this chapter or providing any service to a person engaged in activity that is authorized by this chapter merely because that activity is prohibited by federal law.~~

Section 7. That § 34-20G-7. be REPEALED:

~~No person is subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- ~~(1) Providing or selling cannabis paraphernalia to a cardholder, nonresident cardholder, or to a medical cannabis establishment;~~
- ~~(2) Being in the presence or vicinity of the medical use of cannabis that is exempt from criminal or civil penalty by this chapter;~~
- ~~(3) Allowing the person's property to be used for an activity that is exempt from criminal or civil penalty by this chapter; or~~
- ~~(4) Assisting a registered qualifying patient with the act of using or administering cannabis.~~

Section 8. That § 34-20G-8. be REPEALED:

~~No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, transport, or store cannabis or cannabis products;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary.~~

Section 9. That § 34-20G-9. be REPEALED:

~~No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;~~
- ~~(2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;~~
- ~~(3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;~~
- ~~(4) Purchase or otherwise acquire cannabis from a cultivation facility;~~
- ~~(5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or~~
- ~~(6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary.~~

Section 10. That § 34-20G-10. be REPEALED:

~~No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;~~
- ~~(2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis or cannabis products;~~
- ~~(3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;~~
- ~~(4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided;~~
- ~~(5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary.~~

Section 11. That § 34-20G-11. be REPEALED:

~~No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 34-20G-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:~~

- ~~(1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;~~
- ~~(2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;~~
- ~~(3) Test cannabis, including for potency, pesticides, mold, or contaminants; or~~
- ~~(4) Receive compensation for services under this section.~~

Section 12. That § 34-20G-12. be REPEALED:

~~A cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction may sell or donate cannabis seeds to a cultivation facility in this state.~~

Section 13. That § 34-20G-13. be REPEALED:

~~Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under this chapter, or acts incidental to such use, may not be seized or forfeited. This chapter does not prevent the seizure or forfeiture of cannabis exceeding the amount allowed under this chapter, or prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used in accordance with this chapter.~~

Section 14. That § 34-20G-14. be REPEALED:

~~Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support a search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any governmental agency.~~

Section 15. That § 34-20G-15. be REPEALED:

~~For the purposes of state law, an activity related to medical cannabis is lawful as long as it is conducted in accordance with this chapter.~~

Section 16. That § 34-20G-16. be REPEALED:

~~No law enforcement officer employed by an agency that receives state or local government funds may 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 the federal Controlled Substances Act, 21 U.S.C. § 801 et seq., if the officer has reason to believe that the activity is in compliance with this chapter. No officer may expend any state or local resources, including the officer's time, to provide any information or logistical support related to any activity to any federal law enforcement authority or prosecuting entity.~~

Section 17. That § 34-20G-17. be REPEALED:

~~No contract entered into by a cardholder, a medical cannabis establishment, or medical cannabis establishment agent, or by a person who allows property to be used for an activity that is exempt from state criminal penalties by this chapter is unenforceable on the basis that activity related to cannabis is prohibited by federal law.~~

Section 18. That § 34-20G-18. be REPEALED:

~~This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalty for engaging in, the following conduct:~~

- ~~(1) Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;~~
- ~~(2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;~~
- ~~(3) Smoking or vaping cannabis:
 - ~~(a) On any form of public transportation;~~
 - ~~(b) In any public place or any place that is open to the public; or~~
 - ~~(c) If under the age of twenty-one;~~~~
- ~~(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis; or~~
- ~~(5) Performing any safety sensitive job under the influence of cannabis.~~

Section 19. That § 34-20G-19. be REPEALED:

~~A cardholder may not be refused enrollment by a school or a lease by a landlord, or otherwise be penalized by a school or landlord solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulation. This section does not prevent a landlord from imposing reasonable restrictions on the medical use of cannabis by a cardholder who resides at the landlord's property.~~

Section 20. That § 34-20G-20. be REPEALED:

~~For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient's use of cannabis in accordance with this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.~~

Section 21. That § 34-20G-21. be REPEALED:

~~No person may be denied custody of, visitation rights with, or parenting time with a minor solely because the person is a cardholder. There is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor. Nothing in this chapter supersedes or otherwise affects custody decisions, visitation rights, or parenting time based upon the best interests of the child.~~

Section 22. That § 34-20G-22. be REPEALED:

~~Except as provided in this chapter, a registered qualifying patient who uses cannabis for a medical purpose shall be afforded all the same rights under state and local law, as the person would be afforded if the person were solely prescribed a pharmaceutical medication, as it pertains to:~~

- ~~(1) Any interaction with a person's employer;~~
- ~~(2) Drug testing by a person's employer; or~~
- ~~(3) Drug testing required by any state or local law, agency, or government official.~~

Section 23. That § 34-20G-23. be REPEALED:

~~The rights provided by §§ 34-20G-19 to 34-20G-25, inclusive, do not apply to the extent that they conflict with an employer's obligations under federal law or regulation or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or regulation.~~

Section 24. That § 34-20G-24. be REPEALED:

~~No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. No employer is prohibited from establishing and enforcing a drug-free workplace policy that may include a drug-testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy.~~

Section 25. That § 34-20G-25. be REPEALED:

~~No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.~~

Section 25.1. That § 34-20G-25.1. be REPEALED:

~~A health care facility, as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child-welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 27B-1-17, may adopt restrictions on the use of medical cannabis by a cardholder who resides at, is actively receiving treatment or care from, or is visiting the facility. The restrictions may include a provision that the facility will not store or maintain the cardholder's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for cardholders, and that the medical cannabis be used only in a place specified by the facility. Nothing in this section requires a facility to adopt such restrictions or requires a facility to allow the consumption of medical cannabis on the grounds of the facility.~~

~~No employee or agent of a facility may be subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a cardholder, or distribution of medical cannabis to a cardholder who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated.~~

Section 26. That § 34-20G-26. be REPEALED:

~~Any resident of this state may petition the department to add a serious medical condition or treatment to the list of debilitating medical conditions as defined by this chapter. The department shall consider a petition in the manner required by rules promulgated by the department pursuant to this chapter, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.~~

Section 27. That § 34-20G-27. be REPEALED:

~~Nothing in this chapter requires:~~

- ~~(1) A government medical assistance program or private health insurer, workers' compensation insurance carrier, or self-insured employer providing workers' compensation benefits, to reimburse a person for costs associated with the medical use of cannabis;~~
- ~~(2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke or vape cannabis on or in that property;~~
- ~~(3) A landlord to allow the cultivation of cannabis on the rental property; or~~
- ~~(4) A state or local government to allow any conduct otherwise permitted by this chapter within a building owned, leased, or occupied by the state or local government.~~

Section 28. That § 34-20G-28. be REPEALED:

~~Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.~~

Section 29. That § 34-20G-29. be REPEALED:

~~No later than November 18, 2021, the department shall issue registry identification cards to qualifying patients who submit the following, in accordance with rules promulgated by the department:~~

- ~~(1) A written certification issued by a practitioner within ninety days immediately preceding the date of an application;~~
- ~~(2) The application or renewal fee;~~

- ~~(3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;~~
- ~~(4) The name, address, and telephone number of the qualifying patient's practitioner;~~
- ~~(5) The name, address, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient;~~
- ~~(6) If more than one designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition;~~
- ~~(7) The name of no more than two dispensaries that the qualifying patient designates, if any; and~~
- ~~(8) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.~~

Section 30. That § 34-20G-30. be REPEALED:

