



2025 South Dakota Legislature

House Bill 1101

Introduced by: **Representative Ismay**

1 **An Act to repeal provisions related to medical marijuana.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1. That § 34-20E-2 be AMENDED:**

4 **34-20E-2.** The board shall establish and maintain a prescription drug monitoring
 5 program to monitor the prescribing and dispensing of all controlled substances. The
 6 program ~~shall~~ must utilize a central repository, to which each dispenser shall submit, by
 7 electronic means, information regarding each prescription dispensed for a controlled
 8 substance. The information submitted for each prescription must include specifically
 9 identified data elements adopted by the board and contained in the 2011 ~~version of the~~
 10 ~~electronic reporting standard for prescription monitoring programs, version 4.2 of the~~
 11 ~~American Society for Automation in Pharmacy.~~

12 ~~The program must include the names of qualifying patients who receive a registry~~
 13 ~~identification card, as defined in § 34-20G-1, submitted by the Department of Health~~
 14 American Society for Automation in Pharmacy Version 4.2 Standard for Prescription Drug
 15 Monitoring Programs.

16 **Section 2. That § 34-20G-1 be REPEALED.**

17 ~~—Terms used in this chapter mean:~~

18 (1) ~~—~~ "Allowable amount of cannabis,":

19 (a) ~~—~~ Three ounces of cannabis or less;

20 (b) ~~—~~ The quantity of cannabis products as established by rules promulgated by
 21 the department under § 34-20G-72;

22 (c) ~~—~~ If the cardholder has a registry identification card allowing cultivation, two
 23 flowering cannabis plants and two cannabis plants that are not flowering;
 24 and

- 1 ~~(d) — If the cardholder has a registry identification card allowing cultivation, the~~
- 2 ~~amount of cannabis and cannabis products that were produced from the~~
- 3 ~~cardholder's allowable plants, if the cannabis and cannabis products are~~
- 4 ~~possessed at the same property where the plants were cultivated;~~
- 5 ~~(2) — "Bona fide practitioner-patient relationship," a treatment or consulting relationship~~
- 6 ~~between a practitioner and patient, during which:~~
- 7 ~~(a) — The practitioner completes, at the initial visit, an assessment of the patient's~~
- 8 ~~medical history and current medical condition, including an appropriate in-~~
- 9 ~~person physical examination;~~
- 10 ~~(b) — The patient is under the practitioner's care for the debilitating medical~~
- 11 ~~condition that qualifies the patient for the medical use of cannabis or has~~
- 12 ~~been referred by the practitioner caring for the patient's debilitating medical~~
- 13 ~~condition that qualifies the patient for the medical use of cannabis to~~
- 14 ~~another practitioner;~~
- 15 ~~(c) — The patient has a reasonable expectation that the practitioner providing the~~
- 16 ~~written certification will continue to provide follow-up care to the patient to~~
- 17 ~~monitor the medical use of cannabis; and~~
- 18 ~~(d) — The relationship is not for the sole purpose of providing a written~~
- 19 ~~certification for the medical use of cannabis unless the patient has been~~
- 20 ~~referred by a practitioner providing care for the debilitating medical~~
- 21 ~~condition that qualifies the patient for the medical use of cannabis;~~
- 22 ~~(3) — "Cannabis products," any concentrated cannabis, cannabis extracts, and products~~
- 23 ~~that are infused with cannabis or an extract thereof, and are intended for use or~~
- 24 ~~consumption by humans. The term includes edible cannabis products, beverages,~~
- 25 ~~topical products, ointments, oils, and tinctures;~~
- 26 ~~(4) — "Cannabis product manufacturing facility," an entity registered with the~~
- 27 ~~department pursuant to this chapter that acquires, possesses, manufactures,~~
- 28 ~~delivers, transfers, transports, supplies, or sells cannabis products to a medical~~
- 29 ~~cannabis dispensary;~~
- 30 ~~(5) — "Cannabis testing facility" or "testing facility," an independent entity registered~~
- 31 ~~with the department pursuant to this chapter to analyze the safety and potency of~~
- 32 ~~cannabis;~~
- 33 ~~(6) — "Cardholder," a qualifying patient or a designated caregiver who has been issued~~
- 34 ~~and possesses a valid registry identification card;~~

- 1 ~~(7) — "Cultivation facility," an entity registered with the department pursuant to this~~
2 ~~chapter that acquires, possesses, cultivates, delivers, transfers, transports,~~
3 ~~supplies, or sells cannabis and related supplies to a medical cannabis~~
4 ~~establishment;~~
- 5 ~~(8) — "Debilitating medical condition,":~~
- 6 ~~(a) — A chronic or debilitating disease or medical condition or its treatment that~~
7 ~~produces one or more of the following: cachexia or wasting syndrome;~~
8 ~~severe, debilitating pain; severe nausea, except nausea associated with~~
9 ~~pregnancy; seizures; or severe and persistent muscle spasms;~~
- 10 ~~(b) — Acquired immune deficiency syndrome or positive status for human~~
11 ~~immunodeficiency virus;~~
- 12 ~~(c) — Amyotrophic lateral sclerosis;~~
- 13 ~~(d) — Multiple sclerosis;~~
- 14 ~~(e) — Cancer or its treatment, if associated with severe or chronic pain, nausea~~
15 ~~or severe vomiting, or cachexia or severe wasting;~~
- 16 ~~(f) — Crohn's disease;~~
- 17 ~~(g) — Epilepsy and seizures; or~~
- 18 ~~(h) — Post-traumatic stress disorder;~~
- 19 ~~(9) — "Department," the Department of Health;~~
- 20 ~~(10) — "Designated caregiver," an individual who:~~
- 21 ~~(a) — Is at least twenty one years of age;~~
- 22 ~~(b) — Has agreed to assist with a qualifying patient's medical use of cannabis;~~
- 23 ~~(c) — Has not been convicted of a disqualifying felony offense; and~~
- 24 ~~(d) — Assists no more than five qualifying patients with the medical use of~~
25 ~~cannabis, unless the designated caregiver's qualifying patients each reside~~
26 ~~in or are admitted to a health care facility, as defined in § 34-12-1.1, an~~
27 ~~accredited prevention or treatment facility, as defined in § 34-20A-2, a~~
28 ~~mental health center, as defined in § 27A-1-1, a child welfare agency, as~~
29 ~~defined in § 26-6-1, or a community support provider or community~~
30 ~~services provider, as defined in § 27B-1-17, where the designated caregiver~~
31 ~~is employed;~~
- 32 ~~(11) — "Disqualifying felony offense," a violent crime that was classified as a felony in the~~
33 ~~jurisdiction where the person was convicted;~~
- 34 ~~(12) — "Edible cannabis products," any product that:~~
- 35 ~~(a) — Contains or is infused with cannabis or an extract thereof;~~

