

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 11-0072.01 Michael Dohr

HOUSE BILL 11-1043

HOUSE SPONSORSHIP

Massey,

SENATE SPONSORSHIP

Steadman,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Finance
Appropriations

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
3rd Reading Unamended
April 15, 2011

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), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **12-43.3-103. Applicability.** (2) (d) THIS ARTICLE SETS FORTH
5 THE EXCLUSIVE MEANS BY WHICH MANUFACTURE, SALE, DISTRIBUTION,
6 AND DISPENSING OF MEDICAL MARIJUANA MAY OCCUR IN THE STATE OF
7 COLORADO. LICENSEES SHALL NOT BE SUBJECT TO THE TERMS OF SECTION
8 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, EXCEPT WHERE
9 SPECIFICALLY REFERENCED IN THIS ARTICLE.

10 **SECTION 2.** 12-43.3-104, Colorado Revised Statutes, is
11 amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

14 **(1.5) "IMMATURE PLANT" MEANS A NONFLOWERING MEDICAL**

1 MARIJUANA PLANT THAT IS NO TALLER THAN EIGHT INCHES AND NO WIDER
2 THAN EIGHT INCHES PRODUCED FROM A CUTTING, CLIPPING, OR SEEDLING
3 AND THAT IS IN A GROWING CONTAINER THAT IS NO LARGER THAN TWO
4 INCHES WIDE AND TWO INCHES TALL THAT IS SEALED ON THE SIDES AND
5 BOTTOM.

6 **SECTION 3.** 12-43.3-104 (5), Colorado Revised Statutes, is
7 amended to read:

8 **12-43.3-104. Definitions.** As used in this article, unless the
9 context otherwise requires:

10 (5) "Local licensing authority" means an authority designated by
11 municipal or county charter, ~~municipal~~ ordinance, or ~~county~~ resolution,
12 OR THE GOVERNING BODY OF A MUNICIPALITY, CITY AND COUNTY, OR THE
13 BOARD OF COUNTY COMMISSIONERS OF A COUNTY IF NO SUCH AUTHORITY
14 IS DESIGNATED.

15 **SECTION 4.** 12-43.3-202 (1) (c), (1) (d), and (2) (a) (IV),
16 Colorado Revised Statutes, are amended to read:

17 **12-43.3-202. Powers and duties of state licensing authority -**
18 **repeal.** (1) The state licensing authority shall:

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

1 24-4-105, C.R.S. When conducting such hearings, the hearing officers
2 shall be employees of the state licensing authority under the direction and
3 supervision of the executive director and the state licensing authority.

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

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

18 (IV) Requirements for inspections, investigations, searches,
19 seizures, FORFEITURES, and such additional activities as may become
20 necessary from time to time;

21 == ==

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

24 **12-43.3-302. Public hearing notice - posting and publication.**

25 (1) Upon receipt of an application for a local license, except an
26 application for renewal or for transfer of ownership, a local licensing
27 authority may schedule a public hearing upon the application to be held

1 not less than thirty days after the date of the application. If the local
2 licensing authority schedules a hearing for a ~~medical marijuana center~~
3 LICENSE application, it shall post and publish public notice thereof not
4 less than ten days prior to the hearing. The local licensing authority shall
5 give public notice by the posting of a sign in a conspicuous place on the
6 ~~medical marijuana center~~ LICENSE APPLICANT'S premises for which
7 LICENSE application has been made and by publication in a newspaper of
8 general circulation in the county in which the ~~medical marijuana center~~
9 APPLICANT'S premises are located.

10 (4) If the building in which medical marijuana is to be sold
11 CULTIVATED, MANUFACTURED, OR DISTRIBUTED is in existence at the time
12 of the application, a sign posted as required in subsections (1) and (2) of
13 this section shall be placed so as to be conspicuous and plainly visible to
14 the general public. If the building is not constructed at the time of the
15 application, the applicant shall post a sign at the premises upon which the
16 building is to be constructed in such a manner that the notice shall be
17 conspicuous and plainly visible to the general public.