~~If the qualifying patient is unable to submit the information required by § 34-20G-29 due to the person's age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.~~

Section 31. That § 34-20G-31. be REPEALED:

~~Except as provided in § 34-20G-32, the department shall:~~

- ~~(1) Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within fifteen days of receiving a completed application or renewal application;~~
- ~~(2) Issue registry identification cards to a qualifying patient and to a qualifying patient's designated caregivers, if any, within five days of approving the application or renewal. A designated caregiver shall have a registry identification card for each of the qualifying patients; and~~
- ~~(3) Enter the registry identification number of any dispensary the patient designates into the verification system.~~

Section 32. That § 34-20G-32. be REPEALED:

~~The department may conduct a background check of a designated caregiver in order to carry out the provisions of § 34-20G-31.~~

Section 33. That § 34-20G-33. be REPEALED:

~~The department may not issue a registry identification card to a qualifying patient who is younger than eighteen years of age unless:~~

- ~~(1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and~~
- ~~(2) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - ~~(a) Allow the qualifying patient's medical use of cannabis;~~
 - ~~(b) Serve as the qualifying patient's designated caregiver; and~~
 - ~~(c) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.~~~~

Section 34. That § 34-20G-34. be REPEALED:

~~The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:~~

- ~~(1) Does not provide the required information, fee, or materials;~~
- ~~(2) Does not meet the requirement to obtain a registry identification card as defined in § 34-20G-1;~~
- ~~(3) Previously had a registry identification card revoked; or~~
- ~~(4) Provided false information.~~

Section 35. That § 34-20G-35. be REPEALED:

~~The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:~~

- ~~(1) The designated caregiver does not meet the requirements of a designated caregiver as defined in § 34-20G-1;~~
- ~~(2) The applicant does not provide the information required;~~
- ~~(3) The designated caregiver previously had a registry identification card revoked; or~~
- ~~(4) The applicant or the designated caregiver provide false information.~~

Section 36. That § 34-20G-36. be REPEALED:

~~The department shall give written notice to the qualifying patient of the reason for:~~

- ~~(1) Denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver; or~~
- ~~(2) Revoking the registry identification card of the qualifying patient or the qualifying patient's designated caregiver.~~

Section 37. That § 34-20G-37. be REPEALED:

~~Denial of an application or renewal under § 34-20G-34 or 34-20G-35 is considered a final department action, subject to judicial review.~~

Section 42. That § 34-20G-42. be REPEALED:

~~A registry identification card shall contain all of the following:~~

- ~~(1) The name of the cardholder;~~
- ~~(2) A designation of whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(3) The date of issuance and expiration date of the registry identification card;~~
- ~~(4) A random ten-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;~~
- ~~(5) If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver will assist;~~
- ~~(6) A clear indication of whether the cardholder has been designated to cultivate cannabis plants for the qualifying patient's medical use;~~
- ~~(7) A photograph of the cardholder; and~~
- ~~(8) The phone number or website address where the card can be verified.~~

Section 43. That § 34-20G-43. be REPEALED:

~~The registry identification card of a qualifying patient and designated caregiver, if any, expires on the date noted by the practitioner in the qualifying patient's written certification, not to exceed one year after the date of issue.~~

Section 44. That § 34-20G-44. be REPEALED:

~~The department shall maintain a confidential list of:~~

- ~~(a) The name, address, phone number, and registry identification card number of each person to whom the department has issued a registry identification card; and~~
- ~~(b) The name, address, and phone number of a registered qualifying patient's parent or legal guardian if the patient is under age eighteen.~~

~~The list may not be combined or linked in any manner with any other list or database, nor may it be used for any purpose not provided for in this chapter.~~

Section 45. That § 34-20G-45. be REPEALED:

~~Within one hundred twenty days of July 1, 2021, the department shall establish a secure phone or web-based verification system. The verification system shall allow law enforcement personnel and medical cannabis establishments to enter a registry identification number and determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:~~

- ~~(1) Whether the identification card is valid;~~
- ~~(2) The name of the cardholder;~~
- ~~(3) Whether the cardholder is a qualifying patient or a designated caregiver;~~
- ~~(4) Whether the cardholder is permitted to cultivate cannabis plants;~~
- ~~(5) The registry identification number of any affiliated registered qualifying patient; and~~
- ~~(6) The registry identification of the qualifying patient's dispensary or dispensaries, if any.~~

Section 46. That § 34-20G-46. be REPEALED:

~~The following notifications are required:~~

- ~~(1) A registered qualifying patient shall notify the department of any change in the applicant's name or address, or if the patient ceases to have a debilitating medical condition, within ten days of the change;~~

- ~~(2) A registered designated caregiver shall notify the department of any change in the caregiver's name or address, or if the caregiver becomes aware the qualifying patient passed away, within ten days of the change;~~
- ~~(3) Before a registered qualifying patient changes a designated caregiver, the patient shall notify the department;~~
- ~~(4) If a registered qualifying patient changes a preference as to who may cultivate cannabis for the patient, the patient shall notify the department;~~
- ~~(5) If a cardholder loses a registry identification card, the cardholder shall notify the department within ten days of becoming aware the card has been lost; and~~
- ~~(6) Before a registered qualifying patient changes a designated dispensary, the patient shall notify the department.~~

Section 47. That § 34-20G-47. be REPEALED:

~~Any notification that a registered qualifying patient is required to make under this chapter may be made by the patient's designated caregiver if the qualifying patient is unable to make the notification due to age or medical condition.~~

Section 48. That § 34-20G-48. be REPEALED:

~~If a cardholder notifies the department of any item listed in § 34-20G-46, but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with a new random ten digit alphanumeric identification number within ten days of receiving the updated information and a twenty dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.~~

Section 49. That § 34-20G-49. be REPEALED:

~~If the registered qualifying patient's certifying practitioner notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card is void. However, the registered qualifying patient shall have fifteen days to dispose of or give away any cannabis in the registered qualifying patient's possession.~~

Section 50. That § 34-20G-50. be REPEALED:

~~A medical cannabis establishment shall notify the department within one business day of any theft or significant loss of cannabis.~~

Section 51. That § 34-20G-51. be REPEALED:

~~Except as provided in § 34-20G-18 and this section, a person may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and such defense is presumed valid where the evidence shows that:~~

- ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;~~
- ~~(2) The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, two flowering cannabis plants, two cannabis plants that are not flowering, and the cannabis produced by those plants;~~
- ~~(3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and~~
- ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access.~~

Section 52. That § 34-20G-52. be REPEALED:

~~An affirmative defense and motion to dismiss shall fail if the prosecution proves that:~~

- ~~(1) The person had a registry identification card revoked for misconduct; or~~
- ~~(2) The purpose for the possession or cultivation of cannabis was not solely for palliative or therapeutic use by the person with a debilitating medical condition who raised the defense.~~

Section 53. That § 34-20G-53. be REPEALED:

~~A person is not required to possess a registry identification card to raise the affirmative defense set forth in § 34-20G-51.~~

Section 54. That § 34-20G-54. be REPEALED:

~~If a person demonstrates the person's medical purpose for using cannabis pursuant to this chapter, except as provided in § 34-20G-18, the person is not subject to the following for the person's use of cannabis for medical purposes:~~

- ~~(1) Disciplinary action by an occupational or professional licensing board or bureau; or~~
- ~~(2) Forfeiture of any interest in or right to any property other than cannabis.~~

Section 55. That § 34-20G-55. be REPEALED:

~~Not later than ninety days after receiving an application for a medical cannabis establishment, the department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit alphanumeric identification number if all of the following conditions are satisfied:~~