- 1 (b) ~~— Is intended for human consumption by oral ingestion; and~~
- 2 (c) ~~— Is presented in the form of foodstuffs, beverages, oils, tinctures, or other~~
- 3 ~~similar products;~~
- 4 (13) ~~— "Enclosed, locked facility," any closet, room, greenhouse, building, or other~~
- 5 ~~enclosed area that is equipped with locks or other security devices that permit~~
- 6 ~~access only by a cardholder or a person allowed to cultivate the plants. Two or~~
- 7 ~~more cardholders who reside in the same dwelling may share one enclosed, locked~~
- 8 ~~facility for cultivation;~~
- 9 (14) ~~— "Flowering cannabis plant," the reproductive state of the cannabis plant in which~~
- 10 ~~the plant shows physical signs of flower budding out of the nodes of the stem;~~
- 11 (15) ~~— "Medical cannabis" or "cannabis," marijuana as defined in § 22-42-1;~~
- 12 (16) ~~— "Medical cannabis dispensary" or "dispensary," an entity registered with the~~
- 13 ~~department pursuant to this chapter that acquires, possesses, stores, delivers,~~
- 14 ~~transfers, transports, sells, supplies, or dispenses cannabis, cannabis products,~~
- 15 ~~paraphernalia, or related supplies and educational materials to cardholders;~~
- 16 (17) ~~— "Medical cannabis establishment," a cultivation facility, a cannabis testing facility,~~
- 17 ~~a cannabis product manufacturing facility, or a dispensary;~~
- 18 (18) ~~— "Medical cannabis establishment agent," an owner, officer, board member,~~
- 19 ~~employee, or volunteer at a medical cannabis establishment;~~
- 20 (19) ~~— "Medical use," includes the acquisition, administration, cultivation, manufacture,~~
- 21 ~~delivery, harvest, possession, preparation, transfer, transportation, or use of~~
- 22 ~~cannabis or paraphernalia relating to the administration of cannabis to treat or~~
- 23 ~~alleviate a registered qualifying patient's debilitating medical condition or symptom~~
- 24 ~~associated with the patient's debilitating medical condition. The term does not~~
- 25 ~~include:~~
- 26 (a) ~~— The cultivation of cannabis by a nonresident cardholder;~~
- 27 (b) ~~— The cultivation of cannabis by a cardholder who is not designated as being~~
- 28 ~~allowed to cultivate on the cardholder's registry identification card; or~~
- 29 (c) ~~— The extraction of resin from cannabis by solvent extraction unless the~~
- 30 ~~extraction is done by a cannabis product manufacturing facility;~~
- 31 (20) ~~— "Nonresident cardholder," a person who:~~
- 32 (a) ~~— Has been diagnosed with a debilitating medical condition, or is the parent,~~
- 33 ~~guardian, conservator, or other person with authority to consent to the~~
- 34 ~~medical treatment of a person who has been diagnosed with a debilitating~~
- 35 ~~medical condition;~~

- 1 ~~(b) — Is not a resident of this state or who has been a resident of this state for~~
2 ~~fewer than forty five days;~~
- 3 ~~(c) — Was issued a currently valid registry identification card or its equivalent by~~
4 ~~another state, district, territory, commonwealth, insular possession of the~~
5 ~~United States, or country recognized by the United States that allows the~~
6 ~~person to use cannabis for medical purposes in the jurisdiction of issuance;~~
7 ~~and~~
- 8 ~~(d) — Has submitted any documentation required by the department, and has~~
9 ~~received confirmation of registration;~~
- 10 ~~(21) — "Practitioner," a physician, physician assistant, or advanced practice registered~~
11 ~~nurse, who is licensed with authority to prescribe drugs to humans. In relation to~~
12 ~~a nonresident cardholder, the term means a person who is licensed with authority~~
13 ~~to prescribe drugs to humans in the state of the patient's residence;~~
- 14 ~~(22) — "Qualifying patient," a person who has been diagnosed by a practitioner as having~~
15 ~~a debilitating medical condition;~~
- 16 ~~(23) — "Registry identification card," a document issued by the department that identifies~~
17 ~~a person as a registered qualifying patient or registered designated caregiver, or~~
18 ~~documentation that is deemed a registry identification card pursuant to §§ 34-20G-~~
19 ~~29 to 34-20G-42, inclusive;~~
- 20 ~~(24) — "Safety sensitive job," any position with tasks or duties that an employer~~
21 ~~reasonably believes could:~~
- 22 ~~(a) — Cause the illness, injury, or death of an individual; or~~
- 23 ~~(b) — Result in serious property damage;~~
- 24 ~~(25) — "Under the influence of cannabis," any abnormal mental or physical condition that~~
25 ~~tends to deprive a person of clearness of intellect and control that the person would~~
26 ~~otherwise possess, as the result of consuming any degree of cannabis or cannabis~~
27 ~~products; and~~
- 28 ~~(26) — "Written certification," a document dated and signed by a practitioner:~~
- 29 ~~(a) — Stating that the patient has a qualifying debilitating medical condition or~~
30 ~~symptom associated with the debilitating medical condition;~~
- 31 ~~(b) — Affirming that the document is made in the course of a bona fide~~
32 ~~practitioner-patient relationship;~~
- 33 ~~(c) — Specifying the qualifying patient's debilitating medical condition; and~~
- 34 ~~(d) — Specifying the expiration date of the qualifying patient's written~~
35 ~~certification, pursuant to § 34-20G-43; and~~

1 ~~(e) Specifying whether the practitioner has previously issued the patient a~~
2 ~~written certification and the date of that written certification.~~

3 **Section 3. That § 34-20G-2 be REPEALED.**

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

7 ~~(1) The medical use of cannabis in accordance with this chapter, if the cardholder does~~
8 ~~not possess more than the allowable amount of cannabis, and if any cannabis plant~~
9 ~~is either cultivated in an enclosed, locked facility or is being transported;~~

10 ~~(2) Reimbursement by a registered qualifying patient to the patient's registered~~
11 ~~designated caregiver for direct costs incurred by the registered designated~~
12 ~~caregiver for assisting with the registered qualifying patient's medical use of~~
13 ~~cannabis;~~

14 ~~(3) Transferring the cannabis to a testing facility;~~

15 ~~(4) Compensating a dispensary or a testing facility for goods or services provided;~~

16 ~~(5) Selling, transferring, or delivering cannabis seeds produced by the cardholder to a~~
17 ~~cultivation facility or dispensary; or~~

18 ~~(6) Offering or providing cannabis to a cardholder for a registered qualifying patient's~~
19 ~~medical use, to a nonresident cardholder, or to a dispensary if nothing of value is~~
20 ~~transferred in return and the person giving the cannabis does not knowingly cause~~
21 ~~the recipient to possess more than the allowable amount of cannabis.~~