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

20 **12-43.3-303. Results of investigation - decision of authorities.**

21 (2) Before entering a decision approving or denying the application for
22 a local license, the local licensing authority may consider, except where
23 this article specifically provides otherwise, the facts and evidence
24 adduced as a result of its investigation, as well as any other facts pertinent
25 to the type of license for which application has been made, including the
26 number, type, and availability of medical marijuana ~~outlets~~ CENTERS,
27 OPTIONAL PREMISES CULTIVATION OPERATIONS, OR MEDICAL

1 MARIJUANA-INFUSED PRODUCTS MANUFACTURERS located in or near the
2 premises under consideration, and any other pertinent matters affecting
3 the qualifications of the applicant for the conduct of the type of business
4 proposed.

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

7 **12-43.3-306. Denial of application.** (1) The state licensing
8 authority shall deny a state license if the premises on which the applicant
9 proposes to conduct its business do not meet the requirements of this
10 article or for reasons set forth in section 12-43.3-104 (1) (c) or
11 12-43.3-305, AND THE STATE LICENSING AUTHORITY MAY DENY A LICENSE
12 FOR GOOD CAUSE AS DEFINED BY SECTION 12-43.3-104 (1.5) (a) OR (1.5)
13 (b).

14 (2) If the state licensing authority denies a state license pursuant
15 to subsection (1) of this section, the applicant shall be entitled to a
16 hearing pursuant to ~~article 4 of title 24, C.R.S.~~ SECTION 24-4-104 (9),
17 C.R.S., AND JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.
18 The state licensing authority shall provide written notice of the grounds
19 for denial of the state license to the applicant and to the local licensing
20 authority at least fifteen days prior to the hearing.

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

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

25 (h) A person who has discharged a sentence in the five years
26 immediately preceding the application date for a conviction of a felony
27 or a person who at any time has been convicted of a felony pursuant to

1 any state or federal law regarding the possession, distribution,
2 MANUFACTURING, CULTIVATION, or use of a controlled substance;
3 EXCEPT THAT THE LICENSING AUTHORITY MAY GRANT A LICENSE TO AN
4 EMPLOYEE IF THE EMPLOYEE HAS A STATE FELONY CONVICTION BASED ON
5 POSSESSION OR USE OF A CONTROLLED SUBSTANCE THAT WOULD NOT BE
6 A FELONY IF THE PERSON WERE CONVICTED OF THE OFFENSE ON THE DATE
7 HE OR SHE APPLIED FOR LICENSURE;

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

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

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

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

1 application for a state license.

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

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

26 **12-43.3-310. Licensing in general.** (6) All ~~owners~~, officers,
27 managers, and employees of a medical marijuana center, optional

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

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

13 **12-43.3-310. Licensing in general.** (14) ~~The location of an~~
14 ~~optional premises cultivation operation as described in section~~
15 ~~12-43.3-403 shall be a confidential record and shall be exempt from the~~
16 ~~"Colorado Open Records Act". State and local licensing authorities shall~~
17 ~~keep the location of an optional premises cultivation operation~~
18 ~~confidential and shall redact the location from all public records.~~
19 ~~Notwithstanding any provision of law to the contrary, a state or local~~
20 ~~licensing agency may share information regarding the location of an~~
21 ~~optional premises cultivation operation with a peace officer or a law~~
22 ~~enforcement agency.~~

