

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

580X0674

SENATE BILL NO. 171

Introduced by: The Committee on Health and Human Services

1 FOR AN ACT ENTITLED, An Act to permit and regulate the compassionate use of cannabis
2 and provide penalties therefor.

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

4 Section 1. That the code be amended by adding a NEW SECTION to read:

5 Terms used in this act mean:

6 (1) "Allowable amount of cannabis,":

7 (a) Three ounces of cannabis;

8 (b) The quantity of cannabis products as established by rules promulgated by the
9 department;

10 (c) If the cardholder has a registry identification card allowing cultivation, six
11 cannabis plants minimum or as prescribed by physician; and

12 (d) If the cardholder has a registry identification card allowing cultivation, the
13 amount of cannabis and cannabis products that were produced from the
14 cardholder's allowable plants, if the cannabis and cannabis products are
15 possessed at the same property where the plants were cultivated;



- 1 (2) "Bona fide practitioner-patient relationship,":
 - 2 (a) A practitioner and patient have a treatment or consulting relationship, during
3 the course of which the practitioner has completed an assessment of the
4 patient's medical history and current medical condition, including an
5 appropriate in-person physical examination;
 - 6 (b) The practitioner has consulted with the patient with respect to the patient's
7 debilitating medical condition; and
 - 8 (c) The practitioner is available to or offers to provide follow-up care and
9 treatment to the patient, including patient examinations;
- 10 (3) "Cannabis product," any concentrated cannabis, cannabis extract, or product that is
11 infused with cannabis or cannabis extract, and is intended for use or consumption by
12 humans. The term includes, without limitation, edible cannabis products, beverages,
13 topical products, ointments, oils, and tinctures;
- 14 (4) "Cannabis product manufacturing facility," an entity registered with the department
15 pursuant to this Act that acquires, possesses, manufactures, delivers, transfers,
16 transports, supplies, or sells cannabis products to a medical cannabis dispensary;
- 17 (5) "Cannabis testing facility" or "testing facility," an independent entity registered with
18 the department pursuant to this Act to analyze the safety and potency of cannabis;
- 19 (6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and
20 possesses a valid registry identification card;
- 21 (7) "Cultivation facility," an entity registered with the department pursuant to this Act
22 that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells
23 cannabis and related supplies to a medical cannabis establishment;
- 24 (8) "Debilitating medical condition,":

- 1 (a) Cancer, glaucoma, positive status for human immunodeficiency virus,
2 endometriosis, reflex sympathetic dystrophy, epilepsy, acquired immune
3 deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's
4 disease, IBS, ulcerative colitis, agitation of Alzheimer's disease, post-traumatic
5 stress disorder, or the treatment of any of these conditions;
- 6 (b) A chronic or debilitating disease or medical condition or its treatment that
7 produces one or more of the following: cachexia or wasting syndrome; severe,
8 debilitating pain; severe nausea; seizures; or severe and persistent muscle
9 spasms, including those characteristic of multiple sclerosis; or
- 10 (c) Any other medical condition or its treatment added by the department pursuant
11 to section 26 of this Act;
- 12 (9) "Department," the South Dakota Department of Health;
- 13 (10) "Designated caregiver," a person who:
 - 14 (a) Is at least twenty-one years of age;
 - 15 (b) Has agreed to assist with a qualifying patient's medical use of cannabis;
 - 16 (c) Has not been convicted of a disqualifying felony offense; and
 - 17 (d) Assists no more than five qualifying patients with the medical use of cannabis,
18 unless the designated caregiver's qualifying patients each reside in or are
19 admitted to a health care facility or residential care facility where the
20 designated caregiver is employed;
- 21 (11) "Disqualifying felony offense,":
 - 22 (a) A violent crime that was classified as a felony in the jurisdiction where the
23 person was convicted; or
 - 24 (b) A violation of a state or federal controlled substances law that was classified

1 as a felony in the jurisdiction where the person was convicted, not including:

2 (i) An offense for which the sentence, including any term of probation,
3 incarceration, or supervised release, was completed ten or more years
4 earlier; or

5 (ii) An offense that consisted of conduct for which this Act would likely
6 have prevented a conviction, but the conduct either occurred prior to the
7 enactment of this Act or was prosecuted by an authority other than the
8 State of South Dakota;

9 (12) "Edible cannabis products," any product that:

