

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 11-0072.01 Michael Dohr

HOUSE BILL 11-1043

HOUSE SPONSORSHIP

Massey,

SENATE SPONSORSHIP

Steadman,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING MEDICAL MARIJUANA, AND MAKING AN APPROPRIATION**
102 **THEREFOR.**

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

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.

HOUSE
Amended 2nd Reading
April 11, 2011

revenue.

A medical marijuana infused-products manufacturer is limited to 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 grandfathered 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) (c), Colorado Revised Statutes, is
3 amended, and the said 12-43.3-103 (2) is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

5 **12-43.3-103. Applicability.** (2) (c) On and after July 1, 2011,
6 all businesses for the purpose of cultivation, manufacture, or sale of
7 medical marijuana or medical marijuana-infused products, as defined in
8 this article, shall be subject to the terms and conditions of this article and
9 any rules promulgated pursuant to this article; EXCEPT THAT A PERSON
10 THAT HAS MET THE DEADLINES SET FORTH IN PARAGRAPHS (a) AND (b) OF
11 SUBSECTION (1) OF THIS SECTION THAT HAS NOT HAD ITS APPLICATION
12 ACTED UPON BY THE STATE LICENSING AUTHORITY MAY CONTINUE TO
13 OPERATE UNTIL ACTION IS TAKEN ON THE APPLICATION. WHILE
14 CONTINUING TO OPERATE PRIOR TO THE LICENSING AUTHORITY ACTING ON

1 THE APPLICATION, THE PERSON SHALL OTHERWISE BE SUBJECT TO THE
2 TERMS AND CONDITIONS OF THIS ARTICLE AND ALL RULES PROMULGATED
3 PURSUANT TO THIS ARTICLE.

4 (d) (I) ON AND AFTER JULY 1, 2012, PERSONS WHO DID NOT MEET
5 ALL REQUIREMENTS OF PARAGRAPH (a) OF SUBSECTION (1) OF THIS
6 SECTION AS OF JULY 1, 2010, MAY BEGIN TO APPLY FOR A LICENSE
7 PURSUANT TO THIS ARTICLE. A BUSINESS OR OPERATION THAT APPLIES
8 AND IS APPROVED FOR ITS LICENSE AFTER JULY 1, 2012, SHALL CERTIFY TO
9 THE STATE LICENSING AUTHORITY THAT IT IS CULTIVATING AT LEAST
10 SEVENTY PERCENT OF THE MEDICAL MARIJUANA NECESSARY FOR ITS
11 OPERATION WITHIN NINETY DAYS AFTER BEING LICENSED.

12 (II) FOR THOSE PERSONS THAT ARE LICENSED PRIOR TO JULY 1,
13 2012, THE PERSON MAY APPLY TO THE LOCAL AND STATE LICENSING
14 AUTHORITIES REGARDING CHANGES TO ITS LICENSE AND MAY APPLY FOR
15 A NEW LICENSE IF THE LICENSE IS FOR A BUSINESS THAT HAS BEEN
16 LICENSED AND THE PERSON IS PURCHASING THAT BUSINESS.

17 (e) THIS ARTICLE SETS FORTH THE EXCLUSIVE MEANS BY WHICH
18 MANUFACTURE, SALE, DISTRIBUTION, AND DISPENSING OF MEDICAL
19 MARIJUANA MAY OCCUR IN THE STATE OF COLORADO. LICENSEES SHALL
20 NOT BE SUBJECT TO THE TERMS OF SECTION 14 OF ARTICLE XVIII OF THE
21 STATE CONSTITUTION, EXCEPT WHERE SPECIFICALLY REFERENCED IN THIS
22 ARTICLE.

23 **SECTION 2.** 12-43.3-104 (5), Colorado Revised Statutes, is
24 amended to read:

25 **12-43.3-104. Definitions.** As used in this article, unless the
26 context otherwise requires:

27 (5) "Local licensing authority" means an authority designated by

1 municipal or county charter, ~~municipal~~ ordinance, or ~~county~~ resolution,
2 OR THE GOVERNING BODY OF A MUNICIPALITY, CITY AND COUNTY, OR THE
3 BOARD OF COUNTY COMMISSIONERS OF A COUNTY IF NO SUCH AUTHORITY
4 IS DESIGNATED.

5 **SECTION 3.** 12-43.3-202 (1) (b) (I), (1) (c), (1) (d), and (2) (a)
6 (IV), Colorado Revised Statutes, are amended to read:

7 **12-43.3-202. Powers and duties of state licensing authority -**
8 **repeal.** (1) The state licensing authority shall:

9 (b) (I) Promulgate such rules and such special rulings and findings
10 as necessary for the proper regulation and control of the cultivation,
11 manufacture, distribution, and sale of medical marijuana and for the
12 enforcement of this article. A county, municipality, or city and county
13 that has adopted a temporary moratorium regarding the subject matter of
14 this article shall be specifically authorized to extend the moratorium until
15 ~~the effective date of the rules adopted by the department of revenue in~~
16 ~~accordance with this article~~ JUNE 30, 2012.

17 (c) Hear and determine at a public hearing any ~~appeals of a~~
18 ~~CONTESTED~~ state license denial and any complaints against a licensee and
19 administer oaths and issue subpoenas to require the presence of persons
20 and the production of papers, books, and records necessary to the
21 determination of any hearing so held, all in accordance with article 4 of
22 title 24, C.R.S. The state licensing authority may, at its discretion,
23 delegate to the department of revenue hearing officers the authority to
24 conduct licensing, disciplinary, and rule-making hearings under section
25 24-4-105, C.R.S. When conducting such hearings, the hearing officers
26 shall be employees of the state licensing authority under the direction and
27 supervision of the executive director and the state licensing authority.