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

27 **12-43.3-402. Medical marijuana center license.** (3) Every

1 person selling medical marijuana as provided for in this article shall sell
2 only medical marijuana grown in its medical marijuana optional premises
3 licensed pursuant to this article. IN ADDITION TO MEDICAL MARIJUANA, A
4 MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN SIX IMMATURE
5 PLANTS TO A PATIENT; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY
6 SELL MORE THAN SIX IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE
7 RECOMMENDED PLANT COUNT, TO A PATIENT WHO HAS BEEN
8 RECOMMENDED AN EXPANDED PLANT COUNT BY HIS OR HER
9 RECOMMENDING PHYSICIAN. A MEDICAL MARIJUANA CENTER MAY SELL
10 IMMATURE PLANTS TO A PRIMARY CAREGIVER, ANOTHER MEDICAL
11 MARIJUANA CENTER, OR A MEDICAL MARIJUANA-INFUSED PRODUCT
12 MANUFACTURER PURSUANT TO RULES PROMULGATED BY THE STATE
13 LICENSING AUTHORITY. The provisions of this subsection (3) shall not
14 apply to medical marijuana-infused products.

15 (4) Notwithstanding the requirements of subsection (3) of this
16 section to the contrary, a medical marijuana licensee may purchase not
17 more than thirty percent of its total on-hand inventory of medical
18 marijuana from another licensed medical marijuana center in Colorado.
19 A medical marijuana center may sell no more than thirty percent of its
20 total on-hand inventory to another Colorado licensed medical marijuana
21 licensee; EXCEPT THAT THE DIRECTOR OF THE DIVISION THAT REGULATES
22 MEDICAL MARIJUANA MAY GRANT A TEMPORARY WAIVER:

23 (a) TO A MEDICAL MARIJUANA CENTER OR APPLICANT IF THE
24 MEDICAL MARIJUANA CENTER OR APPLICANT SUFFERS A CATASTROPHIC
25 EVENT RELATED TO ITS INVENTORY; OR

26 (b) TO A NEW MEDICAL MARIJUANA CENTER LICENSEE FOR A
27 PERIOD NOT TO EXCEED NINETY DAYS SO THE NEW LICENSEE CAN

1 CULTIVATE THE NECESSARY MEDICAL MARIJUANA TO COMPLY WITH THIS
2 SUBSECTION (4).

3 (5) Prior to initiating a sale, 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., OR
6 A COPY OF A CURRENT AND COMPLETE APPLICATION FOR THE MEDICAL
7 MARIJUANA REGISTRY ADMINISTERED BY THE DEPARTMENT OF PUBLIC
8 HEALTH AND ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL
9 RETURN RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF
10 PUBLIC HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE
11 DAYS, == and a valid picture identification card that matches the name on
12 the registration card.

13 (5.5) TRANSACTIONS FOR THE SALE OF MEDICAL MARIJUANA OR A
14 MEDICAL MARIJUANA-INFUSED PRODUCT AT A MEDICAL MARIJUANA
15 CENTER MAY BE COMPLETED BY USING AN AUTOMATED MACHINE THAT IS
16 IN A RESTRICTED ACCESS AREA OF THE CENTER IF THE MACHINE COMPLIES
17 WITH THE RULES PROMULGATED BY THE STATE LICENSING AUTHORITY
18 REGARDING THE TRANSACTION OF SALE OF PRODUCT AT A MEDICAL
19 MARIJUANA CENTER AND THE TRANSACTION COMPLIES WITH SUBSECTION
20 (5) OF THIS SECTION.

21 (6) ~~A licensed medical marijuana center may provide a small~~
22 ~~amount of its medical marijuana for testing to a laboratory that is licensed~~
23 ~~pursuant to the occupational licensing rules promulgated pursuant to~~
24 ~~section 12-43.3-202 (2) (a) (IV) A MEDICAL MARIJUANA CENTER MAY~~
25 ~~PROVIDE A SAMPLE OF ITS PRODUCTS TO A LABORATORY THAT HAS AN~~
26 ~~OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR~~
27 ~~TESTING AND RESEARCH PURPOSES. THE LABORATORY MAY DEVELOP,~~