~~(1) The prospective medical cannabis establishment has submitted all of the following:~~

- ~~(a) The application fee;~~
 - ~~(b) An application, including:
 - ~~(i) The legal name of the prospective medical cannabis establishment;~~
 - ~~(ii) The physical address of the prospective medical cannabis establishment that is not within one thousand feet of a public or private school existing before the date of the medical cannabis establishment application;~~
 - ~~(iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and~~
 - ~~(iv) Any additional information requested by the department;~~~~
 - ~~(c) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record keeping and adequate security measures;~~
 - ~~(d) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment does not violate the restrictions;~~
 - ~~(e) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit;~~
- ~~(2) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked;~~
 - ~~(3) None of the principal officers or board members is under twenty-one years of age; and~~
 - ~~(4) At least one principal officer is a resident of this state.~~

Section 56. That § 34-20G-56. be REPEALED:

~~If a local government has enacted a numerical limit on the number of medical cannabis establishments in the locality and a greater number of applicants seek registration, the department shall solicit and consider input from the local government as to its preference for registration.~~

Section 57. That § 34-20G-57. be REPEALED:

~~The department shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical cannabis establishment if the establishment's registration certificate is not under suspension and has not been revoked.~~

Section 58. That § 34-20G-58. be REPEALED:

~~A local government may enact an ordinance not in conflict with this chapter, governing the time, place, manner, and number of medical cannabis establishments in the locality. A local government may establish civil penalties for violation of an ordinance governing the time, place, and manner of a medical cannabis establishment that may operate in the locality.~~

Section 58.1. That § 34-20G-58.1. be REPEALED:

~~For purposes of this chapter, any municipality that has not enacted a zoning ordinance pursuant to title 11 governing the location of medical cannabis establishments may enact an ordinance to regulate the place of operation of any cannabis related establishment under this section.~~

~~A municipality may prohibit the location of a medical cannabis establishment in an area in a sensitive land use area and may establish reasonable setbacks. For purposes of this section, a sensitive land use area includes churches, schools, day cares, public service and recreation facilities, places frequented by people under age twenty one, and parks.~~

~~A municipality may require a minimum distance between cannabis related establishments.~~

Section 59. That § 34-20G-59. be REPEALED:

~~No local government may prohibit a dispensary, either expressly or through the enactment of an ordinance that makes the operation of the dispensary impracticable in the jurisdiction.~~

Section 60. That § 34-20G-60. be REPEALED:

~~A local government may require a medical cannabis establishment to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, permit, or registration.~~

Section 61. That § 34-20G-61. be REPEALED:

~~Each medical cannabis establishment shall conduct a background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the medical cannabis establishment.~~

Section 62. That § 34-20G-62. be REPEALED:

~~A medical cannabis establishment may not employ any person who:~~

- ~~(1) Was convicted of a disqualifying felony offense; or~~
- ~~(2) Is under twenty one years of age.~~

Section 63. That § 34-20G-63. be REPEALED:

~~Each medical cannabis establishment shall have operating documents that include procedures for the oversight of the medical cannabis establishment and procedures to ensure accurate record keeping.~~

Section 64. That § 34-20G-64. be REPEALED:

~~A medical cannabis establishment shall implement appropriate security measures designed to deter and prevent the theft of cannabis and unauthorized entrance into any area containing cannabis.~~

Section 65. That § 34-20G-65. be REPEALED:

~~All cultivation, harvesting, manufacturing and packaging of cannabis shall take place in a secure facility at a physical address provided to the department during the registration process. The secure facility may only be accessed by agents of the medical cannabis establishment, emergency personnel, and adults who are twenty one years of age and older and who are accompanied by a medical cannabis establishment agent.~~

Section 65.1. That § 34-20G-65.1. be REPEALED:

~~A sample of cannabis or cannabis products submitted to a testing facility must be collected by a designated representative of the testing facility. Testing is only required for cannabis and cannabis products intended for retail sale to a cardholder or nonresident cardholder.~~

Section 66. That § 34-20G-66. be REPEALED:

~~No medical cannabis establishment other than a cannabis product manufacturer may produce cannabis concentrates, cannabis extractions, or other cannabis products.~~

Section 67. That § 34-20G-67. be REPEALED:

~~A medical cannabis establishment may not share office space with or refer a patient to a practitioner.~~

Section 68. That § 34-20G-68. be REPEALED:

~~A medical cannabis establishment may not permit any person to consume cannabis on the property of a medical cannabis establishment.~~

Section 69. That § 34-20G-69. be REPEALED:

~~A medical cannabis establishment is subject to inspection by the department during business hours.~~

Section 70. That § 34-20G-70. be REPEALED:

~~Before cannabis may be dispensed to a cardholder or nonresident cardholder, a dispensary agent:~~

- ~~(1) Shall verify that the registry identification card or registration presented to the dispensary is valid;~~
- ~~(2) Shall verify the identity of the person by requiring the person to present a valid photographic identification document issued by this state, another state, tribe, or the federal government;~~
- ~~(3) May not dispense an amount of cannabis to a person that would cause the person to possess more than the allowable amount of cannabis; and~~
- ~~(4) Shall verify that the dispensary is the current dispensary that was designated by the cardholder or nonresident cardholder.~~

Section 71. That § 34-20G-71. be REPEALED:

~~A dispensary may not dispense more than three ounces of cannabis to a nonresident cardholder or a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. A dispensary shall ensure compliance with the limitation under this section by maintaining internal, confidential records that include records specifying how much cannabis is dispensed to a nonresident cardholder or registered qualifying patient and whether it is dispensed directly to a registered qualifying patient or to the designated caregiver.~~

Section 72. That § 34-20G-72. be REPEALED:

~~The department shall promulgate rules pursuant to chapter 1-26:~~

- ~~(1) Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;~~
- ~~(2) Establishing the form and content of registration and renewal applications submitted under this chapter;~~
- ~~(3) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:
 - ~~(a) The preference of the local government;~~
 - ~~(b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;~~
 - ~~(c) The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and~~
 - ~~(d) The business plan proposed by the applicant, that in the case of a cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;~~~~
- ~~(4) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;~~
- ~~(5) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:
 - ~~(a) Oversight requirements;~~
 - ~~(b) Record-keeping requirements;~~
 - ~~(c) Security requirements, including lighting, physical security, and alarm requirements;~~
 - ~~(d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;~~~~

- ~~(e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;~~
 - ~~(f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;~~
 - ~~(g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;~~
 - ~~(h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;~~
 - ~~(i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;~~
 - ~~(j) Requirements and procedures for the safe and accurate packaging, labeling, distribution, and tracking of medical cannabis;~~
 - ~~(k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and~~
 - ~~(l) Requirements for samples of cannabis and cannabis products submitted to testing facilities, including batch sizes to not exceed fifty pounds of cannabis intended for retail sale, batch sizes for homogenous cannabis products intended for retail sale, and procedures to ensure representative sampling;~~
 - ~~(6) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;~~
 - ~~(7) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:~~
 - ~~(a) The length of time it typically takes for a product to take effect;~~
 - ~~(b) Disclosing ingredients and possible allergens;~~
 - ~~(c) A nutritional fact panel; and~~
 - ~~(d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;~~
 - ~~(8) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:~~
 - ~~(a) A practitioner's statement confirming that the patient has a debilitating medical condition; and~~
 - ~~(b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;~~
 - ~~(9) Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder may possess; and~~
 - ~~(10) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:~~
 - ~~(a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;~~
 - ~~(b) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering this chapter;~~
 - ~~(c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;~~
 - ~~(d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration; and~~
 - ~~(e) The department may accept donations from private sources to reduce application and renewal fees.~~
- ~~A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.~~