10 (a) Contains or is infused with cannabis or cannabis extract;

11 (b) Is intended for human consumption by oral ingestion; and

12 (c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or
13 another similar product;

14 (13) "Enclosed, locked facility," any closet, room, greenhouse, building, or other enclosed
15 area equipped with locks or other security devices that permits access only by a
16 cardholder or other person allowed to cultivate the plants. Two or more cardholders
17 who reside in the same dwelling may share one enclosed, locked facility for
18 cultivation;

19 (14) "Medical cannabis" or "cannabis," marijuana as defined in subdivision 22-42-1(7);

20 (15) "Medical cannabis dispensary" or "dispensary," an entity registered with the
21 department pursuant to this Act that acquires, possesses, stores, delivers, transfers,
22 transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia,
23 or related supplies and educational materials to cardholders;

24 (16) "Medical cannabis establishment," a cultivation facility, a cannabis testing facility,

1 a cannabis product manufacturing facility, or a dispensary;

2 (17) "Medical cannabis establishment agent," an owner, officer, board member, employee,
3 or volunteer at a medical cannabis establishment;

4 (18) "Medical use," includes the acquisition, administration, cultivation, manufacture,
5 delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis
6 or paraphernalia relating to the administration of cannabis to treat or alleviate a
7 registered qualifying patient's debilitating medical condition or symptom associated
8 with the patient's debilitating medical condition. The term does not include:

9 (a) The cultivation of cannabis by a nonresident cardholder;

10 (b) The cultivation of cannabis by a cardholder who is not designated as being
11 allowed to cultivate on the card holder's registry identification card; or

12 (c) The extraction of resin from cannabis by solvent extraction unless the
13 extraction is done by a cannabis product manufacturing facility;

14 (19) "Nonresident cardholder," a person who:

15 (a) Has been diagnosed with a debilitating medical condition, or is the parent,
16 guardian, conservator, or other person with authority to consent to the medical
17 treatment of a person who has been diagnosed with a debilitating medical
18 condition;

19 (b) Is not a resident of South Dakota or who has been a resident of South Dakota
20 for less than forty-five days;

21 (c) Was issued a currently valid registry identification card or its equivalent by
22 another state, district, territory, commonwealth, insular possession of the
23 United States, or country recognized by the United States that allows the
24 person to use cannabis for medical purposes in the jurisdiction of issuance;

1 and

2 (d) Has submitted all documentation required by the department, and has received
3 confirmation of registration;

4 (20) "Practitioner," a person who is licensed with authority to prescribe drugs to humans.
5 In relation to a nonresident cardholder, the term means a person who is licensed with
6 authority to prescribe drugs to humans in the state of the patient's residence;

7 (21) "Qualifying patient," a person who has been diagnosed by a practitioner as having a
8 debilitating medical condition;

9 (22) "Registry identification card," a document issued by the department that identifies a
10 person as a registered qualifying patient or registered designated caregiver, or
11 documentation that is deemed a registry identification card pursuant to sections 29
12 to 41, inclusive, of this Act;

13 (23) "Written certification," a document dated and signed by a practitioner, stating that in
14 the practitioner's professional opinion the patient is likely to receive therapeutic or
15 palliative benefit from the medical use of cannabis to treat or alleviate the patient's
16 debilitating medical condition or symptom associated with the debilitating medical
17 condition. A written certification shall affirm that it is made in the course of a bona
18 fide practitioner-patient relationship and shall specify the qualifying patient's
19 debilitating medical condition.

20 Section 2. That the code be amended by adding a NEW SECTION to read:

21 A cardholder who possesses a valid registry identification card is not subject to arrest,
22 prosecution, or penalty in any manner, or the denial of any right or privilege, including any civil
23 penalty or disciplinary action by a court or occupational or professional licensing board or
24 bureau for:

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

15 Section 3. That the code be amended by adding a NEW SECTION to read:

16 A nonresident cardholder is not subject to arrest, prosecution, or penalty in any manner, or
17 the denial of any right or privilege, including any civil penalty or disciplinary action by a
18 business or occupational or professional licensing board or entity, for the transporting,
19 purchasing, possessing, or using medical cannabis pursuant to this Act if the nonresident
20 cardholder does not possess more than three ounces of cannabis or the quantity of cannabis
21 products established by rules promulgated by the department.