1 TEST, AND PRODUCE MEDICAL MARIJUANA-BASED PRODUCTS. THE
2 LABORATORY MAY CONTRACT METHOD OR PRODUCT DEVELOPMENT WITH
3 A LICENSED MEDICAL MARIJUANA CENTER OR LICENSED MEDICAL
4 MARIJUANA INFUSED-PRODUCT MANUFACTURER. THE STATE LICENSING
5 AUTHORITY SHALL PROMULGATE RULES PURSUANT TO ITS AUTHORITY IN
6 SECTION 12-43.3-202 (1) (b), C.R.S., RELATED TO ACCEPTABLE TESTING
7 AND RESEARCH PRACTICES; INCLUDING BUT NOT LIMITED TO TESTING,
8 STANDARDS, QUALITY CONTROL ANALYSIS, EQUIPMENT CERTIFICATION
9 AND CALIBRATION, AND CHEMICAL IDENTIFICATION AND OTHER
10 SUBSTANCES USED IN BONA-FIDE RESEARCH METHODS. A LABORATORY
11 THAT HAS AN OCCUPATIONAL LICENSE FROM THE STATE LICENSING
12 AUTHORITY FOR TESTING PURPOSES SHALL NOT HAVE ANY INTEREST IN A
13 LICENSED MEDICAL MARIJUANA CENTER OR A LICENSED MEDICAL
14 MARIJUANA-INFUSED PRODUCTS MANUFACTURER.

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:

18 (a) MEDICAL MARIJUANA; OR

19 (b) NO MORE THAN SIX IMMATURE PLANTS TO A PATIENT; EXCEPT
20 THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN SIX
21 IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE RECOMMENDED
22 PLANT COUNT, TO A PATIENT WHO HAS BEEN RECOMMENDED AN
23 EXPANDED PLANT COUNT BY HIS OR HER RECOMMENDING PHYSICIAN; OR

24 (c) MEDICAL MARIJUANA-INFUSED PRODUCTS TO PATIENTS WHO
25 ARE DESIGNATED AS INDIGENT BY THE STATE HEALTH AGENCY OR WHO
26 ARE IN HOSPICE CARE; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY
27 SELL MORE THAN SIX IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE

1 RECOMMENDED PLANT COUNT, TO A PATIENT WHO HAS BEEN
2 RECOMMENDED AN EXPANDED PLANT COUNT BY HIS OR HER
3 RECOMMENDING PHYSICIAN.

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

6 **12-43.3-403. Optional premises cultivation license.** (1) An
7 optional premises cultivation license may be issued only to a person
8 licensed pursuant to section 12-43.3-402 (1) or 12-43.3-404 (1) who
9 grows and cultivates medical marijuana at an additional Colorado
10 licensed premises contiguous or not contiguous with the licensed
11 premises of the person's medical marijuana center license or the person's
12 medical marijuana-infused products manufacturing license.

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

27 **SECTION 13.** 12-43.3-404 (5) and (8), Colorado Revised

1 Statutes, are amended, and the said 12-43.3-404 is further amended BY
2 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
3 read:

4 **12-43.3-404. Medical marijuana-infused products**
5 **manufacturing license.** (5) The medical marijuana-infused product
6 shall be sealed and conspicuously labeled in compliance with this article
7 and any rules promulgated pursuant to this article. THE LABELING OF
8 MEDICAL MARIJUANA-INFUSED PRODUCTS IS A MATTER OF STATEWIDE
9 CONCERN.

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

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

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

- 25 (I) THE NATURE OF THE PRODUCTS MANUFACTURED;
- 26 (II) THE BUSINESS NEED;
- 27 (III) EXISTING BUSINESS CONTRACTS WITH LICENSED MEDICAL

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

3 (IV) THE ABILITY TO CONTRACT WITH LICENSED MEDICAL
4 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
5 MARIJUANA-INFUSED PRODUCTS.