Section 73. That § 34-20G-73. be REPEALED:

~~A cardholder or medical cannabis establishment who fails to provide a notice required by this chapter is subject to a civil penalty of no more than one hundred fifty dollars. Any civil penalty collected shall be deposited in the state general fund.~~

Section 74. That § 34-20G-74. be REPEALED:

~~In addition to any other penalty under law, a medical cannabis establishment or an agent of a medical cannabis establishment who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony. A person convicted under this section may not continue to be affiliated with the medical cannabis establishment and is disqualified from any future affiliation with any medical cannabis establishment under this chapter.~~

Section 75. That § 34-20G-75. be REPEALED:

~~In addition to any other penalty under law, a cardholder or nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony.~~

Section 76. That § 34-20G-76. be REPEALED:

~~A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a Class 2 misdemeanor. The penalty is in addition to any other penalty that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by this chapter. If a person convicted of violating this section is a cardholder, the person is disqualified from being a cardholder under this chapter.~~

Section 77. That § 34-20G-77. be REPEALED:

~~A person who knowingly submits false records or documentation required by the department to certify a medical cannabis establishment under this chapter is guilty of Class 6 felony.~~

Section 78. That § 34-20G-78. be REPEALED:

~~A practitioner who knowingly refers patients to a medical cannabis establishment or to a designated caregiver, who advertises in a medical cannabis establishment, or who issues written certifications while holding a financial interest in a medical cannabis establishment is guilty of a Class 2 misdemeanor.~~

Section 79. That § 34-20G-79. be REPEALED:

~~It is a Class 2 misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained under this chapter.~~

Section 80. That § 34-20G-80. be REPEALED:

~~The department may on its own motion or on complaint, after investigation and opportunity for a public hearing at which the medical cannabis establishment has been afforded an opportunity to be heard, suspend or revoke a registration certificate for multiple negligent or knowing violations or for a serious and knowing violation by the registrant or any of its agents of this chapter.~~

Section 81. That § 34-20G-81. be REPEALED:

~~The department shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing, by mailing the same in writing to the medical cannabis establishment at the address on the registration certificate. A suspension may not be for a longer period than six months.~~

Section 82. That § 34-20G-82. be REPEALED:

~~A medical cannabis establishment may continue to possess cannabis during a suspension, but it may not dispense, transfer, or sell cannabis. A cultivation facility may continue to cultivate and possess cannabis plants during a suspension, but it may not dispense, transfer, or sell cannabis.~~

Section 83. That § 34-20G-83. be REPEALED:

~~The department shall immediately revoke the registry identification card of any cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under this chapter, and the cardholder is disqualified from being a cardholder under this chapter.~~

Section 84. That § 34-20G-84. be REPEALED:

~~The department may revoke the registry identification card of any cardholder who knowingly commits multiple unintentional violations or a serious knowing violation of this chapter.~~

Section 85. That § 34-20G-85. be REPEALED:

~~Revocation under § 34-20G-80, 34-20G-83, or 34-20G-84 is a final decision of the department subject to judicial review.~~

Section 86. That § 34-20G-86. be REPEALED:

~~Data in a registration application and supporting data submitted by a qualifying patient, designated caregiver, nonresident cardholder, or medical cannabis establishment, including data on designated caregiver or practitioner, is not a public record open to public access, inspection, or copying under chapter 1-27. All other public records concerning registered medical cannabis establishments are governed by chapter 1-27.~~

Section 87. That § 34-20G-87. be REPEALED:

~~Data kept or maintained by the department may not be used for any purpose not provided for in this chapter and may not be combined or linked in any manner with any other list or database.~~

Section 88. That § 34-20G-88. be REPEALED:

~~Confidential data or data that is not a public record kept or maintained by the department may only be disclosed as necessary to:~~

- ~~(1) Verify a registration certificate or registry identification card pursuant to this chapter;~~
- ~~(2) Notify law enforcement of an apparent criminal violation of this chapter or respond to law enforcement or prosecutorial officials engaged in the investigation or enforcement of the criminal provisions of this chapter;~~
- ~~(3) Notify state and local law enforcement about falsified or fraudulent information submitted for the purpose of obtaining or renewing a registry identification card;~~
- ~~(4) Notify the applicable licensing board if there is reason to believe that a practitioner provided a written certification and the department has reason to believe the practitioner otherwise violated the standard of care for evaluating a medical condition or respond to the board, if the board is seeking data relevant to an investigation of a person who holds a license issued by the board;~~
- ~~(5) Any judicial authority under grand jury subpoena or court order or equivalent judicial process for investigation of criminal, civil, or administrative violations related to the use of medical cannabis;~~
- ~~(6) An authorized employee of the department performing official duties associated with the medical cannabis program; or~~
- ~~(7) A practitioner to determine if a person in the practitioner's care engages in the medical use of cannabis so the practitioner may assess possible drug interactions or assess other medically necessary concerns.~~

Section 89. That § 34-20G-89. be REPEALED:

~~Any information kept or maintained by a medical cannabis establishment may only identify a cardholder by registry identification number and may not contain names or other personal identifying information.~~

Section 90. That § 34-20G-90. be REPEALED:

~~At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.~~

Section 91. That § 34-20G-91. be REPEALED:

~~Any department hard drive or other data recording media that is no longer in use and that contains cardholder information shall be destroyed.~~

Section 92. That § 34-20G-92. be REPEALED:

~~The Executive Board of the Legislative Research Council shall appoint an oversight committee comprised of: one member of the House of Representatives, one member of the Senate, one Division of Criminal Investigation agent, one staff member from the Office of the Attorney General, two representatives of law enforcement, one representative from the department, one practitioner with experience in medical cannabis issues, one nurse, one board member or principal officer of a cannabis testing facility, one person with experience in policy development or implementation in the field of medical cannabis, and three qualifying patients.~~

Section 93. That § 34-20G-93. be REPEALED:

The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the Legislature and the department regarding:

- (1) The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;
- (2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;
- (3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;
- (4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;
- (5) Any recommended additions or revisions to the department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature; and
- (6) Any research studies regarding health effects of medical cannabis for patients.

Section 94. That § 34-20G-94. be REPEALED:

The department shall report annually to the Legislature on the number of applications for registry identification cards received; the number of qualifying patients and designated caregivers approved; the number of registry identification cards revoked; the number of each type of medical cannabis establishment registered; the expenses incurred and revenues generated from the medical cannabis program; the number of patient cardholders by medical condition; qualifying patient demographics by age and sex; the number and specialty of the practitioners providing written certifications; the number of medical cannabis establishments by type; the number of licensing violations determined by the department; the impact of medical cannabis on public safety, public health, and behavioral health services; any other information regarding the effects of medical cannabis on the public; and any recommendations. The department may not include identifying information on a qualifying patient, designated caregiver, or practitioner in the report.

Section 95. That § 34-20G-95. be REPEALED:

The Department of Education and the department shall establish policy to allow students who are medical cannabis cardholders to have their medicine administered in school in accordance with their physician's recommendation. This policy shall be implemented the first day of the new school year following passage of this chapter. The departments shall implement substantively identical provisions to Colorado Revised Statute 22-1-119.3 as of January 1, 2019.

