

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0072.01 Michael Dohr

HOUSE BILL 11-1043

HOUSE SPONSORSHIP

Massey,

SENATE SPONSORSHIP

Steadman,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MEDICAL MARIJUANA.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill clarifies a number of provisions in the "Colorado Medical Marijuana Code". Under current law, any person applying for or who has been issued a medical marijuana license is subject to certain residency requirements. The bill narrows the application of the residency requirements to owners only, as defined by rule of the department of revenue.

A medical marijuana infused-products manufacturer is limited to

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

having no more than 500 marijuana plants on site unless the manufacturer is granted a waiver.

A primary caregiver who cultivates medical marijuana for his or her patients must register the cultivation site and all patient identification numbers with the medical marijuana state licensing authority and comply with all zoning and building codes.

Under current law, a medical marijuana center is subject to prohibitions on unfair business practices that may include selling products below cost. The bill allows a center to sell at a reduced cost or donate medical marijuana to indigent patients. A medical marijuana center is authorized to sell clones in addition to medical marijuana and medical marijuana infused-products. A medical marijuana center is permitted to trade medical marijuana with another center in exact equal amounts and can sell that medical marijuana, but the medical marijuana may not be traded again.

Under current law, a medical marijuana license may not be issued to a person who has been convicted of a felony within the last 5 years or who has ever been convicted of a felony drug offense. The bill changes the requirement so that only those persons who have been convicted of felony drug offense in the last 5 years may not be issued a license.

Current law imposes a 2-year residency requirement on all license applicants. The bill changes the residency requirement so that it applies only to those applicants who are going to be owners of a medical marijuana business.

Currently, a licensed medical marijuana center may not be located within 1,000 feet of a school, drug or alcohol treatment facility, higher education facility, or residential child care facility. The bill grandfathers in those centers that were located at their present sites on or before December 15, 2009. The bill repeals the provisions that made the location of optional premises cultivation operations confidential.

The bill creates 2 new classes of medical marijuana licenses:

- ! A **primary caregiver cultivation license**, which gives a primary caregiver who has received a waiver to serve more than 5 patients or who grows more than 30 plants at a time the authority to grow medical marijuana only for his or her patients or for the patients of another primary caregiver, if the licensee has been delegated authority over the patients.
- ! An **infused-products manufacturing facility license**, which allows a facility to be licensed for exclusive use by multiple infused-products manufacturers.

The bill clarifies that if a patient has applied for, but has not yet received, a registry identification card, the patient may present the application and a photo identification at the time of purchase in lieu of the registration card.

The bill states that the labeling of medical marijuana-infused

products is a matter of statewide concern.

The bill creates a process by which a physician who has a restricted license to practice medicine may apply for clarification of whether the restriction prohibits the physician from making a medical marijuana recommendation.

A primary caregiver may delegate his or her authority to another primary caregiver with whom the primary caregiver has an existing business relationship if he or she maintains a professional relationship with a patient.

The bill states that land that is used for the cultivation of medical marijuana cannot be classified as agricultural land for tax purposes.

The bill clarifies that medical marijuana medical records are medical records for the purposes of the theft of medical records statute. An owner, officer, or employee of a licensed medical marijuana business who releases the medical record of a patient commits a class 1 misdemeanor. The state licensing authority may adopt rules regarding licensing action against a licensed business that releases patient information.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 12-43.3-103 (2), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **12-43.3-103. Applicability.** (2) (d) ON AND AFTER JULY 1, 2011,
5 PERSONS WHO WERE NOT IN BUSINESS AS OF JULY 1, 2010, MAY BEGIN TO
6 APPLY FOR A LICENSE PURSUANT TO THIS ARTICLE. A BUSINESS OR
7 OPERATION THAT APPLIES AND IS APPROVED FOR ITS LICENSE AFTER JULY
8 1, 2011, SHALL CERTIFY TO THE STATE LICENSING AUTHORITY THAT IT IS
9 CULTIVATING AT LEAST SEVENTY PERCENT OF THE MEDICAL MARIJUANA
10 NECESSARY FOR ITS OPERATION WITHIN NINETY DAYS AFTER BEING
11 LICENSED.

12 **SECTION 2.** 12-43.3-104 (1), Colorado Revised Statutes, is
13 amended, and the said 12-43.3-104 is further amended BY THE
14 ADDITION OF A NEW SUBSECTION, to read:

15 **12-43.3-104. Definitions.** As used in this article, unless the

1 context otherwise requires:

2 (1) ~~"Good cause", for purposes of refusing or denying a license~~
3 ~~renewal, reinstatement, or initial license issuance, means:~~

4 (a) ~~The licensee or applicant has violated, does not meet, or has~~
5 ~~failed to comply with any of the terms, conditions, or provisions of this~~
6 ~~article, any rules promulgated pursuant to this article, or any supplemental~~
7 ~~local law, rules, or regulations;~~

8 (b) ~~The licensee or applicant has failed to comply with any special~~
9 ~~terms or conditions that were placed on its license pursuant to an order of~~
10 ~~the state or local licensing authority;~~

11 (c) ~~The licensed premises have been operated in a manner that~~
12 ~~adversely affects the public health or welfare or the safety of the~~
13 ~~immediate neighborhood in which the establishment is located. "CLONE"~~

14 MEANS A NONFLOWERING MEDICAL MARIJUANA PLANT THAT IS NO TALLER
15 THAN EIGHT INCHES AND NO WIDER THAN EIGHT INCHES THAT IS IN A
16 GROWING CONTAINER THAN IS NO LARGER THAN TWO INCHES WIDE AND
17 TWO INCHES TALL THAT IS SEALED ON THE SIDES AND BOTTOM.