1 (d) Maintain the confidentiality of reports OR OTHER INFORMATION
2 obtained from a licensee showing the sales volume or quantity of medical
3 marijuana sold, OR REVEALING ANY PATIENT INFORMATION, or any other
4 records that are exempt from public inspection pursuant to state law.
5 SUCH REPORTS OR OTHER INFORMATION MAY BE USED ONLY FOR A
6 PURPOSE AUTHORIZED BY THIS ARTICLE OR FOR ANY OTHER STATE OR
7 LOCAL LAW ENFORCEMENT PURPOSE. ANY INFORMATION RELEASED
8 RELATED TO PATIENTS MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY
9 THIS ARTICLE OR TO VERIFY THAT A PERSON WHO PRESENTED A REGISTRY
10 IDENTIFICATION CARD TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL
11 IS LAWFULLY IN POSSESSION OF SUCH CARD.

12 (2) (a) Rules promulgated pursuant to paragraph (b) of subsection
13 (1) of this section may include, but need not be limited to, the following
14 subjects:

15 (IV) Requirements for inspections, investigations, searches,
16 seizures, FORFEITURES, and such additional activities as may become
17 necessary from time to time;

18 **SECTION 4.** 12-43.3-301 (2) (a), Colorado Revised Statutes, is
19 amended to read:

20 **12-43.3-301. Local licensing authority - applications - licenses.**

21 (2) (a) A local licensing authority shall not issue a local license within a
22 municipality, city and county, or the unincorporated portion of a county
23 unless the governing body of the municipality or city and county has
24 adopted an ordinance, or the governing body of the county has adopted
25 a resolution, containing specific standards for license issuance, or if no
26 such ordinance or resolution is adopted prior to July 1, 2011 2012, then
27 a local licensing authority shall consider the minimum licensing

1 requirements of this part 3 when issuing a license.

2 **SECTION 5.** 12-43.3-302 (1) and (4), Colorado Revised Statutes,
3 are amended to read:

4 **12-43.3-302. Public hearing notice - posting and publication.**

5 (1) Upon receipt of an application for a local license, except an
6 application for renewal or for transfer of ownership, a local licensing
7 authority may schedule a public hearing upon the application to be held
8 not less than thirty days after the date of the application. If the local
9 licensing authority schedules a hearing for a ~~medical marijuana center~~
10 LICENSE application, it shall post and publish public notice thereof not
11 less than ten days prior to the hearing. The local licensing authority shall
12 give public notice by the posting of a sign in a conspicuous place on the
13 ~~medical marijuana center~~ LICENSE APPLICANT'S premises for which
14 LICENSE application has been made and by publication in a newspaper of
15 general circulation in the county in which the ~~medical marijuana center~~
16 APPLICANT'S premises are located.

17 (4) If the building in which medical marijuana is to be ~~sold~~
18 CULTIVATED, MANUFACTURED, OR DISTRIBUTED is in existence at the time
19 of the application, a sign posted as required in subsections (1) and (2) of
20 this section shall be placed so as to be conspicuous and plainly visible to
21 the general public. If the building is not constructed at the time of the
22 application, the applicant shall post a sign at the premises upon which the
23 building is to be constructed in such a manner that the notice shall be
24 conspicuous and plainly visible to the general public.

25 **SECTION 6.** 12-43.3-303 (2), Colorado Revised Statutes, is
26 amended to read:

27 **12-43.3-303. Results of investigation - decision of authorities.**

1 (2) Before entering a decision approving or denying the application for
2 a local license, the local licensing authority may consider, except where
3 this article specifically provides otherwise, the facts and evidence
4 adduced as a result of its investigation, as well as any other facts pertinent
5 to the type of license for which application has been made, including the
6 number, type, and availability of medical marijuana ~~outlets~~ CENTERS,
7 OPTIONAL PREMISES CULTIVATION OPERATIONS, OR MEDICAL
8 MARIJUANA-INFUSED PRODUCTS MANUFACTURERS located in or near the
9 premises under consideration, and any other pertinent matters affecting
10 the qualifications of the applicant for the conduct of the type of business
11 proposed.

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

14 **12-43.3-306. Denial of application.** (1) The state licensing
15 authority shall deny a state license if the premises on which the applicant
16 proposes to conduct its business do not meet the requirements of this
17 article or for reasons set forth in section 12-43.3-104 (1) (c) or
18 12-43.3-305, AND THE STATE LICENSING AUTHORITY MAY DENY A LICENSE
19 FOR GOOD CAUSE AS DEFINED BY SECTION 12-43.3-104 (1.5) (a) OR (1.5)
20 (b).

21 (2) If the state licensing authority denies a state license pursuant
22 to subsection (1) of this section, the applicant shall be entitled to a
23 hearing pursuant to ~~article 4 of title 24, C.R.S.~~ SECTION 24-4-104 (9),
24 C.R.S., AND PURSUANT TO SECTION 24-4-106, C.R.S. The state licensing
25 authority shall provide written notice of the grounds for denial of the state
26 license to the applicant and to the local licensing authority at least fifteen
27 days prior to the hearing.

1 **SECTION 8.** 12-43.3-307 (1) (h), (1) (m), (2) (a), and (2) (c),
2 Colorado Revised Statutes, are amended to read:

3 **12-43.3-307. Persons prohibited as licensees - repeal.** (1) A
4 license provided by this article shall not be issued to or held by:

5 (h) A person who has discharged a sentence in the five years
6 immediately preceding the application date for a conviction of a felony
7 or a person who at any time has been convicted of a felony pursuant to
8 any state or federal law regarding the possession, distribution,
9 MANUFACTURING, CULTIVATION, or use of a controlled substance;

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

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

18 (B) THIS SUBPARAGRAPH (I) IS REPEALED, EFFECTIVE JULY 1, 2012.