22 **Section 4. That § 34-20G-3 be REPEALED.**

23 ~~No nonresident cardholder is subject to arrest, prosecution, or penalty in any~~
24 ~~manner, or denied any right or privilege, including civil penalty or disciplinary action by a~~
25 ~~business or occupational or professional licensing board or entity, for transporting,~~
26 ~~purchasing, possessing, or using medical cannabis in accordance with this chapter if the~~
27 ~~nonresident cardholder does not possess more than three ounces of cannabis and the~~
28 ~~quantity of cannabis products established by rules promulgated by the department under~~
29 ~~§ 34-20G-72.~~

30 **Section 5. That § 34-20G-4 be REPEALED.**

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

8 **Section 6. That § 34-20G-5 be REPEALED.**

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

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

21 **Section 7. That § 34-20G-5.1 be REPEALED.**

22 ~~Nothing in this chapter authorizes a practitioner to provide a written certification~~
23 ~~to a patient who is pregnant or breastfeeding.~~

24 **Section 8. That § 34-20G-5.2 be REPEALED.**

25 ~~If a practitioner issues a written certification under this chapter, and if the~~
26 ~~practitioner is neither the patient's primary care provider nor a specialty provider caring~~
27 ~~for the patient's debilitating medical condition, the practitioner shall, upon issuing the~~
28 ~~certification, provide electronic notification of the issuance:~~
29 ~~(1) To the patient's primary care provider; or~~
30 ~~(2) To the referring practitioner, if that individual is caring for the patient's debilitating~~
31 ~~medical condition.~~

1 ~~The patient's primary care provider or the referring practitioner shall include any~~
2 ~~notification received in accordance with this section in the patient's medical file.~~

3 **Section 9. That § 34-20G-6 be REPEALED.**

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

10 **Section 10. That § 34-20G-7 be REPEALED.**

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

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

22 **Section 11. That § 34-20G-12 be REPEALED.**

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

26 **Section 12. That § 34-20G-13 be REPEALED.**

27 ~~Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or~~
28 ~~right to property that is possessed, owned, or used in connection with the medical use of~~
29 ~~cannabis as allowed under this chapter, or acts incidental to such use, may not be seized~~
30 ~~or forfeited. This chapter does not prevent the seizure or forfeiture of cannabis exceeding~~

1 ~~the amount allowed under this chapter, or prevent seizure or forfeiture if the basis for the~~
2 ~~action is unrelated to the cannabis that is possessed, manufactured, transferred, or used~~
3 ~~in accordance with this chapter.~~

4 **Section 13. That § 34-20G-14 be REPEALED.**

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

10 **Section 14. That § 34-20G-15 be REPEALED.**

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

13 **Section 15. That § 34-20G-17 be REPEALED.**

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

18 **Section 16. That § 34-20G-18 be REPEALED.**

19 ~~This chapter does not authorize any person to engage in, and does not prevent the~~
20 ~~imposition of any civil, criminal, or other penalty for engaging in, the following conduct:~~
21 ~~(1) — Undertaking any task under the influence of cannabis, when doing so would~~
22 ~~constitute negligence or professional malpractice;~~
23 ~~(2) — Possessing cannabis or otherwise engaging in the medical use of cannabis in any~~
24 ~~correctional facility;~~
25 ~~(3) — Smoking or vaping cannabis:~~
26 ~~(a) — On any form of public transportation;~~
27 ~~(b) — In any public place or any place that is open to the public; or~~
28 ~~(c) — If under the age of twenty one;~~
29 ~~(4) — Operating, navigating, or being in actual physical control of any motor vehicle,~~
30 ~~aircraft, train, or motorboat while under the influence of cannabis; or~~

1 ~~(5) — Performing any safety sensitive job under the influence of cannabis.~~

2 **Section 17. That § 34-20G-19 be REPEALED.**

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

9 **Section 18. That § 34-20G-20 be REPEALED.**

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

15 **Section 19. That § 34-20G-21 be REPEALED.**

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

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

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

27 ~~(1) — Any interaction with a person's employer;~~

28 ~~(2) — Drug testing by a person's employer; or~~

29 ~~(3) — Drug testing required by any state or local law, agency, or government official.~~

1 ~~Nothing in this section prohibits adverse employment action, based solely on a~~
2 ~~positive test result for cannabis metabolites, if the person is employed in a safety sensitive~~
3 ~~job.~~

4 ~~Nothing in this section prohibits an employer from refusing to hire a person, based~~
5 ~~solely on a positive test result for cannabis metabolites, if the person is seeking~~
6 ~~employment in a safety sensitive job.~~

7 **Section 21. That § 34-20G-23 be REPEALED.**

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

12 **Section 22. That § 34-20G-24 be REPEALED.**

13 ~~No employer is required to allow the ingestion, possession, transfer, display, or~~
14 ~~transportation of cannabis in any workplace or to allow any employee to work while under~~
15 ~~the influence of cannabis.~~

16 ~~No employer is prohibited from establishing and enforcing a drug free workplace~~
17 ~~policy, which may include a drug testing program that complies with state and federal law,~~
18 ~~or acting with respect to an applicant or employee under the policy.~~

19 ~~No cause of action is created for employment discrimination or wrongful~~
20 ~~termination arising from an employer's enforcement of a drug free workplace policy in~~
21 ~~compliance with this chapter.~~

22 **Section 23. That § 34-20G-25 be REPEALED.**

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

25 **Section 24. That § 34-20G-25.1 be REPEALED.**

26 ~~A health care facility, as defined in § 34-12-1.1, an accredited prevention or~~
27 ~~treatment facility, as defined in § 34-20A-2, a mental health center, as defined in § 27A-~~
28 ~~1-1, a child welfare agency, as defined in § 26-6-1, or a community support provider or~~
29 ~~community services provider, as defined in § 27B-1-17, may adopt restrictions on the use~~
30 ~~of medical cannabis by a cardholder who resides at, is actively receiving treatment or care~~

1 from, or is visiting the facility. The restrictions may include a provision that the facility will
2 not store or maintain the cardholder's supply of medical cannabis, that the facility is not
3 responsible for providing the medical cannabis for cardholders, and that the medical
4 cannabis be used only in a place specified by the facility. Nothing in this section requires
5 a facility to adopt such restrictions or requires a facility to allow the consumption of
6 medical cannabis on the grounds of the facility.