18 (1.5) "GOOD CAUSE", FOR PURPOSES OF REFUSING OR DENYING A
19 LICENSE RENEWAL, REINSTATEMENT, OR INITIAL LICENSE ISSUANCE,
20 MEANS:

21 (a) THE LICENSEE OR APPLICANT HAS VIOLATED, DOES NOT MEET,
22 OR HAS FAILED TO COMPLY WITH ANY OF THE TERMS, CONDITIONS, OR
23 PROVISIONS OF THIS ARTICLE, ANY RULES PROMULGATED PURSUANT TO
24 THIS ARTICLE, OR ANY SUPPLEMENTAL LOCAL LAW, RULES, OR
25 REGULATIONS;

26 (b) THE LICENSEE OR APPLICANT HAS FAILED TO COMPLY WITH ANY
27 SPECIAL TERMS OR CONDITIONS THAT WERE PLACED ON ITS LICENSE

1 PURSUANT TO AN ORDER OF THE STATE OR LOCAL LICENSING AUTHORITY;

2 (c) THE LICENSED PREMISES HAVE BEEN OPERATED IN A MANNER
3 THAT ADVERSELY AFFECTS THE PUBLIC HEALTH OR WELFARE OR THE
4 SAFETY OF THE IMMEDIATE NEIGHBORHOOD IN WHICH THE
5 ESTABLISHMENT IS LOCATED.

6 **SECTION 3.** 12-43.3-306, Colorado Revised Statutes, is
7 amended to read:

8 **12-43.3-306. Denial of application.** (1) The state licensing
9 authority shall deny a state license if the premises on which the applicant
10 proposes to conduct its business do not meet the requirements of this
11 article or for reasons set forth in section 12-43.3-104 ~~(1)~~ (1.5) (c) or
12 12-43.3-305.

13 (2) If the state licensing authority denies a state license pursuant
14 to subsection (1) of this section, the applicant shall be entitled to a
15 ~~hearing pursuant to article 4 of title 24, C.R.S.~~ APPEAL TO DISTRICT COURT
16 PURSUANT TO SECTION 24-4-106, C.R.S. The state licensing authority
17 shall provide written notice of the grounds for denial of the state license
18 to the applicant and to the local licensing authority at least fifteen days
19 prior to the hearing.

20 **SECTION 4.** 12-43.3-307 (1) (h) and (1) (m), Colorado Revised
21 Statutes, are amended to read:

22 **12-43.3-307. Persons prohibited as licensees - repeal.** (1) A
23 license provided by this article shall not be issued to or held by:

24 (h) A person who has discharged a sentence in the five years
25 immediately preceding the application date for a conviction of a ~~felony~~
26 ~~or a person who at any time has been convicted of a felony pursuant to~~
27 any state or federal law regarding the possession, distribution,

1 MANUFACTURING, CULTIVATION, or use of a controlled substance;

2 (m) ~~A person~~ AN OWNER, AS DEFINED BY RULE OF THE STATE
3 LICENSING AUTHORITY, who has not been a resident of Colorado for at
4 least two years prior to the date of the ~~person's~~ OWNER'S application;
5 except that:

6 (I) (A) For ~~a person~~ AN OWNER who submits an application for
7 licensure pursuant to this article by December 15, 2010, this requirement
8 shall not apply to that ~~person~~ OWNER if ~~the person~~ HE OR SHE was a
9 resident of the state of Colorado on December 15, 2009.

10 (B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE JULY 1, 2011.

11 (II) A LICENSE MAY BE ISSUED TO AN OWNER WHO DOES NOT MEET
12 THE QUALIFICATIONS OF THIS PARAGRAPH (m) IF THE OWNER HAS A
13 PARTNERSHIP OR OTHER BUSINESS ENTITY RELATIONSHIP WITH AN OWNER
14 WHO MEETS THE QUALIFICATIONS OF THIS SECTION AND WHO HAS A
15 MAJORITY OWNERSHIP IN THE PARTNERSHIP OR BUSINESS ENTITY.

16 **SECTION 5.** 12-43.3-308 (1) (d) (I), Colorado Revised Statutes,
17 is amended to read:

18 **12-43.3-308. Restrictions for applications for new licenses.**

19 (1) The state or a local licensing authority shall not receive or act upon
20 an application for the issuance of a state or local license pursuant to this
21 article:

22 (d) (I) (A) If the building in which medical marijuana is to be sold
23 is located within one thousand feet of a school, an alcohol or drug
24 treatment facility, the principal campus of a college, university, or
25 seminary, or a residential child care facility.