22 Section 4. That the code be amended by adding a NEW SECTION to read:

23 There is a presumption that a qualifying patient or designated caregiver is engaged in the
24 medical use of cannabis pursuant to this Act if the cardholder is in possession of a registry

1 identification card and an amount of cannabis that does not exceed the allowable amount of
2 cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was
3 not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition
4 or symptom associated with the qualifying patient's debilitating medical condition pursuant to
5 this Act.

6 Section 5. That the code be amended by adding a NEW SECTION to read:

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

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

18 Section 6. That the code be amended by adding a NEW SECTION to read:

19 No attorney is subject to disciplinary action by the State Bar of South Dakota or other
20 professional licensing association for providing legal assistance to a prospective or registered
21 medical cannabis establishment or other related activity that is no longer subject to a criminal
22 penalty under state law pursuant to this Act.

23 Section 7. That the code be amended by adding a NEW SECTION to read:

24 No person is subject to arrest, prosecution, or penalty in any manner, or the denial of any

1 right or privilege, including any civil penalty or disciplinary action by a court or occupational
2 or professional licensing board or bureau, for:

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

11 Section 8. That the code be amended by adding a NEW SECTION to read:

12 No dispensary or dispensary agent is subject to prosecution, search, or inspection, except
13 by the department pursuant to sections 61 to 71, inclusive, of this Act, seizure, or penalty in any
14 manner, and may not be denied any right or privilege, including any civil penalty or disciplinary
15 action by a court or business licensing board or entity, for acting pursuant to this Act or rules
16 promulgated pursuant to this Act to:

- 17 (1) Possess, transport, or store cannabis or cannabis products;
- 18 (2) Deliver, transfer, or transport cannabis to a testing facility and compensate a testing
19 facility for services provided;
- 20 (3) Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value
21 is exchanged in return;
- 22 (4) Purchase or otherwise acquire cannabis from a cultivation facility or dispensary, or
23 a cannabis product from a cannabis product manufacturing facility or dispensary; or
- 24 (5) Deliver, sell, supply, transfer, or transport a cannabis, cannabis product, cannabis

1 paraphernalia, or related supplies or educational materials to a cardholder,
2 nonresident cardholder, or dispensary.

3 Section 9. That the code be amended by adding a NEW SECTION to read:

4 No cultivation facility or a cultivation facility agent is subject to prosecution, search, or
5 inspection, except by the department pursuant to sections 61 to 71, inclusive, of this Act,
6 seizure, or penalty in any manner, and may not be denied any right or privilege, including any
7 civil penalty or disciplinary action by a court or business licensing board or entity, for acting
8 pursuant to this Act or rules promulgated pursuant to this Act to:

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

20 Section 10. That the code be amended by adding a NEW SECTION to read:

21 No cannabis product manufacturing facility or cannabis product manufacturing facility agent
22 is subject to prosecution, search, or inspection, except by the department pursuant to sections
23 61 to 71, inclusive, of this Act, seizure, or penalty in any manner, and may not be denied any
24 right or privilege, including any civil penalty or disciplinary action by a court or business

1 licensing board or entity, for acting pursuant to this Act or rules promulgated pursuant to this
2 Act to:

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

15 Section 11. That the code be amended by adding a NEW SECTION to read:

16 No testing facility or testing facility agent is subject to prosecution, search, or inspection,
17 except by the department pursuant to sections 61 to 71, inclusive, of this Act, seizure, or penalty
18 in any manner, and may not be denied any right or privilege, including any civil penalty or
19 disciplinary action by a court or business licensing board or entity, for acting pursuant to this
20 Act and rules promulgated pursuant to this Act to:

- 21 (1) Acquire, possess, transport, and store cannabis or cannabis products obtained from
22 a cardholder, nonresident cardholder, or medical cannabis establishment;
- 23 (2) Return the cannabis or cannabis product to a cardholder, nonresident cardholder, or
24 medical cannabis establishment from whom it was obtained;

1 (3) Test cannabis, including for potency, pesticides, mold, or contaminants; or

2 (4) Receive compensation for those services.

3 Section 12. That the code be amended by adding a NEW SECTION to read:

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

7 Section 13. That the code be amended by adding a NEW SECTION to read:

8 Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to
9 property that is possessed, owned, or used in connection with the medical use of cannabis as
10 allowed under this Act, or acts incidental to use allowed under this Act, may not be seized or
11 forfeited. This Act does not prevent the seizure or forfeiture of cannabis exceeding the amount
12 allowed under this Act, nor does it prevent seizure or forfeiture if the basis for the action is
13 unrelated to the cannabis that is possessed, manufactured, transferred, or used pursuant to this
14 Act.