19 (2) (a) In investigating the qualifications of an applicant or a
20 licensee, the state AND LOCAL licensing ~~authority~~ AUTHORITIES may have
21 access to criminal history record information furnished by a criminal
22 justice agency subject to any restrictions imposed by such agency. In the
23 event the state OR LOCAL licensing authority considers the applicant's
24 criminal history record, the state OR LOCAL licensing authority shall also
25 consider any information provided by the applicant regarding such
26 criminal history record, including but not limited to evidence of
27 rehabilitation, character references, and educational achievements,

1 especially those items pertaining to the period of time between the
2 applicant's last criminal conviction and the consideration of the
3 application for a state license.

4 (c) At the time of filing an application for issuance or renewal of
5 a state medical marijuana center license, medical marijuana-infused
6 product manufacturer license, or optional premises cultivation license, an
7 applicant shall submit a set of his or her fingerprints and file personal
8 history information concerning the applicant's qualifications for a state
9 license on forms prepared by the state licensing authority. The state OR
10 LOCAL licensing authority shall submit the fingerprints to the Colorado
11 bureau of investigation for the purpose of conducting fingerprint-based
12 criminal history record checks. The Colorado bureau of investigation
13 shall forward the fingerprints to the federal bureau of investigation for the
14 purpose of conducting fingerprint-based criminal history record checks.
15 The state OR LOCAL licensing authority may acquire a name-based
16 criminal history record check for an applicant or a license holder who has
17 twice submitted to a fingerprint-based criminal history record check and
18 whose fingerprints are unclassifiable. An applicant who has previously
19 submitted fingerprints for state licensing purposes may request that the
20 fingerprints on file be used. The state OR LOCAL licensing authority shall
21 use the information resulting from the fingerprint-based criminal history
22 record check to investigate and determine whether an applicant is
23 qualified to hold a state license pursuant to this article. The state OR
24 LOCAL licensing authority may verify any of the information an applicant
25 is required to submit.

26 **SECTION 9.** 12-43.3-310 (6), Colorado Revised Statutes, is
27 amended to read:

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

13 **SECTION 10. Repeal.** 12-43.3-310 (14), Colorado Revised
14 Statutes, is repealed as follows:

15 **12-43.3-310. Licensing in general.** (14) ~~The location of an~~
16 ~~optional premises cultivation operation as described in section~~
17 ~~12-43.3-403 shall be a confidential record and shall be exempt from the~~
18 ~~"Colorado Open Records Act". State and local licensing authorities shall~~
19 ~~keep the location of an optional premises cultivation operation~~
20 ~~confidential and shall redact the location from all public records.~~
21 ~~Notwithstanding any provision of law to the contrary, a state or local~~
22 ~~licensing agency may share information regarding the location of an~~
23 ~~optional premises cultivation operation with a peace officer or a law~~
24 ~~enforcement agency.~~

25 **SECTION 11.** 12-43.3-402 (3), (4), (5), and (6), Colorado
26 Revised Statutes, are amended, and the said 12-43.3-402 is further
27 amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1 **12-43.3-402. Medical marijuana center license.** (3) Every
2 person selling medical marijuana as provided for in this article shall sell
3 only medical marijuana grown in its medical marijuana optional premises
4 licensed pursuant to this article. IN ADDITION TO MEDICAL MARIJUANA, A
5 MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN SIX
6 NONFLOWERING MARIJUANA PLANTS TO A PATIENT WITHIN THREE MONTHS
7 OF A PRIOR SALE OF NONFLOWERING PLANTS. 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:

17 (a) TO A MEDICAL MARIJUANA CENTER OR APPLICANT IF THE
18 MEDICAL MARIJUANA CENTER OR APPLICANT SUFFERS A CATASTROPHIC
19 EVENT RELATED TO ITS INVENTORY; OR

20 (b) TO A NEW MEDICAL MARIJUANA CENTER LICENSEE FOR A
21 PERIOD NOT TO EXCEED NINETY DAYS SO THE NEW LICENSEE CAN
22 CULTIVATE THE NECESSARY MEDICAL MARIJUANA TO COMPLY WITH THIS
23 SUBSECTION (4).

24 (5) Prior to initiating a sale, the employee of the medical
25 marijuana center making the sale shall verify that the purchaser has a
26 valid registration card issued pursuant to section 25-1.5-106, C.R.S., OR
27 A COPY OF A CURRENT AND COMPLETE APPLICATION FOR THE MEDICAL

1 MARIJUANA REGISTRY ADMINISTERED BY THE DEPARTMENT OF PUBLIC
2 HEALTH AND ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL
3 RETURN RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF
4 PUBLIC HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE
5 DAYS AND CONTAINS A DIAGNOSIS FROM A PHYSICIAN OF END-STAGE
6 CANCER OR END-STAGE ACQUIRED IMMUNE DEFICIENCY SYNDROME OR A
7 STATEMENT FROM THE PHYSICIAN THAT THE PATIENT IS IN HOSPICE CARE
8 OR RECEIVING CHEMOTHERAPY, and a valid picture identification card that
9 matches the name on the registration card.

10 (6) ~~A licensed medical marijuana center may provide a small~~
11 ~~amount of its medical marijuana for testing to a laboratory that is licensed~~
12 ~~pursuant to the occupational licensing rules promulgated pursuant to~~
13 ~~section 12-43.3-202 (2) (a) (IV)~~ A MEDICAL MARIJUANA CENTER MAY
14 PROVIDE A SAMPLE OF ITS PRODUCTS TO A LABORATORY THAT HAS A
15 OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR
16 TESTING AND RESEARCH PURPOSES. THE LABORATORY MAY DEVELOP,
17 TEST, AND PRODUCE MEDICAL MARIJUANA-BASED PRODUCTS. THE
18 LABORATORY MAY CONTRACT METHOD OR PRODUCT DEVELOPMENT WITH
19 A LICENSED MEDICAL MARIJUANA CENTER OR LICENSED MEDICAL
20 MARIJUANA INFUSED-PRODUCT MANUFACTURER. THE STATE LICENSING
21 AUTHORITY SHALL PROMULGATE RULES PURSUANT TO ITS AUTHORITY IN
22 SECTION 12-43.3-202 (1) (b), C.R.S., RELATED TO ACCEPTABLE TESTING
23 AND RESEARCH PRACTICES; INCLUDING BUT NOT LIMITED TO TESTING,
24 STANDARDS, QUALITY CONTROL ANALYSIS, EQUIPMENT CERTIFICATION
25 AND CALIBRATION, AND CHEMICAL IDENTIFICATION AND OTHER
26 SUBSTANCES USED IN BONA-FIDE RESEARCH METHODS.