26 (B) The provisions of this section shall not affect the renewal or
27 reissuance of a license once granted ~~or~~ AND SHALL NOT apply to licensed

1 premises located or to be located on land owned by a municipality, ~~nor~~
2 ~~shall the provisions of this section apply to~~ an existing licensed premises
3 on land owned by the state, ~~or apply to~~ a license in effect and actively
4 doing business before said principal campus was constructed, OR A
5 LICENSEE THAT WAS IN BUSINESS AT THE LOCATION ON OR BEFORE
6 DECEMBER 15, 2009.

7 (C) The local licensing authority of a city and county, by rule or
8 regulation, the governing body of a municipality, by ordinance, and the
9 governing body of a county, by resolution, may vary the distance
10 restrictions imposed by this subparagraph (I) for a license or may
11 eliminate one or more types of schools, campuses, or facilities from the
12 application of a distance restriction established by or pursuant to this
13 subparagraph (I).

14 **SECTION 6.** 12-43.3-310 (6), Colorado Revised Statutes, is
15 amended to read:

16 **12-43.3-310. Licensing in general.** (6) All ~~owners,~~ officers,
17 managers, and employees of a medical marijuana center, optional
18 premises cultivation operation, or medical marijuana-infused products
19 manufacturer shall be residents of Colorado UPON THE DATE OF THEIR
20 LICENSE APPLICATION. AN OWNER SHALL MEET THE RESIDENCY
21 REQUIREMENTS IN SECTION 12-43.3-307 (1) (m). A local licensing
22 authority shall not issue a license provided for in this article until that
23 share of the license application fee due to the state has been received by
24 the department of revenue. All licenses granted pursuant to this article
25 shall be valid for a period not to exceed two years from the date of
26 issuance unless revoked or suspended pursuant to this article or the rules
27 promulgated pursuant to this article.

1 **SECTION 7. Repeal.** 12-43.3-310 (14), Colorado Revised
2 Statutes, is repealed as follows:

3 **12-43.3-310. Licensing in general.** (14) ~~The location of an~~
4 ~~optional premises cultivation operation as described in section~~
5 ~~12-43.3-403 shall be a confidential record and shall be exempt from the~~
6 ~~"Colorado Open Records Act". State and local licensing authorities shall~~
7 ~~keep the location of an optional premises cultivation operation~~
8 ~~confidential and shall redact the location from all public records.~~
9 ~~Notwithstanding any provision of law to the contrary, a state or local~~
10 ~~licensing agency may share information regarding the location of an~~
11 ~~optional premises cultivation operation with a peace officer or a law~~
12 ~~enforcement agency.~~

13 **SECTION 8.** 12-43.3-401 (1) (c), Colorado Revised Statutes, is
14 amended, and the said 12-43.3-401 (1) is further amended BY THE
15 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

16 **12-43.3-401. Classes of licenses.** (1) For the purpose of
17 regulating the cultivation, manufacture, distribution, and sale of medical
18 marijuana, the state licensing authority in its discretion, upon application
19 in the prescribed form made to it, may issue and grant to the applicant a
20 license from any of the following classes, subject to the provisions and
21 restrictions provided by this article:

22 (c) Medical marijuana-infused products manufacturing license;

23 **and**

24 (e) PRIMARY CAREGIVER CULTIVATION LICENSE; AND

25 (f) INFUSED PRODUCTS MANUFACTURING FACILITY LICENSE.

26 **SECTION 9.** 12-43.3-402 (3), (4), and (5), Colorado Revised
27 Statutes, are amended, and the said 12-43.3-402 is further amended BY

1 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
2 read:

3 **12-43.3-402. Medical marijuana center license.** (3) Every
4 person selling medical marijuana as provided for in this article shall sell
5 only medical marijuana grown in its medical marijuana optional premises
6 licensed pursuant to this article. IN ADDITION TO MEDICAL MARIJUANA, A
7 MEDICAL MARIJUANA CENTER MAY SELL CLONES. The provisions of this
8 subsection (3) shall not apply to medical marijuana-infused products.

9 (4) Notwithstanding the requirements of subsection (3) of this
10 section to the contrary, a medical marijuana licensee may purchase not
11 more than thirty percent of its total on-hand inventory of medical
12 marijuana from another licensed medical marijuana center in Colorado.
13 A medical marijuana center may sell no more than thirty percent of its
14 total on-hand inventory to another Colorado licensed medical marijuana
15 licensee; EXCEPT THAT THE DIRECTOR OF THE DIVISION THAT REGULATES
16 MEDICAL MARIJUANA MAY GRANT A TEMPORARY WAIVER TO A MEDICAL
17 MARIJUANA CENTER OR APPLICANT IF THE MEDICAL MARIJUANA CENTER
18 OR APPLICANT SUFFERS A CATASTROPHIC EVENT RELATED TO ITS
19 INVENTORY.