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

14 **Section 25. That § 34-20G-27 be REPEALED.**

15 Nothing in this chapter requires:

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

26 **Section 26. That § 34-20G-28 be REPEALED.**

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

29 **Section 27. That § 34-20G-28.1 be REPEALED.**

30 Each application for a registry identification card and each application for a card
31 renewal must include a notice that:

- 1 ~~(1) The Gun Control Act of 1968, 18 U.S.C. § 922 (January 1, 2024), prohibits any~~
- 2 ~~person who is an unlawful user of or addicted to any controlled substance, as~~
- 3 ~~defined by the Controlled Substances Act of 1970, 21 U.S.C. § 801, et seq.,~~
- 4 ~~(January 1, 2024), from shipping, transporting, receiving, or possessing a firearm~~
- 5 ~~or ammunition;~~
- 6 ~~(2) Until marijuana is legalized under federal law, an individual who is a current user~~
- 7 ~~of marijuana is, under federal law, an unlawful user of a controlled substance; and~~
- 8 ~~(3) Federal law does not exempt the use of marijuana for medicinal purposes.~~

9 **Section 28. That § 34-20G-29 be REPEALED.**

10 ~~The department shall issue a registry identification card to a qualifying patient who~~
 11 ~~submits the following, in accordance with rules promulgated by the department:~~

- 12 ~~(1) A written certification issued by a practitioner within ninety days immediately~~
- 13 ~~preceding the date of an application;~~
- 14 ~~(2) The application or renewal fee;~~
- 15 ~~(3) The name, address, and date of birth of the qualifying patient, except that if the~~
- 16 ~~applicant is homeless, no address is required;~~
- 17 ~~(4) The name, address, and telephone number of the qualifying patient's practitioner;~~
- 18 ~~(5) The name, address, and date of birth of the designated caregiver, or designated~~
- 19 ~~caregivers, chosen by the qualifying patient;~~
- 20 ~~(6) If more than one designated caregiver is designated at any given time,~~
- 21 ~~documentation demonstrating that a greater number of designated caregivers are~~
- 22 ~~needed due to the patient's age or medical condition;~~
- 23 ~~(7) The name of no more than two dispensaries that the qualifying patient designates,~~
- 24 ~~if any; and~~
- 25 ~~(8) If the qualifying patient designates a designated caregiver, a designation as to~~
- 26 ~~whether the qualifying patient or designated caregiver will be allowed under state~~
- 27 ~~law to possess and cultivate cannabis plants for the qualifying patient's medical~~
- 28 ~~use.~~

29 ~~When a practitioner conducts a follow up assessment with a patient, within sixty~~
 30 ~~days of issuing the patient a written certification, and the purpose of the follow up~~
 31 ~~assessment is to assess the patient's response to the use of medical cannabis and to~~
 32 ~~determine whether to issue the patient a second written certification, the fee required~~
 33 ~~under subdivision (2) is waived, if the patient reapplies for the second registry~~

1 identification card. A patient may only receive one fee waiver under this section per
2 calendar year.

3 **Section 29. That § 34-20G-30 be REPEALED.**

4 If the qualifying patient is unable to submit the information required by ~~§ 34-20G-~~
5 ~~29~~ due to the person's age or medical condition, the person responsible for making medical
6 decisions for the qualifying patient may do so on behalf of the qualifying patient.

7 **Section 30. That § 34-20G-31 be REPEALED.**

8 Except as provided in ~~§ 34-20G-32~~, the department shall:
9 (1) ~~Verify the information contained in an application or renewal submitted pursuant~~
10 ~~to this chapter and approve or deny an application or renewal within fifteen days~~
11 ~~of receiving a completed application or renewal application;~~
12 (2) ~~Issue registry identification cards to a qualifying patient and to a qualifying~~
13 ~~patient's designated caregivers, if any, within five days of approving the application~~
14 ~~or renewal. A designated caregiver shall have a registry identification card for each~~
15 ~~of the qualifying patients; and~~
16 (3) ~~Enter the registry identification number of any dispensary the patient designates~~
17 ~~into the verification system.~~

18 **Section 31. That § 34-20G-32 be REPEALED.**

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

21 **Section 32. That § 34-20G-33 be REPEALED.**

22 The department may not issue a registry identification card to a qualifying patient
23 who is younger than eighteen years of age unless:
24 (1) ~~The qualifying patient's practitioner has explained the potential risks and benefits~~
25 ~~of the medical use of cannabis to the custodial parent or legal guardian with~~
26 ~~responsibility for health care decisions for the qualifying patient; and~~
27 (2) ~~The custodial parent or legal guardian with responsibility for health care decisions~~
28 ~~for the qualifying patient consents in writing to:~~
29 (a) ~~Allow the qualifying patient's medical use of cannabis;~~
30 (b) ~~Serve as the qualifying patient's designated caregiver; and~~

1 ~~(c) — Control the acquisition of the cannabis, the dosage, and the frequency of~~
2 ~~the medical use of cannabis by the qualifying patient.~~

3 **Section 33. That § 34-20G-34 be REPEALED.**

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

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

11 **Section 34. That § 34-20G-35 be REPEALED.**

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

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

19 **Section 35. That § 34-20G-36 be REPEALED.**

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

- 21 ~~(1) — Denying a registry identification card to the qualifying patient or to the qualifying~~
22 ~~patient’s designated caregiver; or~~
- 23 ~~(2) — Revoking the registry identification card of the qualifying patient or the qualifying~~
24 ~~patient’s designated caregiver.~~

25 **Section 36. That § 34-20G-37 be REPEALED.**

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

28 **Section 37. That § 34-20G-42 be REPEALED.**

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

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

13 **Section 38. That § 34-20G-43 be REPEALED.**

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

17 **Section 39. That § 34-20G-44 be REPEALED.**

- 18 ~~The department shall maintain a confidential list of:~~
- 19 ~~(a) — The name, address, phone number, and registry identification card number of each~~
 - 20 ~~person to whom the department has issued a registry identification card; and~~
 - 21 ~~(b) — The name, address, and phone number of a registered qualifying patient's parent~~
 - 22 ~~or legal guardian if the patient is under age eighteen.~~

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

25 **Section 40. That § 34-20G-45 be REPEALED.**

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

- 31 ~~(1) — Whether the identification card is valid;~~

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

8 **Section 41. That § 34-20G-46 be REPEALED.**

9 The following notifications are required:

- 10 ~~(1) — A registered qualifying patient shall notify the department of any change in the~~
- 11 ~~applicant's name or address, or if the patient ceases to have a debilitating medical~~
- 12 ~~condition, within ten days of the change;~~
- 13 ~~(2) — A registered designated caregiver shall notify the department of any change in the~~
- 14 ~~caregiver's name or address, or if the caregiver becomes aware the qualifying~~
- 15 ~~patient passed away, within ten days of the change;~~
- 16 ~~(3) — Before a registered qualifying patient changes a designated caregiver, the patient~~
- 17 ~~shall notify the department;~~
- 18 ~~(4) — If a registered qualifying patient changes a preference as to who may cultivate~~
- 19 ~~cannabis for the patient, the patient shall notify the department;~~
- 20 ~~(5) — If a cardholder loses a registry identification card, the cardholder shall notify the~~
- 21 ~~department within ten days of becoming aware the card has been lost; and~~
- 22 ~~(6) — Before a registered qualifying patient changes a designated dispensary, the patient~~
- 23 ~~shall notify the department.~~

24 **Section 42. That § 34-20G-47 be REPEALED.**

25 ~~Any notification that a registered qualifying patient is required to make under this~~

26 ~~chapter may be made by the patient's designated caregiver if the qualifying patient is~~

27 ~~unable to make the notification due to age or medical condition.~~

28 **Section 43. That § 34-20G-48 be REPEALED.**

29 ~~If a cardholder notifies the department of any item listed in § 34-20G-46, but~~