27 (9) NOTWITHSTANDING THE PROVISIONS OF SECTION 12-43.3-901

1 (4) (m), A MEDICAL MARIJUANA CENTER MAY SELL BELOW COST OR
2 DONATE MEDICAL MARIJUANA, NO MORE THAN SIX NONFLOWERING
3 MARIJUANA PLANTS TO A PATIENT WITHIN THREE MONTHS OF A PRIOR SALE
4 OF NONFLOWERING PLANTS, OR MEDICAL MARIJUANA-INFUSED PRODUCTS
5 TO PATIENTS WHO ARE DESIGNATED AS INDIGENT BY THE STATE HEALTH
6 AGENCY OR WHO ARE IN HOSPICE CARE.

7 **SECTION 12.** 12-43.3-403, Colorado Revised Statutes, is
8 amended to read:

9 **12-43.3-403. Optional premises cultivation license.** (1) An
10 optional premises cultivation license may be issued only to a person
11 licensed pursuant to section 12-43.3-402 (1) or 12-43.3-404 (1) who
12 grows and cultivates medical marijuana at an additional Colorado
13 licensed premises contiguous or not contiguous with the licensed
14 premises of the person's medical marijuana center license or the person's
15 medical marijuana-infused products manufacturing license.

16 (2) OPTIONAL PREMISES CULTIVATION LICENSES MAY BE
17 COMBINED IN A COMMON AREA SOLELY FOR THE PURPOSES OF GROWING
18 AND CULTIVATING MEDICAL MARIJUANA AND USED TO PROVIDE MEDICAL
19 MARIJUANA TO MORE THAN ONE LICENSED MEDICAL MARIJUANA CENTER
20 OR LICENSED MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER SO
21 LONG AS THE HOLDER OF THE OPTIONAL PREMISE CULTIVATION LICENSE IS
22 ALSO A COMMON OWNER OF EACH LICENSED MEDICAL MARIJUANA CENTER
23 OR LICENSED MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER TO
24 WHICH MEDICAL MARIJUANA IS PROVIDED. IN ACCORDANCE WITH
25 PROMULGATED RULES RELATING TO PLANT AND PRODUCT TRACKING
26 REQUIREMENTS, EACH OPTIONAL PREMISES CULTIVATION LICENSEE SHALL
27 SUPPLY MEDICAL MARIJUANA ONLY TO ITS ASSOCIATED LICENSED MEDICAL

1 MARIJUANA CENTERS OR LICENSED MEDICAL MARIJUANA-INFUSED
2 PRODUCT MANUFACTURERS.

3 **SECTION 13.** 12-43.3-404 (5) and (8), Colorado Revised
4 Statutes, are amended, and the said 12-43.3-404 is further amended BY
5 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
6 read:

7 **12-43.3-404. Medical marijuana-infused products**
8 **manufacturing license - repeal.** (5) The medical marijuana-infused
9 product shall be sealed and conspicuously labeled in compliance with this
10 article and any rules promulgated pursuant to this article. THE LABELING
11 OF MEDICAL MARIJUANA-INFUSED PRODUCTS IS A MATTER OF STATEWIDE
12 CONCERN.

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

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

24 (b) THE DIRECTOR OF THE DIVISION THAT REGULATES MEDICAL
25 MARIJUANA SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING
26 WHETHER TO GRANT THE WAIVER DESCRIBED IN PARAGRAPH (a) OF THIS
27 SUBSECTION (9):

- 1 (I) THE NATURE OF THE PRODUCTS MANUFACTURED;
2 (II) THE BUSINESS NEED;
3 (III) EXISTING BUSINESS CONTRACTS WITH LICENSED MEDICAL
4 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
5 MARIJUANA-INFUSED PRODUCTS; AND
6 (IV) THE ABILITY TO CONTRACT WITH LICENSED MEDICAL
7 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
8 MARIJUANA-INFUSED PRODUCTS.

9 (c) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2012.

10 (10) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER
11 MAY PROVIDE A SAMPLE OF ITS PRODUCTS TO A LABORATORY THAT HAS A
12 OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR
13 TESTING AND RESEARCH PURPOSES. THE STATE LICENSING AUTHORITY
14 SHALL PROMULGATE RULES PURSUANT TO ITS AUTHORITY IN SECTION
15 12-43.3-202 (1) (b), C.R.S., RELATED TO ACCEPTABLE TESTING AND
16 RESEARCH PRACTICES.

17 **SECTION 14.** Part 6 of article 43.3 of title 12, Colorado Revised
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
19 read:

20 **12-43.3-602. Disposition of unauthorized marijuana or**
21 **marijuana-infused products and related materials.** (1) THE
22 PROVISIONS OF THIS SECTION SHALL APPLY IN ADDITION TO ANY CRIMINAL,
23 CIVIL, OR ADMINISTRATIVE PENALTIES AND IN ADDITION TO ANY OTHER
24 PENALTIES PRESCRIBED BY THIS ARTICLE OR ANY RULES PROMULGATED
25 PURSUANT TO THIS ARTICLE. ANY PROVISIONS IN THIS ARTICLE RELATED
26 TO LAW ENFORCEMENT SHALL BE CONSIDERED A CUMULATIVE RIGHT OF
27 THE PEOPLE IN THE ENFORCEMENT OF THE CRIMINAL LAWS.