20 (4.5) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTIONS (3)
21 AND (4) OF THIS SECTION TO THE CONTRARY, A MEDICAL MARIJUANA
22 CENTER MAY TRADE MEDICAL MARIJUANA WITH ANOTHER MEDICAL
23 MARIJUANA CENTER IN IDENTICAL WEIGHT AND MAY SELL THAT MEDICAL
24 MARIJUANA. A MEDICAL MARIJUANA CENTER THAT RECEIVES MEDICAL
25 MARIJUANA IN A TRADE MAY NOT TRADE THAT SAME MEDICAL MARIJUANA
26 TO ANOTHER MEDICAL MARIJUANA CENTER. THE TRADED MEDICAL
27 MARIJUANA SHALL EITHER BE SOLD OR DESTROYED BY THE MEDICAL

1 MARIJUANA CENTER THAT RECEIVED IT THROUGH A TRADE.

2 (5) (a) Prior to initiating a sale, EXCEPT AS PROVIDED IN
3 PARAGRAPH (b) OF THIS SUBSECTION (5), the employee of the medical
4 marijuana center making the sale shall verify that the purchaser has a
5 valid registration card issued pursuant to section 25-1.5-106, C.R.S., and
6 a valid picture identification card. ~~that matches the name on the~~
7 ~~registration card.~~

8 (b) IF THE PURCHASER FILED HIS OR HER MEDICAL MARIJUANA
9 PROGRAM APPLICATION AND THE STATE HEALTH AGENCY HAS NOT YET
10 ISSUED OR DENIED A REGISTRATION CARD, THE PURCHASER SHALL PROVIDE
11 TO THE EMPLOYEE MAKING THE SALE A COPY OF THE PURCHASER'S
12 REGISTRATION APPLICATION ALONG WITH PROOF OF THE DATE OF
13 SUBMISSION AND A VALID PICTURE IDENTIFICATION CARD FOR
14 VERIFICATION PRIOR TO INITIATING A SALE.

15 (9) NOTWITHSTANDING THE PROVISIONS OF SECTION 12-43.3-901
16 (4) (m), A MEDICAL MARIJUANA CENTER MAY SELL BELOW COST OR
17 DONATE MEDICAL MARIJUANA, CLONES, OR MEDICAL MARIJUANA-INFUSED
18 PRODUCTS TO PATIENTS WHO ARE DESIGNATED AS INDIGENT BY THE STATE
19 HEALTH AGENCY.

20 **SECTION 10.** 12-43.3-404 (5), (6), and (8), Colorado Revised
21 Statutes, are amended, and the said 12-43.3-404 is further amended BY
22 THE ADDITION OF A NEW SUBSECTION, to read:

23 **12-43.3-404. Medical marijuana-infused products**
24 **manufacturing license.** (5) The medical marijuana-infused product
25 shall be sealed and conspicuously labeled in compliance with this article
26 and any rules promulgated pursuant to this article. THE LABELING OF
27 MEDICAL MARIJUANA-INFUSED PRODUCTS IS A MATTER OF STATEWIDE

1 CONCERN.

2 (6) Medical marijuana-infused products may not be consumed on
3 a premises licensed pursuant to this article; EXCEPT THAT MEDICAL
4 MARIJUANA-INFUSED PRODUCTS MAY BE TESTED AT THE PRODUCT'S
5 PRODUCTION FACILITY PURSUANT TO RULES PROMULGATED BY THE STATE
6 LICENSING AUTHORITY.

7 (8) A medical marijuana-infused products licensee that has an
8 optional premises cultivation license shall not sell any of the medical
9 marijuana that it cultivates EXCEPT FOR THE MEDICAL MARIJUANA THAT
10 IS CONTAINED IN MEDICAL MARIJUANA-INFUSED PRODUCTS.

11 (9) (a) A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE MAY
12 NOT HAVE MORE THAN FIVE HUNDRED MEDICAL MARIJUANA PLANTS ON ITS
13 PREMISES OR AT ITS OPTIONAL PREMISES CULTIVATION OPERATION;
14 EXCEPT THAT THE DIRECTOR OF THE DIVISION THAT REGULATES MEDICAL
15 MARIJUANA MAY GRANT A WAIVER IN EXCESS OF FIVE HUNDRED
16 MARIJUANA PLANTS BASED ON THE CONSIDERATION OF THE FACTORS IN
17 PARAGRAPH (b) OF THIS SUBSECTION (9).

18 (b) THE DIRECTOR OF THE DIVISION THAT REGULATES MEDICAL
19 MARIJUANA SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING
20 WHETHER TO GRANT THE WAIVER DESCRIBED IN PARAGRAPH (a) OF THIS
21 SUBSECTION (9):

22 (I) THE NATURE OF THE PRODUCTS MANUFACTURED;

23 (II) THE BUSINESS NEED;

24 (III) EXISTING BUSINESS CONTRACTS WITH LICENSED MEDICAL
25 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
26 MARIJUANA-INFUSED PRODUCTS; AND

27 (IV) THE ABILITY TO CONTRACT WITH LICENSED MEDICAL

1 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
2 MARIJUANA-INFUSED PRODUCTS.