15 Section 14. That the code be amended by adding a NEW SECTION to read:

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

20 Section 15. That the code be amended by adding a NEW SECTION to read:

21 For the purposes of South Dakota state law, an activity related to medical cannabis is lawful
22 as long as it is conducted in accordance with this Act.

23 Section 16. That the code be amended by adding a NEW SECTION to read:

24 No law enforcement officer employed by an agency which receives state or local

1 government funds may expend any state or local resources, including the officer's time, to effect
2 any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the
3 officer believes to constitute a violation of the federal Controlled Substances Act 21 U.S.C.
4 § 801 if the officer has reason to believe that the activity is in compliance with this Act, no
5 officer may expend any state or local resources, including the officer's time, to provide any
6 information or logistical support related to such activity to any federal law enforcement
7 authority or prosecuting entity.

8 Section 17. That the code be amended by adding a NEW SECTION to read:

9 It is the public policy of the state of South Dakota that a contract related to medical cannabis
10 that is entered into by a cardholder, medical cannabis establishment, or medical cannabis
11 establishment agent, and a person who allows property to be used by those persons, is
12 enforceable. It is the public policy of the state of South Dakota that no contract entered into by
13 a cardholder, a medical cannabis establishment, or medical cannabis establishment agent, or by
14 a person who allows property to be used for an activity that is exempt from state criminal
15 penalty by this Act is unenforceable on the basis that activity related to cannabis is prohibited
16 by federal law.

17 Section 18. That the code be amended by adding a NEW SECTION to read:

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

- 20 (1) Undertaking any task under the influence of cannabis, when doing so would
21 constitute negligence or professional malpractice;
- 22 (2) Possessing cannabis or otherwise engaging in the medical use of cannabis in any
23 correctional facility;
- 24 (3) Smoking cannabis:

- 1 (a) On any form of public transportation; or
- 2 (b) In any public place or any place that is open to the public;
- 3 (4) Operating, navigating, or being in actual physical control of any motor vehicle,
- 4 aircraft, train, or motorboat while under the influence of cannabis, except that a
- 5 registered qualifying patient or nonresident cardholder is not considered to be under
- 6 the influence of cannabis solely because of the presence of metabolites or
- 7 components of cannabis that appear in insufficient concentration to cause
- 8 impairment.

9 Section 19. That the code be amended by adding a NEW SECTION to read:

10 No school or landlord may refuse to enroll or lease to and may not otherwise penalize a
11 person solely for the person's status as a cardholder, unless failing to do so would violate federal
12 law or regulation or cause the school or landlord to lose a monetary or licensing related benefit
13 under federal law or regulation.

14 Section 20. That the code be amended by adding a NEW SECTION to read:

15 For the purposes of medical care, including organ and tissue transplants, a registered
16 qualifying patient's use of cannabis according to this Act is considered the equivalent of the
17 authorized use of any other medication used at the discretion of a practitioner and does not
18 constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed
19 medical care.

20 Section 21. That the code be amended by adding a NEW SECTION to read:

21 No person may be denied custody of, visitation rights, or parenting time with a minor solely
22 for the person's status as a cardholder. There is no presumption of neglect or child endangerment
23 for conduct allowed under this Act, unless the person's behavior creates an unreasonable danger
24 to the safety of the minor as established by clear and convincing evidence.

1 Section 22. That the code be amended by adding a NEW SECTION to read:

2 Except as provided in this Act, a registered qualifying patient who uses cannabis for medical
3 purposes is afforded all the same rights under state and local law, including those guaranteed
4 under South Dakota law, as the individual would be afforded if the person were solely
5 prescribed a pharmaceutical medication, as it pertains to:

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

9 Section 23. That the code be amended by adding a NEW SECTION to read:

10 The rights provided by sections 19 to 25, inclusive, of this Act do not apply to the extent that
11 they conflict with an employer's obligations under federal law or regulation or to the extent that
12 they would disqualify an employer from a monetary or licensing-related benefit under federal
13 law or regulation.