1 (2) EVERY LICENSEE LICENSED UNDER THIS ARTICLE SHALL BE
2 DEEMED, BY VIRTUE OF APPLYING FOR, HOLDING, OR RENEWING SUCH
3 PERSON'S LICENSE, TO HAVE EXPRESSLY CONSENTED TO THE PROCEDURES
4 SET FORTH IN THIS SECTION.

5 (3) A STATE OR LOCAL AGENCY SHALL NOT BE REQUIRED TO
6 CULTIVATE OR CARE FOR ANY MARIJUANA OR MARIJUANA-INFUSED
7 PRODUCT BELONGING TO OR SEIZED FROM A LICENSEE. A STATE OR LOCAL
8 AGENCY SHALL NOT BE AUTHORIZED TO SELL MARIJUANA, MEDICAL OR
9 OTHERWISE.

10 (4) IF THE STATE OR LOCAL LICENSING AUTHORITY ISSUES A FINAL
11 AGENCY ORDER IMPOSING A DISCIPLINARY ACTION AGAINST A LICENSEE
12 PURSUANT TO SECTION 12-43.3-601, THEN, IN ADDITION TO ANY OTHER
13 REMEDIES, THE LICENSING AUTHORITY'S FINAL AGENCY ORDER MAY
14 SPECIFY THAT SOME OR ALL OF THE LICENSEE'S MARIJUANA OR
15 MARIJUANA-INFUSED PRODUCT IS NOT MEDICAL MARIJUANA OR A MEDICAL
16 MARIJUANA-INFUSED PRODUCT AND IS AN ILLEGAL CONTROLLED
17 SUBSTANCE. THE ORDER MAY FURTHER SPECIFY THAT THE LICENSEE
18 SHALL LOSE ANY INTEREST IN ANY THE MARIJUANA OR
19 MARIJUANA-INFUSED PRODUCT EVEN IF THE MARIJUANA OR
20 MARIJUANA-INFUSED PRODUCT PREVIOUSLY QUALIFIED AS MEDICAL
21 MARIJUANA OR A MEDICAL MARIJUANA-INFUSED PRODUCT. THE FINAL
22 AGENCY ORDER MAY DIRECT THE DESTRUCTION OF ANY SUCH MARIJUANA
23 AND MARIJUANA-INFUSED PRODUCTS, EXCEPT AS PROVIDED IN
24 SUBSECTIONS (5) AND (6) OF THIS SECTION. THE AUTHORIZED
25 DESTRUCTION MAY INCLUDE THE INCIDENTAL DESTRUCTION OF ANY
26 CONTAINERS, EQUIPMENT, SUPPLIES, AND OTHER PROPERTY ASSOCIATED
27 WITH THE MARIJUANA OR MARIJUANA-INFUSED PRODUCT.

1 (5) FOLLOWING THE ISSUANCE OF A FINAL AGENCY ORDER BY THE
2 LICENSING AUTHORITY IMPOSING A DISCIPLINARY ACTION AGAINST A
3 LICENSEE AND ORDERING DESTRUCTION AUTHORIZED BY SUBSECTION (4)
4 OF THIS SECTION, A LICENSEE SHALL HAVE FIFTEEN DAYS WITHIN WHICH
5 TO FILE A PETITION FOR STAY OF AGENCY ACTION WITH THE DISTRICT
6 COURT. THE ACTION SHALL BE FILED IN THE CITY AND COUNTY OF
7 DENVER, WHICH SHALL BE DEEMED TO BE THE RESIDENCE OF THE STATE
8 LICENSING AUTHORITY FOR PURPOSES OF THIS SECTION. THE LICENSEE
9 SHALL SERVE THE PETITION IN ACCORDANCE WITH THE RULES OF CIVIL
10 PROCEDURE. THE DISTRICT COURT SHALL PROMPTLY RULE UPON THE
11 PETITION AND SHALL DETERMINE WHETHER THE LICENSEE HAS A
12 SUBSTANTIAL LIKELIHOOD OF SUCCESS ON JUDICIAL REVIEW SO AS TO
13 WARRANT DELAY OF THE DESTRUCTION AUTHORIZED BY SUBSECTION (4)
14 OF THIS SECTION OR WHETHER OTHER CIRCUMSTANCES, INCLUDING BUT
15 NOT LIMITED TO THE NEED FOR PRESERVATION OF EVIDENCE, WARRANT
16 DELAY OF SUCH DESTRUCTION. IF DESTRUCTION IS SO DELAYED PURSUANT
17 TO JUDICIAL ORDER, THE COURT SHALL ISSUE AN ORDER SETTING FORTH
18 TERMS AND CONDITIONS PURSUANT TO WHICH THE LICENSEE MAY
19 MAINTAIN THE MARIJUANA AND MARIJUANA-INFUSED PRODUCT PENDING
20 JUDICIAL REVIEW, AND PROHIBITING THE LICENSEE FROM USING OR
21 DISTRIBUTING THE MARIJUANA OR MARIJUANA-INFUSED PRODUCT PENDING
22 THE REVIEW. THE LICENSING AUTHORITY SHALL NOT CARRY OUT THE
23 DESTRUCTION AUTHORIZED BY SUBSECTION (4) OF THIS SECTION UNTIL
24 FIFTEEN DAYS HAVE PASSED WITHOUT THE FILING OF A PETITION FOR STAY
25 OF AGENCY ACTION, OR UNTIL THE COURT HAS ISSUED AN ORDER DENYING
26 STAY OF AGENCY ACTION PURSUANT TO THIS SUBSECTION (5).