6 ==
7 (10) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER
8 MAY PROVIDE A SAMPLE OF ITS PRODUCTS TO A LABORATORY THAT HAS A
9 OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR
10 TESTING AND RESEARCH PURPOSES. THE STATE LICENSING AUTHORITY
11 SHALL PROMULGATE RULES PURSUANT TO ITS AUTHORITY IN SECTION
12 12-43.3-202 (1) (b), C.R.S., RELATED TO ACCEPTABLE TESTING AND
13 RESEARCH PRACTICES. A LABORATORY THAT HAS AN OCCUPATIONAL
14 LICENSE FROM THE STATE LICENSING AUTHORITY FOR TESTING PURPOSES
15 SHALL NOT HAVE ANY INTEREST IN A LICENSED MEDICAL MARIJUANA
16 CENTER OR A LICENSED MEDICAL MARIJUANA-INFUSED PRODUCTS
17 MANUFACTURER.

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

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

1 THE PEOPLE IN THE ENFORCEMENT OF THE CRIMINAL LAWS.

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

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

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

1 WITH THE MARIJUANA OR MARIJUANA-INFUSED PRODUCT.

2 (5) FOLLOWING THE ISSUANCE OF A FINAL AGENCY ORDER BY THE

3 LICENSING AUTHORITY IMPOSING A DISCIPLINARY ACTION AGAINST A

4 LICENSEE AND ORDERING DESTRUCTION AUTHORIZED BY SUBSECTION (4)

5 OF THIS SECTION, A LICENSEE SHALL HAVE FIFTEEN DAYS WITHIN WHICH

6 TO FILE A PETITION FOR STAY OF AGENCY ACTION WITH THE DISTRICT

7 COURT. THE ACTION SHALL BE FILED IN THE CITY AND COUNTY OF

8 DENVER, WHICH SHALL BE DEEMED TO BE THE RESIDENCE OF THE STATE

9 LICENSING AUTHORITY FOR PURPOSES OF THIS SECTION. THE LICENSEE

10 SHALL SERVE THE PETITION IN ACCORDANCE WITH THE RULES OF CIVIL

11 PROCEDURE. THE DISTRICT COURT SHALL PROMPTLY RULE UPON THE

12 PETITION AND SHALL DETERMINE WHETHER THE LICENSEE HAS A

13 SUBSTANTIAL LIKELIHOOD OF SUCCESS ON JUDICIAL REVIEW SO AS TO

14 WARRANT DELAY OF THE DESTRUCTION AUTHORIZED BY SUBSECTION (4)

15 OF THIS SECTION OR WHETHER OTHER CIRCUMSTANCES, INCLUDING BUT

16 NOT LIMITED TO THE NEED FOR PRESERVATION OF EVIDENCE, WARRANT

17 DELAY OF SUCH DESTRUCTION. IF DESTRUCTION IS SO DELAYED PURSUANT

18 TO JUDICIAL ORDER, THE COURT SHALL ISSUE AN ORDER SETTING FORTH

19 TERMS AND CONDITIONS PURSUANT TO WHICH THE LICENSEE MAY

20 MAINTAIN THE MARIJUANA AND MARIJUANA-INFUSED PRODUCT PENDING

21 JUDICIAL REVIEW, AND PROHIBITING THE LICENSEE FROM USING OR

22 DISTRIBUTING THE MARIJUANA OR MARIJUANA-INFUSED PRODUCT PENDING

23 THE REVIEW. THE LICENSING AUTHORITY SHALL NOT CARRY OUT THE

24 DESTRUCTION AUTHORIZED BY SUBSECTION (4) OF THIS SECTION UNTIL

25 FIFTEEN DAYS HAVE PASSED WITHOUT THE FILING OF A PETITION FOR STAY

26 OF AGENCY ACTION, OR UNTIL THE COURT HAS ISSUED AN ORDER DENYING

27 STAY OF AGENCY ACTION PURSUANT TO THIS SUBSECTION (5).

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

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

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

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

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

22 (d) ~~To continue operating a business for the purpose of~~
23 ~~cultivation, manufacture, or sale of medical marijuana or medical~~
24 ~~marijuana-infused products without satisfying the conditions of section~~
25 ~~12-43.3-103 (2) (b).~~

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

1 (d) (I) To sell medical marijuana to a person not licensed pursuant
2 to this article or to a person not able to produce a valid patient registry
3 identification card, UNLESS THE PERSON HAS A COPY OF A CURRENT AND
4 COMPLETE APPLICATION FOR THE MEDICAL MARIJUANA REGISTRY
5 ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND
6 ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL RETURN
7 RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF PUBLIC
8 HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE DAYS.