14 Section 24. That the code be amended by adding a NEW SECTION to read:

15 No employer is required to allow the ingestion of cannabis in any workplace or to allow any
16 employee to work while under the influence of cannabis. A registered qualifying patient may
17 not be considered to be under the influence of cannabis solely because of the presence of
18 metabolites or components of cannabis that appear in insufficient concentration to cause
19 impairment.

20 Section 25. That the code be amended by adding a NEW SECTION to read:

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

23 Section 26. That the code be amended by adding a NEW SECTION to read:

24 Any resident of South Dakota may petition the department to add a serious medical

1 condition or treatment to the list of debilitating medical conditions as defined by this Act. The
2 department shall consider a petition in the manner required by rules promulgated by the
3 department pursuant to this Act, including public notice and hearing. The department shall
4 approve or deny a petition within one hundred eighty days of submission. The approval or denial
5 of any petition is a final decision of the department, subject to judicial review.

6 Section 27. That the code be amended by adding a NEW SECTION to read:

7 Nothing in this Act requires:

- 8 (1) A government medical assistance program or private insurer to reimburse a person
9 for costs associated with the medical use of cannabis;
- 10 (2) Any person or establishment in lawful possession of property to allow a guest, client,
11 customer, or other visitor to smoke cannabis on or in that property; or
- 12 (3) A landlord to allow the cultivation of cannabis on the rental property.

13 Section 28. That the code be amended by adding a NEW SECTION to read:

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

16 Section 29. That the code be amended by adding a NEW SECTION to read:

17 No later than one hundred forty days after the effective date of this Act, the department shall
18 begin issuing registry identification cards to qualifying patients who submit the following, in
19 accordance with rules promulgated by the department:

- 20 (1) A written certification issued by a practitioner within ninety days immediately
21 preceding the date of an application;
- 22 (2) The application or renewal fee;
- 23 (3) The name, address, and date of birth of the qualifying patient, except that if the
24 applicant is homeless, no address is required;

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

12 Section 30. That the code be amended by adding a NEW SECTION to read:

13 If the qualifying patient is unable to submit the information required by section 29 of this
14 Act due to the persons' age or medical condition, the person responsible for making medical
15 decisions for the qualifying patient may do so on behalf of the qualifying patient.

16 Section 31. That the code be amended by adding a NEW SECTION to read:

17 Except as provided in section 32 of this Act, the department shall:

- 18 (1) Verify the information contained in an application or renewal submitted pursuant to
19 this Act and approve or deny an application or renewal within fifteen days of
20 receiving a completed application or renewal application;
- 21 (2) Issue registry identification cards to a qualifying patient and to a qualifying patient's
22 designated caregivers, if any, within five days of approving the application or
23 renewal. A designated caregiver must have a registry identification card for each
24 qualifying patient; and

1 (3) Enter the registry identification number of the dispensaries the patient designates into
2 the verification system.

3 Section 32. That the code be amended by adding a NEW SECTION to read:

4 The department may conduct a background check of the prospective designated caregiver
5 in order to carry out the provisions of section 31 of this Act.

6 Section 33. That the code be amended by adding a NEW SECTION to read:

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

9 (1) The qualifying patient's practitioner has explained the potential risks and benefits of
10 the medical use of cannabis to the custodial parent or legal guardian with
11 responsibility for health care decisions for the qualifying patient; and

12 (2) The custodial parent or legal guardian with responsibility for health care decisions
13 for the qualifying patient consents in writing to:

14 (a) Allow the qualifying patient's medical use of cannabis;

15 (b) Serve as the qualifying patient's designated caregiver; and

16 (c) Control the acquisition of the cannabis, the dosage, and the frequency of the
17 medical use of cannabis by the qualifying patient.

18 Section 34. That the code be amended by adding a NEW SECTION to read:

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

21 (1) Does not provide the required information, fee, or materials;

22 (2) Previously had a registry identification card revoked; or

23 (3) Provided false information.

24 Section 35. That the code be amended by adding a NEW SECTION to read:

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

- 3 (1) The designated caregiver does not meet the requirements of a designated caregiver
4 as provided in Section 1 of this Act;
- 5 (2) The applicant does not provide the information required;
- 6 (3) The designated caregiver previously had a registry identification card revoked; or
- 7 (4) The applicant or the designated caregiver provided false information.

8 Section 36. That the code be amended by adding a NEW SECTION to read:

9 The department shall give written notice to the qualifying patient of the reason for denying
10 a registry identification card to the qualifying patient or to the qualifying patient's designated
11 caregiver.