Attorney General

MAY 31 2023

SPEAKER HUGH M. BARTIS, CHAIR | PRESIDENT PRO TEMPORE LEE SCHLESBECK, VICE CHAIR
REID HOWEGER, DIRECTOR | SUE CICHOS, DEPUTY DIRECTOR | JUSTIN GOETZ, CODE COUNSEL
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May 30, 2023

Travis Ismay
19073 Gammon Rd.
Newell, SD 57760
tdismay@icloud.com

Dear Travis Ismay:

SDCL 12-13-25 requires the South Dakota Legislative Research Council (LRC) to review each proposed initiated measure submitted to it by a sponsor, for the purpose of assisting the sponsor in writing the proposal "in a clear and coherent manner in the style and form of other legislation" that "is not misleading or likely to cause confusion among voters." Based on this review, the LRC provides written comments to the proposal's sponsor for the purpose of assisting the sponsor in meeting these requirements. This includes providing "assistance . . . to minimize any conflict with existing law and to ensure the [proposal]'s . . . effective administration."

The proposed initiated measure repeals SDCL chapter 34-20G, the medical cannabis chapter.

The *Guide to Legislative Drafting*, which can be found on the South Dakota Legislature's website sdlegislature.gov, under the menu option REFERENCES, provides examples on how to draft a section that repeals a section of the codified laws. These examples are found on pages 57-58. To conform with the requirement to write the proposed initiated measure in the form of other legislation, the sponsor should consider redrafting each section of the proposed initiated measure to conform to the drafting requirements for repealing a section. If the sponsor chooses to make these conforming changes, the sponsor may implement the changes in the final form of the proposal submitted under SDCL 12-13-25.1.

Below is an example of how to repeal a section.

Section 2. That § 34-20G-2 be REPEALED:

~~A cardholder is not subject to arrest, prosecution, or penalty of any kind, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:~~

- ~~(1) The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;~~
- ~~(2) Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;~~
- ~~(3) Transferring the cannabis to a testing facility;~~
- ~~(4) Compensating a dispensary or a testing facility for goods or services provided;~~

Initiative petition

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be REPEALED by the voters of the state of South Dakota at the next general election on November 3, 2024

Title: The REPEAL of 34-20G the medical cannabis law.

CHAPTER 34-20G MEDICAL CANNABIS

- ~~34-20G-1—Definitions.~~
- ~~34-20G-2—Cardholder not subject to arrest, prosecution, penalty, or discipline for certain conduct.~~
- ~~34-20G-3—Nonresident cardholders not subject to arrest, prosecution, penalty, or discipline for certain conduct.~~
- ~~34-20G-4—Presumption that qualifying patient or designated caregiver is engaged in the medical use of cannabis—Presumption rebuttable.~~
- ~~34-20G-5—Practitioners not subject to arrest, prosecution, penalty, or discipline for certain conduct.~~
- ~~34-20G-6—Licensed professionals not subject to discipline for certain conduct.~~
- ~~34-20G-7—Persons not subject to arrest, prosecution, penalty, or discipline for certain conduct.~~
- ~~34-20G-8—Dispensaries and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.~~
- ~~34-20G-9—Cultivation facilities and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.~~
- ~~34-20G-10—Cannabis product manufacturing facilities and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.~~
- ~~34-20G-11—Tasting facilities and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.~~
- ~~34-20G-12—Sale or donation of cannabis seeds to cultivation facility.~~
- ~~34-20G-13—Seizure or forfeiture of cannabis or related property.~~
- ~~34-20G-14—Possession of or application for registry identification card not grounds for search.~~
- ~~34-20G-15—Activity conducted in accordance with chapter lawful.~~
- ~~34-20G-16—Enforcement of federal law by state law enforcement officers.~~
- ~~34-20G-17—Contracts enforceable.~~
- ~~34-20G-18—Unauthorized conduct.~~
- ~~34-20G-19—Schools and landlords—Prohibited conduct.~~
- ~~34-20G-20—Qualifying patient not disqualified from medical care for cannabis use.~~
- ~~34-20G-21—Custody and visitation rights—Child neglect or endangerment.~~
- ~~34-20G-22—Employment and drug testing.~~
- ~~34-20G-23—Conflict with employer's obligations or benefits under federal law.~~
- ~~34-20G-24—Ingestion of cannabis at workplace—Working under the influence of cannabis.~~
- ~~34-20G-25—Schools, landlords, and employers not to be penalized.~~
- ~~34-20G-26—Healthcare and accredited prevention or treatment facilities.~~
- ~~34-20G-27—Patient to add serious medical condition or treatment to list of debilitating medical conditions—Department consideration—Judicial review.~~
- ~~34-20G-28—Cost reimbursement, permission to smoke or vape cannabis on property, permission to cultivate on rental property, permission to allow conduct related to medical cannabis in public buildings not required.~~
- ~~34-20G-29—Discipline for ingestion of cannabis at workplace and working under the influence of cannabis permitted.~~
- ~~34-20G-30—Information required for issuance of registry identification cards—Fee.~~
- ~~34-20G-31—Submission of information by person responsible for medical decisions for qualifying patient.~~
- ~~34-20G-32—Department verification of information—Issuance of registry identification card—Verification system.~~
- ~~34-20G-33—Background check of designated caregiver.~~
- ~~34-20G-34—Issuance of registry identification card to patient under age 18—Conditions.~~
- ~~34-20G-35—Grounds for denial or nonrenewal of qualifying patient registry identification card.~~
- ~~34-20G-36—Grounds for denial of application or nonrenewal of designated caregiver.~~
- ~~34-20G-37—Notice—Denial or revocation.~~
- ~~34-20G-38—Judicial review of application denial or nonrenewal.~~
- ~~34-20G-39—Repealed.~~
- ~~34-20G-40—Temporary designated caregiver registry identification card.~~
- ~~34-20G-41—Repealed.~~
- ~~34-20G-42—Repealed.~~
- ~~34-20G-43—Contents of registry identification cards.~~
- ~~34-20G-44—Expiration of registry identification card.~~
- ~~34-20G-45—Confidential list—Personal information.~~
- ~~34-20G-46—Secure phone or web-based verification system.~~
- ~~34-20G-47—Required notifications to department.~~
- ~~34-20G-48—Notifications by designated caregiver.~~
- ~~34-20G-49—Issuance of new registry identification card following required notification to department.~~
- ~~34-20G-50—Card void upon notice to department that patient no longer qualifies—Disposal of cannabis.~~
- ~~34-20G-51—Theft or loss of cannabis—Notice to department.~~
- ~~34-20G-52—Medical purpose defense.~~
- ~~34-20G-53—Proof of unavailability of defense to prosecution.~~
- ~~34-20G-54—Registry identification card not required to raise defense.~~
- ~~34-20G-55—Person using cannabis for medical purpose not subject to discipline or forfeiture.~~
- ~~34-20G-56—Application for medical cannabis establishment—Contents and conditions—Time for registration.~~
- ~~34-20G-57—Local government limitation on number of medical cannabis establishments.~~
- ~~34-20G-58—Renewal of medical cannabis establishment registration.~~
- ~~34-20G-59—Local government ordinance governing medical cannabis establishment.~~
- ~~34-20G-60—Municipal zoning—Medical cannabis establishments.~~
- ~~34-20G-61—Local government prohibition of dispensaries not permitted.~~
- ~~34-20G-62—Local licensing of medical cannabis establishments—Fee.~~
- ~~34-20G-63—Criminal background check of medical cannabis establishment officers, employees, and volunteers.~~
- ~~34-20G-64—Employment restrictions on medical cannabis establishments.~~
- ~~34-20G-65—Medical cannabis establishment procedures for oversight and record keeping.~~
- ~~34-20G-66—Medical cannabis establishment security measures.~~
- ~~34-20G-67—Cultivation, harvesting, manufacturing, and packaging of cannabis.~~
- ~~34-20G-68—Test samples of cannabis or cannabis products—Collection—Packaging—Timing.~~
- ~~34-20G-69—Production of cannabis products.~~
- ~~34-20G-70—Sharing office space and patient referrals to practitioners prohibited.~~
- ~~34-20G-71—Consumption of cannabis on medical cannabis establishment property prohibited.~~
- ~~34-20G-72—Inspection of medical cannabis establishments.~~
- ~~34-20G-73—Conditions for dispensing cannabis.~~
- ~~34-20G-74—Limitations on amount of cannabis dispensed.~~
- ~~34-20G-75—Permittion of sale—Violation of required or prohibited action as misdemeanor.~~
- ~~34-20G-76—Civil penalty for failure to provide required notice.~~
- ~~34-20G-77—Intentional cannabis sale or transfer to unauthorized person by medical cannabis establishment or agent as felony—Disqualification.~~
- ~~34-20G-78—Intentional cannabis sale or transfer by cardholder to unauthorized person as felony.~~
- ~~34-20G-79—False statement to law enforcement official about medical use of cannabis as misdemeanor.~~