30 ~~remains eligible under this chapter, the department shall issue the cardholder a new~~

31 ~~registry identification card with a new random ten digit alphanumeric identification~~

1 ~~number within ten days of receiving the updated information and a twenty dollar fee. If~~
2 ~~the person notifying the department is a registered qualifying patient, the department~~
3 ~~shall also issue the patient's registered designated caregiver, if any, a new registry~~
4 ~~identification card within ten days of receiving the updated information.~~

5 **Section 44. That § 34-20G-49 be REPEALED.**

6 ~~A registry identification card is void if the certifying practitioner notifies the~~
7 ~~department in writing that:~~

8 ~~(1) The registered qualifying patient has ceased to suffer from a debilitating medical~~
9 ~~condition; or~~

10 ~~(2) The practitioner no longer believes the patient would receive therapeutic or~~
11 ~~palliative benefit from the medical use of cannabis.~~

12 ~~The registered qualifying patient has fifteen days to dispose of any cannabis in the~~
13 ~~registered qualifying patient's possession.~~

14 **Section 45. That § 34-20G-50 be REPEALED.**

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

17 **Section 46. That § 34-20G-51 be REPEALED.**

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

21 ~~(1) A practitioner has stated that, in the practitioner's professional opinion, after~~
22 ~~having completed a full assessment of the person's medical history and current~~
23 ~~medical condition made in the course of a bona fide practitioner-patient~~
24 ~~relationship, the patient has a debilitating medical condition and the potential~~
25 ~~benefits of using cannabis for medical purposes would likely outweigh the health~~
26 ~~risks for the person;~~

27 ~~(2) The person was in possession of no more than three ounces of cannabis, the~~
28 ~~amount of cannabis products allowed by department rules, two flowering cannabis~~
29 ~~plants, two cannabis plants that are not flowering, and the cannabis produced by~~
30 ~~those plants;~~

- 1 ~~(3) The person was engaged in the acquisition, possession, use, manufacture,~~
2 ~~cultivation, or transportation of cannabis, paraphernalia, or both, relating to the~~
3 ~~administration of cannabis to treat or alleviate the person's debilitating medical~~
4 ~~condition or symptoms associated with the person's debilitating medical condition;~~
5 ~~and~~
- 6 ~~(4) Any cultivation of cannabis and storage of more than three ounces of cannabis~~
7 ~~occurred in a secure location that only the person asserting the defense could~~
8 ~~access.~~

9 **Section 47. That § 34-20G-52 be REPEALED.**

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

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

16 **Section 48. That § 34-20G-53 be REPEALED.**

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

19 **Section 49. That § 34-20G-54 be REPEALED.**

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

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

25 **Section 50. That § 34-20G-55 be REPEALED.**

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

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

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

27 **Section 51. That § 34-20G-56 be REPEALED.**

28 ~~If the governing body of a county has enacted a numerical limit on the number of~~
29 ~~medical cannabis establishments in the county and a greater number of applicants seek~~
30 ~~registration, the department shall solicit and consider input from the county as to its~~
31 ~~preference for registration.~~

32 ~~If the governing body of a municipality has enacted a numerical limit on the number~~
33 ~~of medical cannabis establishments in the municipality, and a greater number of applicants~~

1 seek registration, the department shall solicit and consider input from the municipality as
2 to its preference for registration.

3 **Section 52. That § 34-20G-57 be REPEALED.**

4 The department shall issue a renewal registration certificate within forty five days
5 of receipt of the prescribed renewal application and renewal fee from a medical cannabis
6 establishment.

7 **Section 53. That § 34-20G-58 be REPEALED.**

8 The governing body of a municipality may enact an ordinance not in conflict with
9 this chapter, regardless of whether it has enacted a zoning ordinance pursuant to title 11,
10 imposing:

- 11 (1) — Restrictions on a medical cannabis establishment to govern the time, place, and
12 manner of operation;
- 13 (2) — A limit on the number of medical cannabis establishments in the municipality;
- 14 (3) — Reasonable setback requirements;
- 15 (4) — Limitations on the proximity of a medical cannabis establishment to:
 - 16 (a) — Any sensitive land use area, including a childcare facility, park, public
17 service facility, recreational facility, religious facility, school, and any
18 location frequented by individuals under the age of twenty one; or
 - 19 (b) — Any other medical cannabis establishment;
- 20 (5) — Requirements for a medical cannabis establishment to obtain a local license,
21 permit, or registration to operate; or
- 22 (6) — Reasonable fees for any local license, permit, or registration.

23 The governing body of a county may enact an ordinance governing all matters set
24 forth in this section. The county ordinance applies throughout its jurisdiction, except within
25 the boundaries of a municipality that has enacted an ordinance in accordance with this
26 section.

27 A county or municipality may impose a civil penalty for the violation of an ordinance
28 enacted in accordance with this section.

29 **Section 54. That § 34-20G-59 be REPEALED.**

1 ~~No county or municipality may prohibit a dispensary, either expressly or through~~
2 ~~the enactment of an ordinance that makes the operation of the dispensary impracticable~~
3 ~~in the county or municipality.~~

4 **Section 55. That § 34-20G-61 be REPEALED.**

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

9 **Section 56. That § 34-20G-62 be REPEALED.**

10 ~~A medical cannabis establishment may not employ any person who:~~
11 ~~(1) Was convicted of a disqualifying felony offense; or~~
12 ~~(2) Is under twenty one years of age.~~

13 **Section 57. That § 34-20G-63 be REPEALED.**

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

17 **Section 58. That § 34-20G-64 be REPEALED.**

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

21 **Section 59. That § 34-20G-65 be REPEALED.**

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

27 **Section 60. That § 34-20G-65.1 be REPEALED.**

1 ~~A sample of cannabis or cannabis products submitted to a testing facility must be~~
2 ~~collected by a designated representative of the testing facility.~~

3 ~~A medical cannabis establishment shall ensure that testing is conducted on a~~
4 ~~sample of cannabis or cannabis product immediately prior to the transfer of the cannabis~~
5 ~~for retail sale or cannabis product in final form to another medical cannabis establishment.~~

6 **Section 61. That § 34-20G-66 be REPEALED.**

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

9 **Section 62. That § 34-20G-67 be REPEALED.**

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

12 **Section 63. That § 34-20G-68 be REPEALED.**

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

15 **Section 64. That § 34-20G-69 be REPEALED.**

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

18 **Section 65. That § 34-20G-70 be REPEALED.**

19 ~~A dispensary may not dispense more than three ounces of cannabis or a cannabis~~
20 ~~product to a registered qualifying patient or a nonresident cardholder, directly or via a~~
21 ~~designated caregiver, in any fourteen-day period.~~

22 ~~Before cannabis or a cannabis product may be dispensed to a cardholder or~~
23 ~~nonresident cardholder, a dispensary agent must verify:~~