27 (6) THE LICENSING AUTHORITY SHALL NOT CARRY OUT THE

1 DESTRUCTION AUTHORIZED BY SUBSECTION (4) OF THIS SECTION UNTIL IT
2 HAS NOTIFIED THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT IN
3 WHICH THE MARIJUANA IS LOCATED TO DETERMINE WHETHER THE
4 MARIJUANA OR PRODUCT CONSTITUTES EVIDENCE IN A CRIMINAL
5 PROCEEDING SUCH THAT IT SHOULD NOT BE DESTROYED, AND UNTIL
6 FIFTEEN DAYS HAVE PASSED FROM THE DATE OF THE ISSUANCE OF SUCH
7 NOTICE.

8 (7) ON OR BEFORE JANUARY 1, 2012, THE STATE LICENSING
9 AUTHORITY SHALL PROMULGATE RULES GOVERNING THE IMPLEMENTATION
10 OF THIS SECTION.

11 **SECTION 15.** 12-43.3-901 (1) (c), (1) (d), (4) (d) (I), (4) (l), and
12 (7), Colorado Revised Statutes, are amended, and the said 12-43.3-901 (4)
13 is further amended BY THE ADDITION OF THE FOLLOWING NEW
14 PARAGRAPHS, to read:

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

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

21 (d) ~~To continue operating a business for the purpose of~~
22 ~~cultivation, manufacture, or sale of medical marijuana or medical~~
23 ~~marijuana-infused products without satisfying the conditions of section~~
24 ~~12-43.3-103 (2) (b).~~

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

27 (d) (I) To sell medical marijuana to a person not licensed pursuant

1 to this article or to a person not able to produce a valid patient registry
2 identification card, UNLESS THE PERSON HAS A COPY OF A CURRENT AND
3 COMPLETE APPLICATION FOR THE MEDICAL MARIJUANA REGISTRY
4 ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND
5 ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL RETURN
6 RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF PUBLIC
7 HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE DAYS
8 AND CONTAINS A DIAGNOSIS FROM HIS OR HER PHYSICIAN OF END-STAGE
9 CANCER OR END-STAGE ACQUIRED IMMUNE DEFICIENCY SYNDROME OR A
10 STATEMENT FROM HIS OR HER PHYSICIAN THAT THE PATIENT IS IN HOSPICE
11 CARE OR RECEIVING CHEMOTHERAPY. Notwithstanding any provision in
12 this subparagraph (I) to the contrary, a person under twenty-one years of
13 age shall not be employed to sell or dispense medical marijuana at a
14 medical marijuana center or grow or cultivate medical marijuana at an
15 optional premises cultivation operation.

16 (l) To sell, serve, or distribute medical marijuana at any time other
17 than between the hours of 8 a.m. and 7 p.m. Monday through Sunday; or

18 (n) TO BURN OR OTHERWISE DESTROY MARIJUANA OR ANY
19 SUBSTANCE CONTAINING MARIJUANA FOR THE PURPOSE OF EVADING AN
20 INVESTIGATION OR PREVENTING SEIZURE; OR

21 (o) TO ABANDON A LICENSED PREMISES OR OTHERWISE CEASE
22 OPERATION WITHOUT NOTIFYING THE STATE AND LOCAL LICENSING
23 AUTHORITIES AT LEAST FORTY-EIGHT HOURS IN ADVANCE AND WITHOUT
24 ACCOUNTING FOR AND FORFEITING TO THE STATE LICENSING AUTHORITY
25 FOR DESTRUCTION ALL MARIJUANA OR PRODUCTS CONTAINING
26 MARIJUANA.

27 (7) A person who commits any acts that are unlawful pursuant to

1 this section ARTICLE OR THE RULES AUTHORIZED AND ADOPTED PURSUANT
2 TO THIS ARTICLE commits a class 2 misdemeanor and shall be punished
3 as provided in section 18-1.3-501, C.R.S., except for violations that
4 would also constitute a violation of title 18, C.R.S., which violation shall
5 be charged and prosecuted pursuant to title 18, C.R.S.

6 **SECTION 16.** 12-43.3-901, Colorado Revised Statutes, is
7 amended BY THE ADDITION OF A NEW SUBSECTION to read:

8 **12-43.3-901. Unlawful acts - exceptions.** (6.5) A PEACE OFFICER
9 OR A LAW ENFORCEMENT AGENCY SHALL NOT USE ANY PATIENT
10 INFORMATION TO MAKE TRAFFIC STOPS PURSUANT TO SECTION 42-4-1302,
11 C.R.S.

12 **SECTION 17.** 24-72-202 (6) (b) (XIII), Colorado Revised
13 Statutes, is amended to read:

14 **24-72-202. Definitions.** As used in this part 2, unless the context
15 otherwise requires:

- 16 (6) (b) "Public records" does not include:
- 17 (XIII) ~~State and local applications and licenses for an optional~~
18 ~~premises cultivation operation as described in section 12-43.3-403,~~
19 ~~C.R.S., and the location of the optional premises cultivation operation.~~

20 **SECTION 18.** 25-1.5-106 (2) (c) (II), Colorado Revised Statutes,
21 is amended to read:

22 **25-1.5-106. Medical marijuana program - powers and duties**
23 **of the state health agency - medical review board - medical**
24 **marijuana program cash fund - created - repeal.** (2) **Definitions.** In
25 addition to the definitions set forth in section 14 (1) of article XVIII of
26 the state constitution, as used in this section, unless the context otherwise
27 requires:

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

3 (II) The physician holds a valid ~~unrestricted and unconditioned~~
4 license to practice medicine in Colorado THAT DOES NOT CONTAIN A
5 RESTRICTION OR CONDITION THAT PROHIBITS THE RECOMMENDATION OF
6 MEDICAL MARIJUANA OR FOR A LICENSE ISSUED PRIOR TO JULY 1, 2011, A
7 VALID, UNRESTRICTED AND UNCONDITIONED LICENSE; and

8 **SECTION 19.** 25-1.5-106 (5) (a), Colorado Revised Statutes, is
9 amended to read:

10 **25-1.5-106. Medical marijuana program - powers and duties**
11 **of the state health agency - medical review board - medical**
12 **marijuana program cash fund - created - repeal. (5) Physicians.** A
13 physician who certifies a debilitating medical condition for an applicant
14 to the medical marijuana program shall comply with all of the following
15 requirements:

16 (a) The physician shall have a valid ~~unrestricted~~ AND ACTIVE
17 license to practice medicine, which license is in good standing.