3 **SECTION 11.** Part 4 of article 43.3 of title 12, Colorado Revised
4 Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW
5 SECTIONS to read:

6 **12-43.3-405. Primary caregiver cultivation license.** A PRIMARY
7 CAREGIVER CULTIVATION LICENSE MAY BE ISSUED ONLY TO A PRIMARY
8 CAREGIVER WHO IS REGISTERED WITH THE STATE HEALTH AGENCY
9 PURSUANT TO SECTION 25-1.5-106, C.R.S., WHO HAS RECEIVED A WAIVER
10 FROM THE STATE HEALTH AGENCY TO SERVE MORE THAN FIVE PATIENTS
11 OR WHO GROWS MORE THAN THIRTY MEDICAL MARIJUANA PLANTS AT A
12 TIME, AND WHO GROWS AND CULTIVATES MEDICAL MARIJUANA FOR THOSE
13 PATIENTS. A PRIMARY CAREGIVER CULTIVATION LICENSEE SHALL NOT
14 PROVIDE OR SELL ANY CULTIVATED MEDICAL MARIJUANA TO ANYONE
15 OTHER THAN HIS OR HER PATIENTS OR THE PATIENTS OF ANOTHER PRIMARY
16 CAREGIVER IF THE PRIMARY CAREGIVER HAS BEEN DELEGATED AUTHORITY
17 OVER THE PATIENTS PURSUANT TO SECTION 25-1.5-106 (7), C.R.S.

18 **12-43.3-406. Infused-products manufacturing facility license.**
19 (1) AN INFUSED-PRODUCTS MANUFACTURING FACILITY LICENSE MAY BE
20 ISSUED TO A FACILITY AT WHICH ONE OR MORE PERSONS WHO HOLD A
21 MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE
22 MANUFACTURE MEDICAL MARIJUANA-INFUSED PRODUCTS AS PROVIDED IN
23 SECTION 12-43.3-404.

24 (2) THE LICENSED FACILITY SHALL BE USED EXCLUSIVELY FOR THE
25 MANUFACTURE AND PREPARATION OF MEDICAL MARIJUANA-INFUSED
26 PRODUCTS, USING EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE
27 MANUFACTURE AND PREPARATION OF MEDICAL MARIJUANA-INFUSED

1 PRODUCTS.

2 (3) THE LICENSED FACILITY SHALL PREVENT THE CONTAMINATION
3 OF INFUSED PRODUCTS AMONG THE LICENSED MEDICAL
4 MARIJUANA-INFUSED PRODUCTS MANUFACTURERS WHO ARE USING THE
5 FACILITY.

6 (4) ALL LICENSED FACILITIES SHALL MEET THE SANITARY
7 STANDARDS FOR MEDICAL MARIJUANA-INFUSED PRODUCT PREPARATION
8 PROMULGATED PURSUANT TO SECTION 12-43.3-202 (2) (a) (XII).

9 (5) MEDICAL MARIJUANA-INFUSED PRODUCTS MAY BE TESTED AT
10 A LICENSED FACILITY PURSUANT TO RULES PROMULGATED BY THE STATE
11 LICENSING AUTHORITY.

12 **SECTION 12.** 12-43.3-901 (1) (a), (1) (c), (1) (d), (4) (d), and
13 (7), Colorado Revised Statutes, are amended to read:

14 **12-43.3-901. Unlawful acts - exceptions.** (1) Except as
15 otherwise provided in this article, it is unlawful for a person:

16 (a) To consume medical marijuana in a licensed medical
17 marijuana center EXCEPT AS PROVIDED FOR IN SECTION 12-43.3-404 (6),
18 and it shall be unlawful for a medical marijuana licensee to allow medical
19 marijuana to be consumed upon its licensed premises EXCEPT AS
20 PROVIDED FOR IN SECTION 12-43.3-406 (5);

21 ~~(c) To continue operating a business for the purpose of~~
22 ~~cultivation, manufacture, or sale of medical marijuana or medical~~
23 ~~marijuana-infused products without filing the forms and paying the fee as~~
24 ~~described in section 12-43.3-103 (1) (b); or~~

25 ~~(d) To continue operating a business for the purpose of~~
26 ~~cultivation, manufacture, or sale of medical marijuana or medical~~
27 ~~marijuana-infused products without satisfying the conditions of section~~

1 ~~12-43.3-103 (2) (b)~~.

2 (4) It is unlawful for any person licensed to sell medical marijuana
3 pursuant to this article:

4 (d) (I) To sell medical marijuana to a person not licensed pursuant
5 to this article or to a person not able to produce a valid patient registry
6 identification card PURSUANT TO SECTION 12-43.3-402 (5) (a) OR NOT
7 ABLE TO PRODUCE THE PERSON'S REGISTRATION APPLICATION PURSUANT
8 TO SECTION 12-43.3-402 (5) (b). Notwithstanding any provision in this
9 subparagraph (I) to the contrary, a person under twenty-one years of age
10 shall not be employed to sell or dispense medical marijuana at a medical
11 marijuana center or grow or cultivate medical marijuana at an optional
12 premises cultivation operation.