9 Notwithstanding any provision in this subparagraph (I) to the
10 contrary, a person under twenty-one years of age shall not be employed
11 to sell or dispense medical marijuana at a medical marijuana center or
12 grow or cultivate medical marijuana at an optional premises cultivation
13 operation.

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

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

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

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

6 **12-43.3-901. Unlawful acts - exceptions.** (6.5) A PEACE OFFICER
7 OR A LAW ENFORCEMENT AGENCY SHALL NOT USE ANY PATIENT
8 INFORMATION TO MAKE TRAFFIC STOPS PURSUANT TO SECTION 42-4-1302,
9 C.R.S.

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

12 **24-72-202. Definitions.** As used in this part 2, unless the context
13 otherwise requires:

14 (6) (b) "Public records" does not include:
15 (XIII) ~~State and local applications and licenses for an optional
16 premises cultivation operation as described in section 12-43.3-403,
17 C.R.S.; and the location of the optional premises cultivation operation.
18 THE INFORMATION PROVIDED TO THE STATE MEDICAL MARIJUANA
19 LICENSING AUTHORITY PURSUANT TO SECTION 25-1.5-106 (7) (e), C.R.S.~~

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 INFORMATION PROVIDED TO THE STATE MEDICAL
3 MARIJUANA LICENSING AUTHORITY PURSUANT TO THIS PARAGRAPH (e)
4 SHALL NOT BE PROVIDED TO THE PUBLIC AND SHALL BE CONFIDENTIAL.
5 THE STATE LICENSING AUTHORITY SHALL VERIFY THE LOCATION OF A
6 PRIMARY CAREGIVER CULTIVATION OPERATION TO A LOCAL GOVERNMENT
7 OR LAW ENFORCEMENT AGENCY UPON RECEIVING AN ADDRESS-SPECIFIC
8 REQUEST FOR VERIFICATION. THE LOCATION OF THE CULTIVATION
9 OPERATION SHALL COMPLY WITH ALL APPLICABLE LOCAL LAWS, RULES, OR
10 REGULATIONS. **SECTION 21. 25-1.5-106 (16)**

11 (a), Colorado Revised Statutes, is amended to read:

12 **25-1.5-106. Medical marijuana program - powers and duties**
13 **of the state health agency - medical review board - medical**
14 **marijuana program cash fund - created - repeal. (16) Fees - repeal.**

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

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

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

16 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
17 unless the context otherwise requires:

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

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

24 **39-26-123. Receipts - disposition - transfers of general fund**
25 **surplus - sales tax holding fund - creation - definitions.** (1) As used
26 in this section, unless the context otherwise requires:

27 (a.5) "~~Sales taxes attributable to sales of medical marijuana~~"

1 means the net revenue raised from the state sales taxes imposed pursuant
2 to this article on the sales of medical marijuana.

3 (6) (a) For any state fiscal year commencing on or after July 1,
4 2010, the general assembly shall annually appropriate the first two million
5 dollars of sales taxes attributable to sales of medical marijuana or equally
6 appropriate the sales taxes attributable to sales of medical marijuana if
7 two million dollars is not generated TAXES REMITTED, PURSUANT TO THIS
8 ARTICLE, BY PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 43.3
9 OF TITLE 12, C.R.S., OR EQUALLY APPROPRIATE THE SALES TAXES
10 ATTRIBUTABLE TO SALES TAXES REMITTED, PURSUANT TO THIS
11 ARTICLE, BY PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 43.3
12 OF TITLE 12, C.R.S., IF LESS THAN TWO MILLION DOLLARS IS GENERATED.