24 (1) ~~That the registry identification card or registration presented to the dispensary is~~
25 ~~valid;~~

26 (2) ~~The identity of the person by requiring the person to present a valid photographic~~
27 ~~identification document issued by this state, another state, tribe, or the federal~~
28 ~~government; and~~

1 ~~(3) Through the department's inventory tracking system, that the registered qualifying~~
 2 ~~patient or nonresident cardholder has not exceeded the allowable limit of cannabis~~
 3 ~~or cannabis product in the applicable fourteen day period.~~

4 ~~A dispensary agent may not dispense an amount of cannabis or cannabis product~~
 5 ~~to a person that would cause the person to possess more than the allowable amount of~~
 6 ~~cannabis.~~

7 **Section 66. That § 34-20G-71 be REPEALED.**

8 ~~A dispensary shall maintain internal, confidential records specifying how much~~
 9 ~~cannabis is dispensed to a nonresident cardholder or registered qualifying patient and~~
 10 ~~whether it is dispensed directly to a registered qualifying patient or to the designated~~
 11 ~~caregiver.~~

12 **Section 67. That § 34-20G-72 be REPEALED.**

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

14 ~~(1) Establishing the form and content of registration and renewal applications~~
 15 ~~submitted under this chapter and include the notice requirements set forth in § 34-~~
 16 ~~20G-28.1;~~

17 ~~(2) Establishing a system to numerically score competing medical cannabis~~
 18 ~~establishment applicants, in cases where more applicants apply than are allowed~~
 19 ~~by the local government, that includes analysis of:~~

20 ~~(a) The preference of the local government;~~

21 ~~(b) In the case of dispensaries, the suitability of the proposed location and its~~
 22 ~~accessibility for patients;~~

23 ~~(c) The character, veracity, background, qualifications, and relevant experience~~
 24 ~~of principal officers and board members; and~~

25 ~~(d) The business plan proposed by the applicant, that in the case of a cultivation~~
 26 ~~facility or dispensary shall include the ability to maintain an adequate supply~~
 27 ~~of cannabis, plans to ensure safety and security of patrons and the~~
 28 ~~community, procedures to be used to prevent diversion, and any plan for~~
 29 ~~making cannabis available to low income registered qualifying patients;~~

30 ~~(3) Governing the manner in which the department shall consider applications for and~~
 31 ~~renewals of registry identification cards, that may include creating a standardized~~
 32 ~~written certification form;~~

- 1 ~~(4) — Governing medical cannabis establishments to ensure the health and safety of~~
2 ~~qualifying patients and prevent diversion and theft without imposing an undue~~
3 ~~burden or compromising the confidentiality of a cardholder, including:~~
- 4 ~~(a) — Oversight requirements;~~
 - 5 ~~(b) — Record keeping requirements;~~
 - 6 ~~(c) — Security requirements, including lighting, physical security, and alarm~~
7 ~~requirements;~~
 - 8 ~~(d) — Health and safety regulations, including restrictions on the use of pesticides~~
9 ~~that are injurious to human health;~~
 - 10 ~~(e) — Standards for the manufacture of cannabis products and both the indoor~~
11 ~~and outdoor cultivation of cannabis by a cultivation facility;~~
 - 12 ~~(f) — Requirements for the transportation and storage of cannabis by a medical~~
13 ~~cannabis establishment;~~
 - 14 ~~(g) — Employment and training requirements, including requiring that each~~
15 ~~medical cannabis establishment create an identification badge for each~~
16 ~~agent;~~
 - 17 ~~(h) — Standards for the safe manufacture of cannabis products, including extracts~~
18 ~~and concentrates;~~
 - 19 ~~(i) — Restrictions on the advertising, signage, and display of medical cannabis,~~
20 ~~provided that the restrictions may not prevent appropriate signs on the~~
21 ~~property of a dispensary, listings in business directories including phone~~
22 ~~books, listings in marijuana-related or medical publications, or the~~
23 ~~sponsorship of health or not-for-profit charity or advocacy events;~~
 - 24 ~~(j) — Requirements and procedures for the safe and accurate packaging, labeling,~~
25 ~~distribution, and tracking of medical cannabis;~~
 - 26 ~~(k) — Certification standards for testing facilities, including requirements for~~
27 ~~equipment and qualifications for personnel; and~~
 - 28 ~~(l) — Requirements for samples of cannabis and cannabis products submitted to~~
29 ~~testing facilities, including batch sizes to not exceed fifty pounds of cannabis~~
30 ~~intended for retail sale, batch sizes for homogenous cannabis products~~
31 ~~intended for retail sale, and procedures to ensure representative sampling;~~
- 32 ~~(5) — Establishing procedures for the suspension and termination of the registry~~
33 ~~identification cards of cardholders who commit multiple or serious violations of this~~
34 ~~chapter;~~
- 35 ~~(6) — Establishing procedures for:~~

- 1 (a) ~~The imposition of fines, not to exceed ten thousand dollars per inspection,~~
2 ~~on a medical cannabis establishment that is found to have committed~~
3 ~~multiple or serious violations of this chapter; and~~
- 4 (b) ~~The probation, suspension, and termination of the registration certificate of~~
5 ~~a medical cannabis establishment that commits multiple or serious~~
6 ~~violations of this chapter;~~
- 7 (7) ~~Establishing labeling requirements for cannabis and cannabis products, including~~
8 ~~requiring cannabis product labels to include the following:~~
- 9 (a) ~~The length of time it typically takes for a product to take effect;~~
10 (b) ~~Disclosing ingredients and possible allergens;~~
11 (c) ~~A nutritional fact panel; and~~
12 (d) ~~Requiring that edible cannabis products be clearly identifiable, when~~
13 ~~practicable, with a standard symbol indicating that it contains cannabis;~~
- 14 (8) ~~Establishing procedures for the registration of nonresident cardholders and the~~
15 ~~cardholder's designation of no more than two dispensaries, which shall require the~~
16 ~~submission of:~~
- 17 (a) ~~A practitioner's statement confirming that the patient has a debilitating~~
18 ~~medical condition; and~~
- 19 (b) ~~Documentation demonstrating that the nonresident cardholder is allowed to~~
20 ~~possess cannabis or cannabis preparations in the jurisdiction where the~~
21 ~~nonresident cardholder resides;~~
- 22 (9) ~~Establishing the amount of cannabis products, including the amount of~~
23 ~~concentrated cannabis, each cardholder and nonresident cardholder may possess;~~
24 ~~and~~
- 25 (10) ~~Establishing application and renewal fees for registration certificates, not to exceed~~
26 ~~twenty thousand dollars, with this upper limit adjusted annually for inflation, with~~
27 ~~the total fees collected sufficient to offset all costs related to program~~
28 ~~implementation and administration; and~~
- 29 (11) ~~Establishing application and renewal fees for registry identification cards and~~
30 ~~nonresident cardholder registration as follows:~~
- 31 (a) ~~Using a sliding scale of patient application and renewal fees based upon a~~
32 ~~qualifying patient's household income;~~
- 33 (b) ~~The fees charged to qualifying patients, nonresident cardholders, and~~
34 ~~caregivers may not be greater than the costs of processing the application~~
35 ~~and issuing a registry identification card or registration; and~~