13 (II) If a licensee or a licensee's employee has reasonable cause to
14 believe that a person is exhibiting a fraudulent patient registry
15 identification card OR REGISTRATION APPLICATION in an attempt to obtain
16 medical marijuana, the licensee or employee shall be authorized to
17 confiscate the fraudulent patient registry identification card OR
18 REGISTRATION APPLICATION, if possible, and shall, within seventy-two
19 hours after the confiscation, turn it over to the state health department or
20 local law enforcement agency. The failure to confiscate the fraudulent
21 patient registry identification card OR REGISTRATION APPLICATION or to
22 turn it over to the state health department or a state or local law
23 enforcement agency within seventy-two hours after the confiscation shall
24 not constitute a criminal offense.

25 (7) A person who commits any acts that are unlawful pursuant to
26 this ~~section~~ ARTICLE OR THE RULES AUTHORIZED AND ADOPTED PURSUANT
27 TO THIS ARTICLE commits a class 2 misdemeanor and shall be punished

1 as provided in section 18-1.3-501, C.R.S., except for violations that
2 would also constitute a violation of title 18, C.R.S., which violation shall
3 be charged and prosecuted pursuant to title 18, C.R.S.

4 **SECTION 13.** 24-72-202 (6) (b) (XIII), Colorado Revised
5 Statutes, is amended to read:

6 **24-72-202. Definitions.** As used in this part 2, unless the context
7 otherwise requires:

8 (6) (b) "Public records" does not include:

9 ~~(XIII) State and local applications and licenses for an optional
10 premises cultivation operation as described in section 12-43.3-403,
11 C.R.S.; and the location of the optional premises cultivation operation.~~

12 **SECTION 14.** 25-1.5-106 (2) (c) (II), (5) (a), (7) (a), (7) (b), (9)
13 (a), and (9) (b), Colorado Revised Statutes, are amended, and the said
14 25-1.5-106 (7) is further amended BY THE ADDITION OF A NEW
15 PARAGRAPH, to read:

16 **25-1.5-106. Medical marijuana program - powers and duties
17 of the state health agency - medical review board - medical
18 marijuana program cash fund - created - repeal.** (2) **Definitions.** In
19 addition to the definitions set forth in section 14 (1) of article XVIII of
20 the state constitution, as used in this section, unless the context otherwise
21 requires:

22 (c) "In good standing", with respect to a physician's license,
23 means:

24 (II) The physician holds a valid ~~unrestricted~~ license to practice
25 medicine in Colorado; and

26 (5) **Physicians.** A physician who certifies a debilitating medical
27 condition for an applicant to the medical marijuana program shall comply

1 with all of the following requirements:

2 (a) The physician shall have a valid ~~unrestricted~~ Colorado license
3 to practice medicine, which license is in good standing AND DOES NOT
4 CONTAIN A RESTRICTION THAT COULD LIMIT THE PHYSICIAN'S ABILITY TO
5 MAKE A MEDICAL MARIJUANA RECOMMENDATION. IF THE PHYSICIAN HAS
6 A RESTRICTED LICENSE AND THE RESTRICTIONS DO NOT SPECIFY WHETHER
7 THE PHYSICIAN MAY OR MAY NOT MAKE MEDICAL MARIJUANA
8 RECOMMENDATIONS, THE PHYSICIAN MAY APPEAL TO THE COLORADO
9 MEDICAL BOARD FOR CLARIFICATION OF WHETHER THE RESTRICTION
10 PROHIBITS THE PHYSICIAN FROM MAKING MEDICAL MARIJUANA
11 RECOMMENDATIONS. THE APPEAL SHALL BE MADE IN ACCORDANCE WITH
12 SECTION 12-36-118 (19), C.R.S.

13 (7) **Primary caregivers.** (a) A primary caregiver may not
14 delegate to any other person his or her authority to provide medical
15 marijuana to a patient nor may a primary caregiver engage others to assist
16 in providing medical marijuana to a patient; EXCEPT THAT A PRIMARY
17 CAREGIVER MAY DELEGATE HIS OR HER AUTHORITY TO ANOTHER PRIMARY
18 CAREGIVER WITH WHOM HE OR SHE HAS AN EXISTING BUSINESS
19 RELATIONSHIP AS LONG AS THE DELEGATING PRIMARY CAREGIVER
20 MAINTAINS A PROFESSIONAL RELATIONSHIP WITH THE PATIENT. A
21 PRIMARY CAREGIVER WHO DELEGATES HIS OR HER AUTHORITY MAY ONLY
22 DO SO TO NO MORE THAN TWO OTHER PRIMARY CAREGIVERS AT A TIME.

23 (b) ~~Two or more primary caregivers shall not join together for the~~
24 ~~purpose of cultivating medical marijuana~~ A PRIMARY CAREGIVER WHO
25 HAS A WAIVER FROM THE STATE HEALTH AGENCY TO SERVE MORE THAN
26 FIVE PATIENTS OR WHO GROWS MORE THAN THIRTY PLANTS AT ONE TIME
27 AND CULTIVATES MEDICAL MARIJUANA FOR THOSE PATIENTS SHALL FIRST

1 OBTAIN A PRIMARY CAREGIVER CULTIVATION LICENSE PURSUANT TO
2 SECTION 12-43.3-405, C.R.S., AND SHALL NOT PROVIDE OR SELL
3 CULTIVATED MEDICAL MARIJUANA TO ANYONE OTHER THAN HIS OR HER
4 PATIENTS OR THE PATIENTS OF ANOTHER PRIMARY CAREGIVER IF THE
5 PRIMARY CAREGIVER HAS BEEN DELEGATED AUTHORITY OVER THE
6 PATIENTS PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7).