- (1) The medical use of cannabis in accordance with this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plant is either cultivated in an enclosed, locked facility or is being transported;
- (2) Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;
- (3) Transferring the cannabis to a testing facility;
- (4) Compensating a dispensary or a testing facility for goods or services provided;
- (5) Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or
- (6) Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the person giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-7. Nonresident cardholders not subject to arrest, prosecution, penalty, or discipline for certain conduct.

No nonresident cardholder is subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by a business or occupational licensing board or entity, for transporting, purchasing, possessing, or using medical cannabis in accordance with this chapter if the nonresident cardholder does not possess more than three ounces of cannabis and the quantity of cannabis products established by rules promulgated by the department under § 14-20C-22.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-8. Presumption that qualifying patient or designated caregiver is engaged in the medical use of cannabis—Presumption rebuttable.

There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis in accordance with this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis that does not exceed the allowable amount of cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptom associated with the qualifying patient's debilitating medical condition under this chapter.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-9. Practitioners not subject to arrest, prosecution, penalty, or discipline for certain conduct.

No practitioner is subject to arrest, prosecution or penalty of any kind, or denied any right or privilege, including civil penalty or disciplinary action by the South Dakota Board of Medical and Osteopathic Examiners or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition. Nothing in this chapter prevents a practitioner from being sanctioned for:

- (1) Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner-patient relationship; or
- (2) Failing to properly evaluate a patient's medical condition.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-10. Licensed professionals not subject to discipline for certain conduct.

No person licensed by the state or any other governmental entity to engage in any profession, occupation, or other activity is subject to disciplinary action, denial of the rights and privileges of such license, or otherwise penalized by the licensing authority for lawfully engaging in any activity authorized under this chapter or providing any service to a person engaged in activity that is authorized by this chapter merely because that activity is prohibited by federal law.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021, SL 2022, ch. 124, § 1.

14-20C-11. Persons not subject to arrest, prosecution, penalty, or discipline for certain conduct.

No person is subject to arrest, prosecution, or penalty of any kind, or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

- (1) Providing or selling cannabis paraphernalia to a cardholder, nonresident cardholder, or to a medical cannabis establishment;
- (2) Being in the presence or vicinity of the medical use of cannabis that is exempt from criminal or civil penalty by this chapter;
- (3) Allowing the person's property to be used for an activity that is exempt from criminal or civil penalty by this chapter; or
- (4) Assisting a registered qualifying patient with the act of using or administering cannabis.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-12. Dispensaries and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.

No dispensary or a dispensary agent is subject to prosecution, search, or inspection, except by the department pursuant to § 14-20C-49, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Possess, transport, or store cannabis or cannabis products;
- (2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;
- (3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;
- (4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, and cannabis products from cannabis product manufacturing facility or dispensary; and
- (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cardholder, nonresident cardholder, or dispensary.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-13. Cultivation facilities and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.

No cultivation facility or a cultivation facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 14-20C-49, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repair, or store cannabis;
- (2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing facility for services provided;
- (3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;
- (4) Purchase or otherwise acquire cannabis from a cultivation facility;
- (5) Purchase cannabis seeds from a cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction; or
- (6) Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, or related supplies or educational materials to a cultivation facility and dispensary.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-14. Cannabis product manufacturing facilities and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.

No cannabis product manufacturing facility or a cannabis product manufacturing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 14-20C-49, seizure, or penalty of any kind, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Purchase or otherwise acquire cannabis from cultivation facility, and cannabis products or cannabis from a cannabis product manufacturing facility;
- (2) Possess, produce, process, manufacture, compound, convert, prepare, pack, repair, and store cannabis or cannabis products;
- (3) Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a dispensary or cannabis product manufacturing facility;
- (4) Deliver, transfer, or transport cannabis to testing facility and compensate testing facility for services provided; or
- (5) Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, or related supplies or educational materials to a cannabis product manufacturing facility or dispensary.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

14-20C-15. Testing facilities and agents not subject to prosecution, search, seizure, penalty, or discipline for certain conduct.

No testing facility or testing facility agent is subject to prosecution, search, or inspection, except by the department pursuant to § 14-20C-69, seizure, or penalty in any manner, or may be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting in accordance with this chapter to:

- (1) Acquire, possess, transport, and store cannabis or cannabis products obtained from a cardholder, nonresident cardholder or medical cannabis establishment;
- (2) Return the cannabis or cannabis products to a cardholder, nonresident cardholder, or medical cannabis establishment from whom it was obtained;

24-20C-24. Ingestion of cannabis at workplace—Working under the influence of cannabis.

No employer is required to allow the ingestion, possession, transfer, display, or transportation of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. No employer is prohibited from establishing and enforcing a drug-free workplace policy that may include a drug testing program that complies with state and federal law and acting with respect to an applicant or employee under the policy.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021; SL 2022, ch 146, § 3.

24-20C-25. Schools, landlords, and employers not to be penalized.

No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-26.1. Healthcare and accredited prevention or treatment facilities.

A health care facility, as defined in § 24-20A-1, an accredited prevention or treatment facility, as defined in § 24-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or community services provider, as defined in § 2-3-11, may adopt restrictions on the use of medical cannabis by a cardholder who resides at, is actively receiving treatment or care from, or is visiting the facility. The restrictions may include a provision that the facility will not store or maintain the cardholder's supply of medical cannabis, that the facility is not responsible for providing the medical cannabis for cardholders, and that the medical cannabis be used only in a place specified by the facility. Nothing in this section requires a facility to adopt such restrictions or requires a facility to allow the consumption of medical cannabis on the grounds of the facility.

No employee or agent of a facility may be subject to arrest, prosecution, or penalty of any kind or may be denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board for possession of medical cannabis while carrying out employment duties, including providing or supervising care to a cardholder, or distribution of medical cannabis to a cardholder who resides at or is actively receiving treatment or care at the facility with which the employee or agent is affiliated.

Sources: SL 2022, ch 147, § 2.

24-20C-26. Petition to add serious medical condition or treatment to list of debilitating medical conditions—Department consideration—Judicial review.