12 Section 37. That the code be amended by adding a NEW SECTION to read:

13 Denial of an application or renewal is considered a final department action, subject to
14 judicial review.

15 Section 38. That the code be amended by adding a NEW SECTION to read:

16 Until a qualifying patient who has submitted an application and the required fee to the
17 department receives a registry identification card or a denial, a copy of the individual's
18 application, written certification, and proof that the application was submitted to the department
19 is considered a registry identification card.

20 Section 39. That the code be amended by adding a NEW SECTION to read:

21 Until a designated caregiver whose qualifying patient has submitted an application and the
22 required fee receives a registry identification card or a denial, a copy of the a qualifying patient's
23 application, written certification, and proof that the application was submitted to the department
24 is considered a designated caregiver registry identification card.

1 Section 40. That the code be amended by adding a NEW SECTION to read:

2 Until twenty-five days after the department makes applications available, a valid, written
3 certification issued within the previous year is considered a registry identification card for a
4 qualifying patient.

5 Section 41. That the code be amended by adding a NEW SECTION to read:

6 Until twenty-five days after the department makes applications available, the following is
7 considered a designated caregiver registry identification card:

- 8 (1) A copy of a qualifying patient's valid written certification issued within the previous
9 year; and
- 10 (2) A signed affidavit attesting that the person has significant responsibility for managing
11 the well-being of the patient and that the person has been chosen to assist the
12 qualifying patient.

13 Section 42. That the code be amended by adding a NEW SECTION to read:

14 A registry identification card must contain all of the following:

- 15 (1) The name of the cardholder;
- 16 (2) A designation of whether the cardholder is a qualifying patient or a designated
17 caregiver;
- 18 (3) The date of issuance and the expiration date of the registry identification card;
- 19 (4) A random ten digit alphanumeric identification number, containing at least four
20 numbers and at least four letters, that is unique to the cardholder;
- 21 (5) If the cardholder is a designated caregiver, the random identification number of the
22 qualifying patient the designated caregiver will assist;
- 23 (6) A clear indication of whether the cardholder has been designated to cultivate
24 cannabis plants for the qualifying patient's medical use;

1 (7) A photograph of the cardholder; and

2 (8) The phone number or web address where the card can be verified.

3 Section 43. That the code be amended by adding a NEW SECTION to read:

4 A registry identification card expires one year after the date of issue. However if the
5 practitioner indicates in the written certification that the qualifying patient would benefit from
6 cannabis until a specified earlier date, the registry identification card expires on that date.

7 Section 44. That the code be amended by adding a NEW SECTION to read:

8 The department shall maintain a confidential list of the persons to whom the department has
9 issued a registry identification card and the address, phone number, and registry identification
10 number of each person. This confidential list may not be combined or linked in any manner with
11 any other list or database, nor may it be used for any purpose not provided for in this Act.

12 Section 45. That the code be amended by adding a NEW SECTION to read:

13 Within one hundred twenty days of the effective date of this Act, the department shall
14 establish a secure phone or web-based verification system. The verification system must allow
15 law enforcement personnel and medical cannabis establishments to enter a registry identification
16 number and determine whether the number corresponds with a current, valid registry
17 identification card. The system may disclose only:

18 (1) Whether the identification card is valid;

19 (2) The name of the cardholder;

20 (3) Whether the cardholder is a qualifying patient or a designated caregiver;

21 (4) Whether the cardholder is permitted to cultivate cannabis plants;

22 (5) The registry identification number of any affiliated registered qualifying patient; and

23 (6) The registry identification of the qualifying patient's dispensary, if any.

24 Section 46. That the code be amended by adding a NEW SECTION to read:

1 The following notifications and department responses are required:

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

5 (2) A registered designated caregiver shall notify the department of any change in the
6 registered designated caregiver's name or address, or if the designated caregiver
7 becomes aware that the qualifying patient passed away, within ten days of the
8 change;

9 (3) Before a registered qualifying patient changes a designated caregiver, the qualifying
10 patient shall notify the department;

11 (4) When a registered qualifying patient changes a preference as to who may cultivate
12 cannabis for the qualifying patient, the qualifying patient shall notify the department;

13 (5) If a cardholder loses a registry identification card, the card holder shall notify the
14 department within ten days of becoming aware the card has been lost; and

15 (6) Before a registered qualifying patient changes a designated dispensary, the qualifying
16 patient must notify the department.