7 (e) A PRIMARY CAREGIVER WHO CULTIVATES MEDICAL MARIJUANA
8 FOR HIS OR HER PATIENTS SHALL REGISTER THE LOCATION OF HIS OR HER
9 CULTIVATION OPERATION WITH THE STATE MEDICAL MARIJUANA
10 LICENSING AUTHORITY AND PROVIDE THE REGISTRATION IDENTIFICATION
11 NUMBER OF EACH PATIENT TO THE STATE LICENSING AUTHORITY. THE
12 LOCATION OF THE CULTIVATION OPERATION SHALL COMPLY WITH ALL
13 ZONING AND BUILDING CODES.

14 (9) **Registry identification card required - denial - revocation**
15 **- renewal.** (a) To be considered in compliance with the provisions of
16 section 14 of article XVIII of the state constitution, this section, and the
17 rules of the state health agency, a patient or primary caregiver shall have
18 his or her registry identification card in his or her possession at all times
19 that he or she is in possession of any form of medical marijuana and
20 produce the same upon request of a law enforcement officer to
21 demonstrate that the patient or primary caregiver is not in violation of the
22 law; except that, if ~~more than thirty-five days have passed since the date~~
23 the patient or primary caregiver filed his or her medical marijuana
24 program application and the state health agency has not yet issued or
25 denied a registry identification card, a copy of the patient's or primary
26 caregiver's application along with proof of the date of submission shall be
27 in the patient's or primary caregiver's possession at all times that he or she

1 is in possession of any form of medical marijuana until the state health
2 agency issues or denies the registry identification card. A person who
3 violates section 14 of article XVIII of the state constitution, this section,
4 or the rules promulgated by the state health agency may be subject to
5 criminal prosecution for violations of section 18-18-406, C.R.S.

6 (b) The state health agency may deny a patient's or primary
7 caregiver's application for a registry identification card or revoke the card
8 if the state health agency, in accordance with article 4 of title 24, C.R.S.,
9 determines that the physician who diagnosed the patient's debilitating
10 medical condition, the patient, or the primary caregiver violated section
11 14 of article XVIII of the state constitution, this section, or the rules
12 promulgated by the state health agency pursuant to this section; except
13 that, when a physician's violation is the basis for adverse action:

14 (I) The state health agency may only deny or revoke a patient's
15 application or registry identification card when the physician's violation
16 is related to the issuance of a medical marijuana recommendation;

17 (II) THE STATE HEALTH AGENCY MAY NOT DENY OR REVOKE A
18 PATIENT'S APPLICATION BASED ON THE FACT THE PHYSICIAN WHO MADE
19 THE RECOMMENDATION HAD A RESTRICTION PLACED ON HIS OR HER
20 LICENSE TO PRACTICE MEDICINE AFTER THE PHYSICIAN MADE THE MEDICAL
21 MARIJUANA RECOMMENDATION.

22 **SECTION 15.** 39-1-102 (1.6), Colorado Revised Statutes, is
23 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
25 unless the context otherwise requires:

26 (1.6) (d) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
27 THE CONTRARY, PROPERTY THAT IS USED SOLELY FOR THE CULTIVATION

1 OF MEDICAL MARIJUANA SHALL NOT BE CLASSIFIED AS AGRICULTURAL
2 LAND.

3 **SECTION 16.** 39-26-123 (1) (a.5) and (6) (a), Colorado Revised
4 Statutes, are amended to read:

5 **39-26-123. Receipts - disposition - transfers of general fund**
6 **surplus - sales tax holding fund - creation - definitions.** (1) As used
7 in this section, unless the context otherwise requires:

8 (a.5) ~~"Sales taxes attributable to sales of medical marijuana"~~
9 ~~means the net revenue raised from the state sales taxes imposed pursuant~~
10 ~~to this article on the sales of medical marijuana.~~

11 (6) (a) For any state fiscal year commencing on or after July 1,
12 2010, the general assembly shall annually appropriate the first two million
13 dollars of sales taxes attributable to sales of medical marijuana or equally
14 appropriate the sales taxes attributable to sales of medical marijuana if
15 ~~two million dollars is not generated~~ TAXES PAID BY PERSONS OR ENTITIES
16 LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., OR EQUALLY
17 APPROPRIATE THE SALES TAXES ATTRIBUTABLE TO SALES TAXES PAID BY
18 PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12,
19 C.R.S., IF LESS THAN TWO MILLION DOLLARS IS GENERATED.