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

1 ~~working collaboratively with the managed services organizations and~~
2 ~~community mental health centers~~ TO BE USED FOR THE CIRCLE PROGRAM
3 THAT PROVIDES INTENSIVE INPATIENT TREATMENT FOR ADULTS WHO
4 SUFFER FROM CO-OCCURRING DISORDERS AT THE COLORADO MENTAL
5 HEALTH INSTITUTE AT PUEBLO.

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

8 **12-36-118. Disciplinary action by board - immunity - rules.**

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

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

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

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

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

26 **18-4-412. Theft of medical records or medical information -**
27 **penalty.** (2) As used in this section:

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

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

12 **18-18-406.3. Medical use of marijuana by persons diagnosed**
13 **with debilitating medical conditions - unlawful acts - penalty -**
14 **medical marijuana program cash fund.** (6) AN OWNER, OFFICER, OR
15 EMPLOYEE OF A BUSINESS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE
16 12, C.R.S., OR AN EMPLOYEE OF THE STATE MEDICAL MARIJUANA
17 LICENSING AUTHORITY, A LOCAL MEDICAL MARIJUANA LICENSING
18 AUTHORITY, OR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,
19 WHO RELEASES OR MAKES PUBLIC A PATIENT'S MEDICAL RECORD OR ANY
20 CONFIDENTIAL INFORMATION CONTAINED IN ANY SUCH RECORD THAT IS
21 PROVIDED TO OR BY THE BUSINESS LICENSED PURSUANT TO ARTICLE 43.3
22 OF TITLE 12, C.R.S., WITHOUT THE WRITTEN AUTHORIZATION OF THE
23 PATIENT COMMITS A CLASS 1 MISDEMEANOR; EXCEPT THAT THE OWNER,
24 OFFICER, OR EMPLOYEE SHALL RELEASE THE RECORDS OR INFORMATION
25 UPON REQUEST BY THE STATE OR LOCAL MEDICAL MARIJUANA LICENSING
26 AUTHORITY. THE RECORDS OR INFORMATION PRODUCED FOR REVIEW BY
27 THE STATE OR LOCAL LICENSING AUTHORITY SHALL NOT BECOME PUBLIC

1 RECORDS BY VIRTUE OF THE DISCLOSURE AND MAY BE USED ONLY FOR A
2 PURPOSE AUTHORIZED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR FOR
3 ANOTHER STATE OR LOCAL LAW ENFORCEMENT PURPOSE. THE RECORDS
4 OR INFORMATION SHALL CONSTITUTE MEDICAL DATA AS DEFINED BY
5 SECTION 24-72-204 (3) (a) (I), C.R.S. . THE STATE OR LOCAL MEDICAL
6 MARIJUANA LICENSING AUTHORITY MAY DISCLOSE ANY RECORDS OR
7 INFORMATION SO OBTAINED ONLY TO THOSE PERSONS DIRECTLY INVOLVED
8 WITH ANY INVESTIGATION OR PROCEEDING AUTHORIZED BY ARTICLE 43.3
9 OF TITLE 12, C.R.S., OR FOR ANY STATE OR LOCAL LAW ENFORCEMENT
10 PURPOSE.

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

13 **25-1-1202. Index of statutory sections regarding medical**
14 **record confidentiality and health information.** (1) Statutory
15 provisions concerning policies, procedures, and references to the release,
16 sharing, and use of medical records and health information include the
17 following:

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

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

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

24 (1) The general fund appropriation to the department of human
25 services, division of mental health and alcohol and drug abuse services,
26 for mental health institutes, for mental health institute - Pueblo, is
27 increased by one million dollars (\$1,000,000) and 14.5 FTE, for the

1 Circle Program.

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

7 **SECTION 30. Effective date.** This act shall take effect July 1,
8 2011.

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