1 ~~(c) The department may accept donations from private sources to reduce~~
2 ~~application and renewal fees.~~

3 ~~A violation of a required or prohibited action under any rule authorized by this~~
4 ~~section is a Class 2 misdemeanor.~~

5 **Section 68. That § 34-20G-73 be REPEALED.**

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

9 **Section 69. That § 34-20G-74 be REPEALED.**

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

17 **Section 70. That § 34-20G-75 be REPEALED.**

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

22 **Section 71. That § 34-20G-76 be REPEALED.**

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

1 **Section 72. That § 34-20G-77 be REPEALED.**

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

5 **Section 73. That § 34-20G-78 be REPEALED.**

6 ~~A practitioner is guilty of a Class 2 misdemeanor if the practitioner:~~
7 ~~(1) Knowingly refers a patient to a medical cannabis establishment or to a designated~~
8 ~~caregiver in exchange for financial consideration;~~
9 ~~(2) Advertises in a medical cannabis establishment;~~
10 ~~(3) Issues written certifications while holding a financial interest in a medical cannabis~~
11 ~~establishment;~~
12 ~~(4) Offers a discount, deal, or other financial incentive for making an appointment with~~
13 ~~the practitioner for the purpose of receiving a written certification;~~
14 ~~(5) Conducts the medical assessment required for a bona fide practitioner-patient~~
15 ~~relationship in a space licensed for the sale of alcoholic beverages; or~~
16 ~~(6) Charges a patient based on the term of a written certification issued to the patient.~~

17 **Section 74. That § 34-20G-78.1 be REPEALED.**

18 ~~An entity is guilty of a Class 2 misdemeanor if the entity:~~
19 ~~(1) Offers a discount, deal, or other financial incentive for making an appointment with~~
20 ~~a practitioner for the purpose of receiving a written certification; or~~
21 ~~(2) Charges a practitioner's patient based on the duration of a written certification~~
22 ~~issued to the patient.~~

23 **Section 75. That § 34-20G-78.2 be REPEALED.**

24 ~~If a practitioner or an immediate family member of the practitioner has a financial~~
25 ~~relationship with a medical cannabis clinic, the practitioner may not knowingly refer a~~
26 ~~patient to that clinic for the purpose of receiving a written certification under this chapter.~~
27 ~~For purposes of this section, a "financial relationship" means an ownership or~~
28 ~~investment interest in the medical cannabis clinic, or a compensation arrangement~~
29 ~~between the practitioner or the practitioner's immediate family member and the clinic.~~

1 ~~An ownership or investment interest may be through equity, debt, or other means~~
2 ~~and includes an interest in an entity that holds an ownership or investment interest in the~~
3 ~~medical cannabis clinic.~~

4 ~~The prohibition of this section does not apply:~~

5 ~~(1) If the services offered at the medical cannabis clinic are being provided by another~~
6 ~~practitioner in the same group practice as the referring practitioner;~~

7 ~~(2) To a compensation arrangement, between the practitioner or the practitioner's~~
8 ~~immediate family member and the medical cannabis clinic, consisting of payments~~
9 ~~under the terms of a written lease that:~~

10 ~~(a) Is signed by all the parties;~~

11 ~~(b) Specifies the premises covered by the lease, provided the premises do not~~
12 ~~exceed the space that is reasonable and necessary for the legitimate~~
13 ~~business purposes of the lease and further provided that the premises, aside~~
14 ~~from common areas, are used exclusively by the lessee;~~

15 ~~(c) Has a duration of at least twelve months; and~~

16 ~~(d) Specifies the rental charges over the term of the lease, provided the charges~~
17 ~~are consistent with fair market value, and are not determined in a manner~~
18 ~~that takes into account the volume or value of any referrals or other~~
19 ~~business generated between the parties;~~

20 ~~(3) To a bona fide employment relationship under which an immediate family member~~
21 ~~of the practitioner is employed by the clinic for identifiable services, and receives~~
22 ~~remuneration for those services in an amount that:~~

23 ~~(a) Is consistent with the fair market value of the services; and~~

24 ~~(b) Is not determined in a manner that takes into account, directly or indirectly,~~
25 ~~the volume or value of any referrals by the referring practitioner; and~~

26 ~~(4) To an isolated transaction, such as a one-time sale of property.~~

27 ~~Any practitioner who knowingly refers a patient to a medical cannabis clinic, with~~
28 ~~which the practitioner or an immediate family member of the practitioner has a financial~~
29 ~~relationship, is guilty of a Class 2 misdemeanor.~~

30 **Section 76. That § 34-20G-79 be REPEALED.**

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

1 **Section 77. That § 34-20G-80 be REPEALED.**

2 ~~The department may, after notice and hearing in accordance with chapter 1-26,~~
3 ~~impose probation, impose a fine, suspend, or revoke a registration certificate for multiple~~
4 ~~negligent or knowing violations of this chapter, or for a serious and knowing violation of~~
5 ~~this chapter, by the registrant or any of its agents.~~

6 The department may not:

7 (1) ~~Impose a probation period that exceeds six months; or~~

8 (2) ~~Suspend a registration certificate for a period that exceeds six months, except for~~
9 ~~a serious violation of patient health and safety, in which case the suspension may~~
10 ~~not exceed one year.~~

11 **Section 78. That § 34-20G-81 be REPEALED.**

12 ~~The department shall provide notice of probation, fine, suspension, or revocation~~
13 ~~by mailing the same in writing to the medical cannabis establishment at the address on~~
14 ~~the registration certificate.~~

15 **Section 79. That § 34-20G-82 be REPEALED.**

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

20 **Section 80. That § 34-20G-83 be REPEALED.**

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

25 **Section 81. That § 34-20G-84 be REPEALED.**

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

29 **Section 82. That § 34-20G-85 be REPEALED.**

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

3 **Section 83. That § 34-20G-86 be REPEALED.**

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

9 **Section 84. That § 34-20G-87 be REPEALED.**

10 Except as provided in ~~§ 34-20E-2~~, data kept or maintained by the department may
11 not be used for any purpose not provided for in this chapter and may not be combined or
12 linked in any manner with any other list or database.