Any resident of this state may petition the department to add a serious medical condition or treatment to the list of debilitating medical conditions as defined by this chapter. The department shall consider a petition in the manner required by rules promulgated by the department pursuant to this chapter, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-27. Cost reimbursement, permission to smoke or vape cannabis on property, permission to cultivate on rental property, permission to allow conduct related to medical cannabis in public buildings not required.

Nothing in this chapter requires:

- (1) A government medical assistance program or private health insurer, workers' compensation insurance carrier, or self-insured employer providing workers' compensation benefits, to reimburse a person for costs associated with the medical use of cannabis;
- (2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke or vape cannabis on or in that property;
- (3) A landlord to allow the cultivation of cannabis on the rental property; or
- (4) A state or local government to allow any conduct otherwise permitted by this chapter within a building owned, leased, or occupied by the state or local government.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021; SL 2022, ch 124, § 1; SL 2022, ch 125, § 1.

24-20C-28. Discipline for ingestion of cannabis at workplace and working under the influence of cannabis permitted.

Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-29. Information required for issuance of registry identification cards—Fee.

No later than November 18, 2021, the department shall issue registry identification cards to qualifying patients who submit the following, in accordance with rules promulgated by the department:

- (1) A written certification issued by a practitioner within ninety days immediately preceding the date of an application;
- (2) The application or renewal fee;
- (3) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;
- (4) The name, address, and telephone number of the qualifying patient's practitioner;
- (5) The name, address, and date of birth of the designated caregiver or designated caregivers, chosen by the qualifying patient;
- (6) If more than one designated caregiver is designated at any given time, documentation demonstrating that a greater number of designated caregivers are needed due to the patient's age or medical condition;
- (7) The name of no more than two dispensaries that the qualifying patient designates, if any; and
- (8) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-30. Submission of information by person responsible for medical decisions for qualifying patient.

If the qualifying patient is unable to submit the information required by § 24-20C-29 due to the person's age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-31. Department verification of information—Issuance of registry identification card—Verification system.

Except as provided in § 24-20C-32, the department shall:

- (1) Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within fifteen days of receiving a completed application or renewal application;
- (2) Issue registry identification cards to a qualifying patient and to a qualifying patient's designated caregivers, if any, within five days of approving the application or renewal. A designated caregiver shall have a registry identification card for each of the qualifying patients; and
- (3) Enter the registry identification number of any dispensary the patient designates into the verification system.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-32. Background check of designated caregiver.

The department may conduct a background check of a designated caregiver in order to carry out the provisions of § 24-20C-31.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-33. Issuance of registry identification card to patient under age 18—Conditions.

The department may not issue a registry identification card to a qualifying patient who is younger than eighteen years of age unless:

- (1) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and
- (2) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:
 - (a) Allow the qualifying patient's medical use of cannabis;
 - (b) Serve as the qualifying patient's designated caregiver; and
 - (c) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

The following notifications are required:

- (1) A registered qualifying patient shall notify the department of any change in the applicant's name or address, or if the patient ceases to have a debilitating medical condition, within ten days of the change;
- (2) A registered designated caregiver shall notify the department of any change in the caregiver's name or address, or if the caregiver becomes aware the qualifying patient passed away, within ten days of the change;
- (3) Before a registered qualifying patient changes a designated caregiver, the patient shall notify the department;
- (4) If a registered qualifying patient changes a preference as to who may cultivate cannabis for the patient, the patient shall notify the department;
- (5) If a cardholder loses a registry identification card, the cardholder shall notify the department within ten days of becoming aware the card has been lost; and
- (6) Before a registered qualifying patient changes a designated dispensary, the patient shall notify the department.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-47. Notifications by designated caregiver.

Any notification that a registered qualifying patient is required to make under this chapter may be made by the patient's designated caregiver if the qualifying patient is unable to make the notification due to age or medical condition.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-48. Issuance of new registry identification card following required notification to department.

If a cardholder notifies the department of any item listed in § 24-20C-46, but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within ten days of receiving the updated information and a twenty-dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-49. Card void upon notice to department that patient no longer qualifies—Disposal of cannabis.

If the registered qualifying patient's certifying practitioner notifies the department in writing that the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card is void. However, the registered qualifying patient shall have fifteen days to dispose of or give away any cannabis in the registered qualifying patient's possession.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-50. Theft or loss of cannabis—Notice to department.

A medical cannabis establishment shall notify the department within one business day of any theft or significant loss of cannabis.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-51. Medical purpose defense.

Except as provided in § 24-20C-18 and this section, a person may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and such defense is presumed valid where the evidence shows that:

- (1) A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the person;
- (2) The person was in possession of no more than three ounces of cannabis, the amount of cannabis products allowed by department rules, two flowering cannabis plants, two cannabis plants that are not flowering, and the cannabis produced by those plants;
- (3) The person was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the person's debilitating medical condition or symptoms associated with the person's debilitating medical condition; and
- (4) Any cultivation of cannabis and storage of more than three ounces of cannabis occurred in a secure location that only the person asserting the defense could access.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021, SL 2022, ch. 119, § 2.

24-20C-52. Proof of unavailability of defense to prosecution.

An affirmative defense and motion to dismiss shall fail if the prosecution proves that:

- (1) The person had a registry identification card revoked for misconduct; or
- (2) The purpose for the possession or cultivation of cannabis was not solely for palliative or therapeutic use by the person with a debilitating medical condition who raised the defense.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-53. Registry identification card not required to raise defense.

A person is not required to possess a registry identification card to raise the affirmative defense set forth in § 24-20C-51.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-54. Person using cannabis for medical purpose not subject to discipline or forfeiture.

If a person demonstrates the person's medical purpose for using cannabis pursuant to this chapter, except as provided in § 24-20C-18, the person is not subject to the following for the person's use of cannabis for medical purposes:

- (1) Disciplinary action by an occupational or professional licensing board or bureau; or
- (2) Forfeiture of any interest in or right to any property other than cannabis.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

24-20C-55. Application for medical cannabis establishment—Contents and conditions—Time for registration.

Not later than ninety days after receiving an application for a medical cannabis establishment, the department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit alphanumeric identification number if all of the following conditions are satisfied:

- (i) The prospective medical cannabis establishment has submitted all of the following:
 - (a) The application fee;
 - (b) An application, including:
 - (i) The legal name of the prospective medical cannabis establishment;
 - (ii) The physical address of the prospective medical cannabis establishment that is not within one thousand feet of a public or private school existing before the date of the medical cannabis establishment application;
 - (iii) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and
 - (iv) Any additional information requested by the department;
 - (c) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate record-keeping and adequate security measures;
- (d) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical cannabis establishment does not violate the restrictions;
- (e) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit;
- (f) None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked;
- (g) None of the principal officers or board members is under twenty-one years of age; and
- (h) At least one principal officer is a resident of this state.

Sources: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

34-28C-46. Inspection of medical cannabis establishments.

A medical cannabis establishment is subject to inspection by the department during business hours.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

34-28C-70. Conditions for dispensing cannabis.

Before cannabis may be dispensed to a cardholder or nonresident cardholder, a dispensary agent:

- (1) Shall verify that the registry identification card or registration presented to the dispensary is valid;
- (2) Shall verify the identity of the person by requiring the person to present a valid photographic identification document issued by this state, another state, tribe, or the federal government;
- (3) May not dispense an amount of cannabis to a person that would cause the person to possess more than the allowable amount of cannabis; and
- (4) Shall verify that the dispensary is the current dispensary that was designated by the cardholder or nonresident cardholder.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021; SL 2022, ch 133, § 1.