17 Section 47. That the code be amended by adding a NEW SECTION to read:

18 Each notification a registered qualifying patient is required to make may be made by the
19 patient's designated caregiver if the qualifying patient is unable to make the notification due to
20 age or medical condition.

21 Section 48. That the code be amended by adding a NEW SECTION to read:

22 If a cardholder notifies the department of any item listed in section 46 of this Act, but
23 remains eligible under this Act, the department shall issue the cardholder a new registry
24 identification card with a new random ten-digit alphanumeric identification number within ten

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

5 Section 49. That the code be amended by adding a NEW SECTION to read:

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

12 Section 50. That the code be amended by adding a NEW SECTION to read:

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

15 Section 51. That the code be amended by adding a NEW SECTION to read:

16 Except as provided in section 18 of this Act and in this section, a person may assert the
17 medical purpose for using cannabis as a defense to any prosecution involving cannabis, and such
18 defense is presumed valid where the evidence shows that:

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

24 (2) The person was in possession of no more than the allowable amount of cannabis

1 permitted by this Act;

2 (3) The person was engaged in the acquisition, possession, use, manufacture, cultivation,
3 or transportation of cannabis, paraphernalia, or both, relating to the administration
4 of cannabis to treat or alleviate the person's debilitating medical condition or
5 symptoms associated with the person's debilitating medical condition; and

6 (4) Any cultivation of cannabis and storage of more than three ounces of cannabis
7 occurred in a secure location that only the person asserting the defense could access.

8 Section 52. That the code be amended by adding a NEW SECTION to read:

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

10 (1) The person had a registry identification card revoked for misconduct; or

11 (2) The purposes for the possession or cultivation of cannabis was not solely for
12 palliative or therapeutic use by the person with a debilitating medical condition
13 raising the defense.

14 Section 53. That the code be amended by adding a NEW SECTION to read:

15 A person is not required to possess a registry identification card to raise the affirmative
16 defense in section 51 of this Act.

17 Section 54. That the code be amended by adding a NEW SECTION to read:

18 If a person demonstrates the person's medical purpose for using cannabis pursuant to this
19 section, except as provided in section 18 of this Act, the person is not subject to the following
20 for the person's use of cannabis for medical purposes:

21 (1) Disciplinary action by an occupational or professional licensing board or bureau; or

22 (2) Forfeiture of any interest in or right to any property other than cannabis.

23 Section 55. That the code be amended by adding a NEW SECTION to read:

24 Not later than ninety days after receiving an application for a medical cannabis

1 establishment, the department shall register the prospective medical cannabis establishment and
2 issue a registration certificate and a random ten-digit alphanumeric identification number if all
3 of the following conditions are satisfied:

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

5 (a) The application fee;

6 (b) An application, including:

7 (i) The legal name of the prospective medical cannabis establishment;

8 (ii) The physical address of the prospective medical cannabis establishment
9 that is not within one thousand feet of a public or private school
10 existing before the date of the medical cannabis establishment
11 application;

12 (iii) The name and date of birth of each principal officer and board member
13 of the proposed medical cannabis establishment; and

14 (iv) Any additional information requested by the department;

15 (c) Operating procedures consistent with rules for oversight of the proposed
16 medical cannabis establishment, including procedures to ensure accurate
17 record keeping and adequate security measures;

18 (d) If the city or county where the proposed medical cannabis establishment would
19 be located has enacted zoning restrictions, a sworn statement certifying that
20 the proposed medical cannabis establishment is in compliance with the
21 restrictions;

22 (e) If the city or county where the proposed medical cannabis establishment would
23 be located requires a local registration, license, or permit, a copy of the
24 registration, license, or permit;

1 (2) None of the principal officers or board members has served as a principal officer or
2 board member for a medical cannabis establishment that has had its registration
3 certificate revoked;

4 (3) None of the principal officers or board members are under twenty one years of age;
5 and

6 (4) At least one principal officer is a resident of South Dakota.