18

19 **SECTION 20.** 25-1.5-106 (7), Colorado Revised Statutes, is
20 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

21 **25-1.5-106. Medical marijuana program - powers and duties**
22 **of the state health agency - medical review board - medical**
23 **marijuana program cash fund - created - repeal. (7) Primary**
24 **caregivers.** (e) A PRIMARY CAREGIVER WHO CULTIVATES MEDICAL
25 MARIJUANA FOR HIS OR HER PATIENTS SHALL REGISTER THE LOCATION OF
26 HIS OR HER CULTIVATION OPERATION WITH THE STATE MEDICAL
27 MARIJUANA LICENSING AUTHORITY AND PROVIDE THE REGISTRATION

1 IDENTIFICATION NUMBER OF EACH PATIENT TO THE STATE LICENSING
2 AUTHORITY. THE STATE LICENSING AUTHORITY SHALL PROVIDE THE
3 LOCATION OF A PRIMARY CAREGIVER CULTIVATION OPERATION TO A
4 LOCAL GOVERNMENT OR LAW ENFORCEMENT AGENCY UPON REQUEST.
5 THE LOCATION OF THE CULTIVATION OPERATION SHALL COMPLY WITH ALL
6 APPLICABLE LOCAL LAWS, RULES, OR REGULATIONS.

7 **SECTION 21.** 25-1.5-106 (16) (a), Colorado Revised Statutes, is
8 amended to read:

9 **25-1.5-106. Medical marijuana program - powers and duties**
10 **of the state health agency - medical review board - medical**
11 **marijuana program cash fund - created - repeal. (16) Fees - repeal.**

12 (a) The state health agency may collect fees from patients who, pursuant
13 to section 14 of article XVIII of the state constitution, apply to the
14 medical marijuana program for a registry identification card for the
15 purpose of offsetting the state health agency's direct and indirect costs of
16 administering the program. The amount of the fees shall be set by rule of
17 the state health agency. The amount of the fees set pursuant to this
18 section shall reflect the actual direct and indirect costs of the state
19 licensing authority in the administration and enforcement of this article
20 so that the fees avoid exceeding the statutory limit on uncommitted
21 reserves in administrative agency cash funds as set forth in section
22 24-75-402 (3), C.R.S. ~~The state health agency shall also promulgate rules~~
23 ~~that allow a patient to claim indigence as it relates to paying the fee~~
24 ~~approved pursuant to this subsection (16). The rules shall establish the~~
25 ~~standard for indigence, the process the state health agency shall use to~~
26 ~~determine whether a patient who claims indigence meets the standard for~~
27 ~~indigence, and the process for granting a waiver if the state health agency~~

1 ~~determines that the patient meets the standard for indigence.~~ THE STATE
2 HEALTH AGENCY SHALL NOT ASSESS A MEDICAL MARIJUANA REGISTRY
3 APPLICATION FEE TO AN APPLICANT WHO DEMONSTRATES, PURSUANT TO
4 A COPY OF THE APPLICANT'S STATE TAX RETURN CERTIFIED BY THE
5 DEPARTMENT OF REVENUE, THAT THE APPLICANT'S INCOME DOES NOT
6 EXCEED THE FEDERAL POVERTY LINE, ADJUSTED FOR FAMILY SIZE. All
7 fees collected by the state health agency through the medical marijuana
8 program shall be transferred to the state treasurer who shall credit the
9 same to the medical marijuana program cash fund, which fund is hereby
10 created.

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

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

15 (1.6) (d) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
16 THE CONTRARY, PROPERTY THAT IS USED SOLELY FOR THE CULTIVATION
17 OF MEDICAL MARIJUANA SHALL NOT BE CLASSIFIED AS AGRICULTURAL
18 LAND.

19 **SECTION 23.** 39-26-123 (1) (a.5) (6) (a), and (6) (b) (I),
20 Colorado Revised Statutes, are amended to read:

21 **39-26-123. Receipts - disposition - transfers of general fund**
22 **surplus - sales tax holding fund - creation - definitions.** (1) As used
23 in this section, unless the context otherwise requires:

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

27 (6) (a) For any state fiscal year commencing on or after July 1,

1 2010, the general assembly shall annually appropriate the first two million
2 dollars of sales taxes attributable to sales of medical marijuana or equally
3 appropriate the sales taxes attributable to sales of medical marijuana if
4 two million dollars is not generated TAXES REMITTED, PURSUANT TO
5 SECTION 39-26-105, BY PERSONS OR ENTITIES LICENSED PURSUANT TO
6 ARTICLE 43.3 OF TITLE 12, C.R.S., OR EQUALLY APPROPRIATE THE SALES
7 TAXES ATTRIBUTABLE TO SALES TAXES REMITTED, PURSUANT TO SECTION
8 39-26-105, BY PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 43.3
9 OF TITLE 12, C.R.S., IF LESS THAN TWO MILLION DOLLARS IS GENERATED.