13 **Section 85. That § 34-20G-88 be REPEALED.**

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

- 16 (1) ~~Verify a registration certificate or registry identification card pursuant to this~~
17 ~~chapter;~~
- 18 (2) ~~Notify law enforcement of an apparent criminal violation of this chapter or respond~~
19 ~~to law enforcement or prosecutorial officials engaged in the investigation or~~
20 ~~enforcement of the criminal provisions of this chapter;~~
- 21 (3) ~~Notify state and local law enforcement about falsified or fraudulent information~~
22 ~~submitted for the purpose of obtaining or renewing a registry identification card;~~
- 23 (4) ~~Notify the applicable licensing board if there is reason to believe that a practitioner~~
24 ~~has violated the standard of care for evaluating a medical condition; or respond to~~
25 ~~the board, if the board is seeking data relevant to an investigation of a person who~~
26 ~~holds a license issued by the board;~~
- 27 (5) ~~Any judicial authority under grand jury subpoena or court order or equivalent~~
28 ~~judicial process for investigation of criminal, civil, or administrative violations~~
29 ~~related to the use of medical cannabis;~~
- 30 (6) ~~An authorized employee of the department performing official duties associated~~
31 ~~with the medical cannabis program;~~

1 ~~(7) — A practitioner to determine if a person in the practitioner's care engages in the~~
2 ~~medical use of cannabis so the practitioner may assess possible drug interactions~~
3 ~~or assess other medically necessary concerns; or~~

4 ~~(8) — Comply with the reporting requirement in § 34-20G-88.1.~~

5 **Section 86. That § 34-20G-88.1 be REPEALED.**

6 ~~The department shall submit the name and date of birth of a qualifying patient who~~
7 ~~receives a registry identification card to the prescription drug monitoring program~~
8 ~~authorized pursuant to chapter 34-20E.~~

9 **Section 87. That § 34-20G-89 be REPEALED.**

10 ~~Except as otherwise provided in this section, information kept or maintained by a~~
11 ~~medical cannabis establishment may identify a cardholder only by registry identification~~
12 ~~number and may not contain names or other personally identifiable information.~~

13 ~~A cardholder may, in writing, authorize an establishment to maintain the~~
14 ~~cardholder's name and other personally identifiable information, for the limited purpose~~
15 ~~of receiving direct communication regarding the cardholder's:~~

16 ~~(1) — Individual medical needs; or~~

17 ~~(2) — Use of a specific product.~~

18 **Section 88. That § 34-20G-90 be REPEALED.**

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

22 **Section 89. That § 34-20G-91 be REPEALED.**

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

25 **Section 90. That § 34-20G-92 be REPEALED.**

26 ~~The Executive Board of the Legislative Research Council shall appoint an oversight~~
27 ~~committee consisting of:~~

28 ~~(1) — Two members of the Senate;~~

29 ~~(2) — Two members of the House of Representatives;~~

- 1 ~~(3) — One physician licensed in accordance with chapter 36-4;~~
- 2 ~~(4) — One physician assistant licensed in accordance with chapter 36-4A;~~
- 3 ~~(5) — One certified nurse practitioner licensed in accordance with chapter 36-9A;~~
- 4 ~~(6) — One chief of police for a municipality having a population in excess of fifty-~~
5 ~~thousand, or a representative of the police department designated by the chief;~~
- 6 ~~(7) — One sheriff of a county or a representative of the sheriff's office designated by the~~
7 ~~sheriff;~~
- 8 ~~(8) — One professional counselor licensed in accordance with chapter 36-32 or one~~
9 ~~addiction counselor licensed in accordance with chapter 36-34; and~~
- 10 ~~(9) — One qualifying patient.~~
- 11 ~~Each appointee shall serve for a term of two years and may be reappointed.~~

Section 91. That § 34-20G-92.1 be REPEALED.

13 ~~Beginning in 2023, and every two years thereafter, the oversight committee shall~~
14 ~~select from among itself one legislator to serve as the chair and one legislator, from the~~
15 ~~opposite chamber, to serve as the vice chair.~~

16 ~~Beginning in 2025, the legislators selected to serve as the chair and vice chair may~~
17 ~~not be from the same chamber as their immediate predecessors.~~

Section 92. That § 34-20G-93 be REPEALED.

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

- 22 ~~(1) — The ability of qualifying patients in all areas of the state to obtain timely access to~~
23 ~~high-quality medical cannabis;~~
- 24 ~~(2) — The effectiveness of the dispensaries and cultivation facilities, individually and~~
25 ~~together, in serving the needs of qualifying patients, including the provision of~~
26 ~~educational and support services by dispensaries, the reasonableness of their~~
27 ~~prices, whether they are generating any complaints or security problems, and the~~
28 ~~sufficiency of the number operating to serve the state's registered qualifying~~
29 ~~patients;~~
- 30 ~~(3) — The effectiveness of the cannabis testing facilities, including whether a sufficient~~
31 ~~number are operating;~~

1 ~~(4) — The sufficiency of the regulatory and security safeguards contained in this chapter~~
2 ~~and adopted by the department to ensure that access to and use of cannabis~~
3 ~~cultivated is provided only to cardholders;~~

4 ~~(5) — Any recommended additions or revisions to the department regulations or this~~
5 ~~chapter, including recommendations relating to security, safe handling, labeling,~~
6 ~~and nomenclature;~~

7 ~~(6) — Any research studies regarding health effects of medical cannabis for patients; and~~

8 ~~(7) — Any medical and clinical aspects of the medical cannabis program.~~

9 ~~The oversight committee shall ensure that it seeks relevant input from qualifying~~
10 ~~patients; designated caregivers; pharmacists; school boards and administrators; parents;~~
11 ~~municipal representatives; state agencies, including the Department of Health, the South~~
12 ~~Dakota Division of Criminal Investigation, and the Department of Public Safety; and~~
13 ~~medical cannabis establishments.~~

14 **Section 93. That § 34-20G-94 be REPEALED.**

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

28 **Section 94. That § 34-20G-95 be REPEALED.**

29 ~~The Department of Education and the department shall establish policy to allow~~
30 ~~students who are medical cannabis cardholders to have their medicine administered in~~
31 ~~school in accordance with their physician's recommendation. This policy shall be~~
32 ~~implemented the first day of the new school year following passage of this chapter. The~~

1 ~~departments shall implement substantively identical provisions to Colorado Revised~~
 2 ~~Statute 22-1-119.3 as of January 1, 2019.~~

3 **Section 95. That § 34-20G-96 be REPEALED.**

4 ~~In order for an individual who is serving a probationary sentence under the~~
 5 ~~supervision of the Unified Judicial System or who is on conditional release or parole from~~
 6 ~~a state correctional facility under the legal custody of the Department of Corrections to~~
 7 ~~utilize medical cannabis, the individual's practitioner must attest that the use of medical~~
 8 ~~cannabis is:~~

9 ~~(1) Consistent with the medical standard of care for the treatment of the individual's~~
 10 ~~documented debilitating medical condition and any symptoms associated with the~~
 11 ~~debilitating medical condition;~~

12 ~~(2) Reasonable in light of the practitioner's observation and the individual's physical~~
 13 ~~examination, diagnostic test results, medical history, and reported symptoms; and~~

14 ~~(3) Reasonable in light of the risks and benefits of medical cannabis as compared to~~
 15 ~~the risks and benefits of other treatment options for the individual's debilitating~~
 16 ~~medical condition and any symptoms associated with the debilitating medical~~
 17 ~~condition.~~