34-28C-71. Limitations on amount of cannabis dispensed.

A dispensary may not dispense more than three ounces of cannabis to a nonresident cardholder or a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. A dispensary shall ensure compliance with the limitation under this section by maintaining internal, confidential records that include records specifying how much cannabis is dispensed to a nonresident cardholder or registered qualifying patient and whether it is dispensed directly to a registered qualifying patient or to the designated caregiver.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

34-28C-72. Promulgation of rules—Violation of required or prohibited action as misdemeanor.

The department shall promulgate rules pursuant to chapter 1-204.

- (1) Governing the manner in which the department shall consider petitions from the public to add a debilitating medical condition or treatment to the list of debilitating medical conditions as defined by this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;
 - (2) Establishing the form and content of registration and renewal applications submitted under this chapter;
 - (3) Establishing a system to numerically score competing medical cannabis establishment applicants, in cases where more applicants apply than are allowed by the local government, that includes analysis of:
 - (a) The preference of the local government;
 - (b) In the case of dispensaries, the suitability of the proposed location and its accessibility for patients;
 - (c) The character, variety, background, qualifications, and relevant experience of principal officers and board members; and
 - (d) The business plan proposed by the applicant, that in the case of cultivation facility or dispensary shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patients and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients;
 - (4) Governing the manner in which the department shall consider applications for and renewals of registry identification cards, that may include creating a standardized written certification form;
 - (5) Governing medical cannabis establishments to ensure the health and safety of qualifying patients and prevent diversion and theft without imposing an undue burden or compromising the confidentiality of a cardholder, including:
 - (a) Oversight requirements;
 - (b) Record-keeping requirements;
 - (c) Security requirements, including lighting, physical security, and alarm requirements;
 - (d) Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;
 - (e) Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by a cultivation facility;
 - (f) Requirements for the transportation and storage of cannabis by a medical cannabis establishment;
 - (g) Employment and training requirements, including requiring that each medical cannabis establishment create an identification badge for each agent;
 - (h) Standards for the safe manufacture of cannabis products, including extracts and concentrates;
 - (i) Restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;
 - (j) Requirements and procedures for the safe and accurate packaging, labeling, distribution, and tracking of medical cannabis;
 - (k) Certification standards for testing facilities, including requirements for equipment and qualifications for personnel; and
 - (l) Requirements for samples of cannabis and cannabis products submitted to testing facilities, including batch sizes to not exceed fifty pounds of cannabis intended for retail sale, batch sizes for homogeneous cannabis products intended for retail sale, and procedures to ensure representative sampling;
 - (6) Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of this chapter;
 - (7) Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis product labels to include the following:
 - (a) The length of time it typically takes for a product to take effect;
 - (b) Disclosing ingredients and possible allergens;
 - (c) A nutritional fact panel; and
 - (d) Requiring that edible cannabis products be clearly identifiable, when practicable, with a standard symbol indicating that it contains cannabis;
 - (8) Establishing procedures for the registration of nonresident cardholders and the cardholder's designation of no more than two dispensaries, which shall require the submission of:
 - (a) A practitioner's statement confirming that the patient has a debilitating medical condition; and
 - (b) Documentation demonstrating that the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the nonresident cardholder resides;
 - (10) Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:
 - (a) Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;
 - (b) The total fees collected shall generate revenue sufficient to offset all expenses of implementing and administering this chapter;
 - (c) A sliding scale of patient application and renewal fees based upon a qualifying patient's household income;
 - (d) The fees charged to qualifying patients, nonresident cardholders, and caregivers shall be no greater than the costs of processing the application and issuing a registry identification card or registration;
 - (e) The department may accept donations from private sources to reduce application and renewal fees.
- A violation of a required or prohibited action under any rule authorized by this section is a Class 2 misdemeanor.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021; SL 2022, ch 133, § 1; SL 2022, ch 133, § 4.

34-28C-73. Civil penalty for failure to provide required notices.

A cardholder or medical cannabis establishment who fails to provide a notice required by this chapter is subject to a civil penalty of no more than one hundred fifty dollars. Any civil penalty collected shall be deposited in the state general fund.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

34-28C-74. Intentional cannabis sale or transfer to unauthorized person by medical cannabis establishment or agent as felony—Disqualification.

In addition to any other penalty under law, a medical cannabis establishment or an agent of a medical cannabis establishment who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony. A person convicted under this section may not continue to be affiliated with the medical cannabis establishment and is disqualified from any future affiliation with any medical cannabis establishment under this chapter.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

34-28C-75. Intentional cannabis sale or transfer by cardholder to unauthorized person as felony.

In addition to any other penalty under law, a cardholder or nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or its agent is guilty of a Class 6 felony.

Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.

~~24-20C-08. Restrictions on data maintained by medical cannabis establishments.~~
Any information kept or maintained by a medical cannabis establishment may only identify a cardholder by registry identification number and may not contain names or other personal identifying information.

~~Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.~~

~~24-20C-09. Cardholder's request for department to confirm cardholder status to others.~~
At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.

~~Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.~~

~~24-20C-11. Destruction of unused media containing cardholder information.~~
Any department hard drive or other data recording media that is no longer in use and that contains cardholder information shall be destroyed.

~~Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.~~

~~24-20C-13. Oversight committee membership.~~
The Executive Board of the Legislative Research Council shall appoint an oversight committee comprised of one member of the House of Representatives, one member of the Senate, one Division of Criminal Investigation agent, one staff member from the Office of the Attorney General, two representatives of law enforcement, one representative from the department, one practitioner with experience in medical cannabis issues, one nurse, one board member or principal officer of a cannabis testing facility, one person with experience in policy development or implementation in the field of medical cannabis, and three qualifying patients.

~~Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021; SL 2022, ch. 126, § 1.~~

~~24-20C-15. Oversight committee duties.~~
The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the legislature and the department regarding:

- ~~(1) The ability of qualifying patients in all areas of the state to obtain timely access to high quality medical cannabis;~~
- ~~(2) The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of their prices, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;~~
- ~~(3) The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;~~
- ~~(4) The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;~~
- ~~(5) Any recommended additions or revisions to the department regulations of this chapter, including relating to security, safe handling, labeling, and nomenclature; and~~
- ~~(6) Any research studies regarding health effects of medical cannabis for patients.~~

~~Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021.~~

~~24-20C-17. Annual report to the Legislature - Information excluded.~~
The department shall report annually to the Legislature on the number of applications for registry identification cards received; the number of qualifying patients and designated caregivers approved; the number of registry identification cards revoked; the number of each type of medical cannabis establishment registered; the expenses incurred and revenues generated from the medical cannabis program; the number of patient cardholders by medical condition, qualifying patient demographics by age and sex; the number and specialty of the practitioners providing written certifications; the number of medical cannabis establishments by type; the number of licensing violations determined by the department; the impact of medical cannabis on public safety, public health, and behavioral health services; any other information regarding the effects of medical cannabis on the public; and any recommendation. The department may not include identifying information on a qualifying patient, designated caregiver, or practitioner in the report.

~~Source: Initiated Measure No. 26, approved Nov. 3, 2020, eff. Jul. 1, 2021; SL 2022, ch. 126, § 1.~~

~~24-20C-19. Administration of medical cannabis to students.~~
The Department of Education and the department shall establish policy to allow students who are medical cannabis cardholders to have their medicine administered in school in accordance with their physician's recommendation. This policy shall be implemented the first day of the new school year following passage of this chapter. The departments shall implement substantially identical provisions to Colorado Revised Statute 22-1-119.3 as of January 1, 2019.