10 (b) (I) One half of the moneys described in paragraph (a) of this
11 subsection (6) shall be appropriated to the department of human services
12 to be used to provide integrated behavioral health services for juveniles
13 and adults with substance use disorders and mental health treatment
14 needs who are involved with, or at risk of involvement with, the criminal
15 justice system. The moneys described in paragraph (a) of this subsection
16 (6) shall be appropriated to the department of human services to be used
17 to provide integrated behavioral health services for juveniles and adults
18 with substance use disorders or with substance use disorders and mental
19 health treatment needs who are involved with, or at risk of involvement
20 with, the criminal justice system. The department shall ensure that
21 appropriations in this line item are distributed through the department's
22 designated managed service organizations and community mental health
23 centers. The appropriations shall be based on, including but not limited
24 to substance use and mental health prevalence data that is developed
25 working collaboratively with the managed services organizations and
26 community mental health centers TO BE USED FOR THE CIRCLE PROGRAM
27 THAT PROVIDES INTENSIVE INPATIENT TREATMENT FOR ADULTS WHO

1 SUFFER FROM CO-OCCURRING DISORDERS AT THE COLORADO MENTAL
2 HEALTH INSTITUTE AT PUEBLO.

3 **SECTION 24.** 12-36-118, Colorado Revised Statutes, is amended
4 BY THE ADDITION OF A NEW SUBSECTION to read:

5 **12-36-118. Disciplinary action by board - immunity - rules.**

6 (19) IF A PHYSICIAN HAS A RESTRICTION PLACED ON HIS OR HER
7 LICENSE, THE RESTRICTION SHALL, IF PRACTICABLE, STATE WHETHER THE
8 RESTRICTION PROHIBITS THE PHYSICIAN FROM MAKING A MEDICAL
9 MARIJUANA RECOMMENDATION.

10 **SECTION 25.** 12-43.3-202 (2) (a) (I), Colorado Revised Statutes,
11 is amended to read:

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

16 (I) Compliance with, enforcement of, or violation of any provision
17 of this article, SECTION 18-18-406.3 (6), C.R.S., or any rule issued
18 pursuant to this article, including procedures and grounds for denying,
19 suspending, fining, restricting, or revoking a state license issued pursuant
20 to this article;

21 **SECTION 26.** 18-4-412 (2) (a), Colorado Revised Statutes, is
22 amended to read:

23 **18-4-412. Theft of medical records or medical information -**
24 **penalty.** (2) As used in this section:

25 (a) "Medical record" means the written or graphic documentation,
26 sound recording, or computer record pertaining to medical, mental health,
27 and health care services, INCLUDING MEDICAL MARIJUANA SERVICES,

1 which are performed at the direction of a physician or other licensed
2 health care provider on behalf of a patient by physicians, dentists, nurses,
3 technicians, emergency medical technicians, mental health professionals,
4 prehospital providers, or other health care personnel. "Medical record"
5 includes such diagnostic documentation as X rays, electrocardiograms,
6 electroencephalograms, and other test results.

7 **SECTION 27.** 18-18-406.3, Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW SUBSECTION to read:

9 **18-18-406.3. Medical use of marijuana by persons diagnosed**
10 **with debilitating medical conditions - unlawful acts - penalty -**
11 **medical marijuana program cash fund.** (6) AN OWNER, OFFICER, OR
12 EMPLOYEE OF A BUSINESS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE
13 12, C.R.S., WHO RELEASES OR MAKES PUBLIC A PATIENT'S MEDICAL
14 RECORD OR ANY CONFIDENTIAL INFORMATION CONTAINED IN ANY SUCH
15 RECORD THAT IS PROVIDED TO OR BY THE BUSINESS LICENSED PURSUANT
16 TO ARTICLE 43.3 OF TITLE 12, C.R.S., WITHOUT THE WRITTEN
17 AUTHORIZATION OF THE PATIENT COMMITS A CLASS 1 MISDEMEANOR;
18 EXCEPT THAT THE OWNER, OFFICER, OR EMPLOYEE SHALL RELEASE THE
19 RECORDS OR INFORMATION UPON REQUEST BY THE STATE OR LOCAL
20 MEDICAL MARIJUANA LICENSING AUTHORITY. THE RECORDS OR
21 INFORMATION PRODUCED FOR REVIEW BY THE STATE OR LOCAL LICENSING
22 AUTHORITY SHALL NOT BECOME PUBLIC RECORDS BY VIRTUE OF THE
23 DISCLOSURE AND MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY
24 ARTICLE 43.3 OF TITLE 12, C.R.S., OR FOR ANOTHER STATE OR LOCAL LAW
25 ENFORCEMENT PURPOSE. THE RECORDS OR INFORMATION SHALL
26 CONSTITUTE MEDICAL DATA AS DEFINED BY SECTION 24-72-204 (3) (a) (I),
27 C.R.S. THE STATE OR LOCAL MEDICAL MARIJUANA LICENSING AUTHORITY

1 MAY DISCLOSE ANY RECORDS OR INFORMATION SO OBTAINED ONLY TO
2 THOSE PERSONS DIRECTLY INVOLVED WITH ANY INVESTIGATION OR
3 PROCEEDING AUTHORIZED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR FOR
4 ANY STATE OR LOCAL LAW ENFORCEMENT PURPOSE.

5 **SECTION 28.** 25-1-1202 (1), Colorado Revised Statutes, is
6 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

7 **25-1-1202. Index of statutory sections regarding medical**
8 **record confidentiality and health information.** (1) Statutory
9 provisions concerning policies, procedures, and references to the release,
10 sharing, and use of medical records and health information include the
11 following:

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

14 **SECTION 29. Appropriation - adjustments in 2011 long bill.**

15 For the implementation of this act, appropriations made in the annual
16 general appropriation act for the fiscal year beginning July 1, 2011, shall
17 be adjusted as follows:

18 (1) The general fund appropriation to the department of human
19 services, division of mental health and alcohol and drug abuse services,
20 for mental health institutes, for mental health institute - Pueblo, is
21 increased by one million dollars (\$1,000,000) and 14.5 FTE, for the
22 Circle Program.

23 (2) The general fund appropriation to the department of human
24 services, division of mental health and alcohol and drug abuse services,
25 for co-occurring behavioral health services, for behavioral health services
26 for juveniles and adults at risk or involved in the criminal justice system,
27 is decreased by one million dollars (\$1,000,000).

1 **SECTION 30. Effective date.** This act shall take effect July 1,
2 2011.

3 **SECTION 31. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.