20 **SECTION 17.** 12-36-118, Colorado Revised Statutes, is amended
21 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to
22 read:

23 **12-36-118. Disciplinary action by board - immunity - rules.**

24 (19) (a) IF A PHYSICIAN HAS HAD A RESTRICTION PLACED ON HIS OR HER
25 LICENSE AND THE RESTRICTION DOES NOT SPECIFY WHETHER THE
26 PHYSICIAN MAY OR MAY NOT MAKE MEDICAL MARIJUANA
27 RECOMMENDATIONS, THE PHYSICIAN MAY APPEAL TO THE BOARD FOR

1 CLARIFICATION OF THE RESTRICTION. THE APPEAL, IF PRACTICABLE, SHALL
2 BE HEARD BY THE HEARING PANEL THAT HEARD THE ORIGINAL MATTER
3 THAT RESULTED IN THE RESTRICTION.

4 (b) THE PANEL THAT HEARS THE APPEAL SHALL ISSUE A
5 DETERMINATION WITH SIXTY DAYS AFTER ITS HEARING ON THE MATTER.
6 WHEN MAKING THE DETERMINATION, THE PANEL SHALL CONSIDER
7 WHETHER THE RESTRICTION RELATES TO THE PHYSICIAN'S PRESCRIPTION
8 AUTHORITY, A CLAIM OF DOCTOR-SHOPPING, THE PHYSICIAN'S ABILITY TO
9 DIAGNOSE A DEBILITATING MEDICAL CONDITION, OR A PHYSICIAN'S
10 JUDGMENT RELATED TO PAIN MANAGEMENT. THE PANEL SHALL TRANSMIT
11 ITS DECISION TO THE PHYSICIAN AND TO THE STATE HEALTH AGENCY AS
12 DESCRIBED IN SECTION 25-1.5-106, C.R.S.

13 (c) THE BOARD MAY ADOPT RULES REGARDING THE
14 ADMINISTRATION AND DETERMINATION OF THE CLARIFICATION APPEAL.

15 (20) IF A PHYSICIAN HAS A RESTRICTION PLACED ON HIS OR HER
16 LICENSE, THE RESTRICTION SHALL, IF PRACTICABLE, STATE WHETHER THE
17 RESTRICTION PROHIBITS THE PHYSICIAN FROM MAKING A MEDICAL
18 MARIJUANA RECOMMENDATION.

19 **SECTION 18.** 12-43.3-202 (2) (a) (I), Colorado Revised Statutes,
20 is amended to read:

21 **12-43.3-202. Powers and duties of state licensing authority -**
22 **repeal.** (2) (a) Rules promulgated pursuant to paragraph (b) of
23 subsection (1) of this section may include, but need not be limited to, the
24 following subjects:

25 (I) Compliance with, enforcement of, or violation of any provision
26 of this article, SECTION 18-18-406.3 (6), C.R.S., or any rule issued
27 pursuant to this article, including procedures and grounds for denying,

1 suspending, fining, restricting, or revoking a state license issued pursuant
2 to this article;

3 **SECTION 19.** 18-4-412 (2) (a), Colorado Revised Statutes, is
4 amended to read:

5 **18-4-412. Theft of medical records or medical information -**
6 **penalty.** (2) As used in this section:

7 (a) "Medical record" means the written or graphic documentation,
8 sound recording, or computer record pertaining to medical, mental health,
9 and health care services, INCLUDING MEDICAL MARIJUANA SERVICES,
10 which are performed at the direction of a physician or other licensed
11 health care provider on behalf of a patient by physicians, dentists, nurses,
12 technicians, emergency medical technicians, mental health professionals,
13 prehospital providers, or other health care personnel. "Medical record"
14 includes such diagnostic documentation as X rays, electrocardiograms,
15 electroencephalograms, and other test results.

16 **SECTION 20.** 18-18-406.3, Colorado Revised Statutes, is
17 amended BY THE ADDITION OF A NEW SUBSECTION to read:

18 **18-18-406.3. Medical use of marijuana by persons diagnosed**
19 **with debilitating medical conditions - unlawful acts - penalty -**
20 **medical marijuana program cash fund.** (6) AN OWNER, OFFICER, OR
21 EMPLOYEE OF A BUSINESS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE
22 12, C.R.S., WHO RELEASES OR MAKES PUBLIC A PATIENT'S MEDICAL
23 RECORD OR ANY CONFIDENTIAL INFORMATION CONTAINED IN ANY SUCH
24 RECORD THAT IS PROVIDED TO OR BY THE BUSINESS LICENSED PURSUANT
25 TO ARTICLE 43.3 OF TITLE 12, C.R.S., WITHOUT THE WRITTEN
26 AUTHORIZATION OF THE PATIENT COMMITS A CLASS 1 MISDEMEANOR.

27 **SECTION 21.** 25-1-1202 (1), Colorado Revised Statutes, is

1 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

2 **25-1-1202. Index of statutory sections regarding medical**
3 **record confidentiality and health information.** (1) Statutory
4 provisions concerning policies, procedures, and references to the release,
5 sharing, and use of medical records and health information include the
6 following:

7 (ee.5) SECTION 18-18-406.3, C.R.S., CONCERNING MEDICAL
8 MARIJUANA PATIENT RECORDS;

9 **SECTION 22. Effective date.** This act shall take effect July 1,
10 2011.

11 **SECTION 23. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.