7 Section 56. That the code be amended by adding a NEW SECTION to read:

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

12 Section 57. That the code be amended by adding a NEW SECTION to read:

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

16 Section 58. That the code be amended by adding a NEW SECTION to read:

17 A local government may enact an ordinance or regulation not in conflict with this Act, or
18 with rules promulgated pursuant to this Act, governing the time, place, manner, and number of
19 medical cannabis establishment operations in the locality. A local government may establish
20 civil penalties for violation of an ordinance or regulation governing the time, place, and manner
21 of a medical cannabis establishment that may operate in the locality.

22 Section 59. That the code be amended by adding a NEW SECTION to read:

23 No local government may prohibit dispensaries, either expressly or through the enactment
24 of an ordinance or regulation which make the operation of the dispensary impracticable in the

1 jurisdiction.

2 Section 60. That the code be amended by adding a NEW SECTION to read:

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

6 Section 61. That the code be amended by adding a NEW SECTION to read:

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

10 Section 62. That the code be amended by adding a NEW SECTION to read:

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

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

14 Section 63. That the code be amended by adding a NEW SECTION to read:

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

18 Section 64. That the code be amended by adding a NEW SECTION to read:

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

22 Section 65. That the code be amended by adding a NEW SECTION to read:

23 All cultivation, harvesting, manufacture, and packaging of cannabis must take place in a
24 secure facility at the physical address provided to the department during the registration process.

1 The secure facility may only be accessed by agents of the medical cannabis establishment,
2 emergency personnel, and adults who are twenty-one years and older and who are accompanied
3 by a medical cannabis establishment agent.

4 Section 66. That the code be amended by adding a NEW SECTION to read:

5 No medical cannabis establishment other than a cannabis product manufacturer may produce
6 cannabis concentrates, cannabis extracts, or other cannabis products.

7 Section 67. That the code be amended by adding a NEW SECTION to read:

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

10 Section 68. That the code be amended by adding a NEW SECTION to read:

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

13 Section 69. That the code be amended by adding a NEW SECTION to read:

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

16 Section 70. That the code be amended by adding a NEW SECTION to read:

17 Before cannabis may be dispensed to a cardholder or nonresident cardholder, a dispensary
18 agent shall:

- 19 (1) Make a diligent effort to verify that the registry identification card or registration
20 presented to the dispensary is valid;
- 21 (2) Make a diligent effort to verify that the person presenting the documentation is the
22 person identified on the document presented to the dispensary agent;
- 23 (3) Not believe that the amount dispensed would cause the person to possess more than
24 the allowable amount of cannabis; and

1 (4) Make a diligent effort to verify that the dispensary is the current dispensary that is
2 designated by the cardholder or nonresident cardholder.

3 Section 71. That the code be amended by adding a NEW SECTION to read:

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

10 Section 72. That the code be amended by adding a NEW SECTION to read:

11 Not later than one hundred twenty days after the effective date of this Act, the department
12 shall promulgate rules pursuant to chapter 1-26:

13 (1) Governing the manner in which the department shall consider petitions from the
14 public to add a debilitating medical condition or treatment to the list of debilitating
15 medical conditions as defined in this Act, including public notice of and an
16 opportunity to comment in public hearings on the petitions;

17 (2) Establishing the form and content of registration and renewal applications submitted
18 pursuant to this Act;

19 (3) Establishing a system to numerically score competing medical cannabis
20 establishment applicants, in cases where more applicants apply than are allowed by
21 the local government, that must include analysis of:

22 (a) The preference of the local government;

23 (b) In the case of a dispensary, the suitability of the proposed location and its
24 accessibility for patients;

- 1 (c) The character, veracity, background, qualifications, and relevant experience
- 2 of principal officers and board members; and
- 3 (d) The business plan proposed by the applicant, which in the case of a cultivation
- 4 facility or dispensary, includes the ability to maintain an adequate supply of
- 5 cannabis, plans to ensure safety and security of patrons and the community,
- 6 procedures to be used to prevent diversion, and any plan for making cannabis
- 7 available to low-income registered qualifying patients;
- 8 (4) Governing the manner in which the department shall consider applications for and
- 9 renewals of registry identification cards, which may include creating a standardized
- 10 written certification form;
- 11 (5) Governing medical cannabis establishments with the goals of ensuring the health and
- 12 safety of qualifying patients and preventing diversion and theft without imposing an
- 13 undue burden or compromising the confidentiality of a cardholder, including:
- 14 (a) Oversight requirements;
- 15 (b) Record keeping requirements;
- 16 (c) Security requirements, including lighting, physical security, and alarm
- 17 requirements;
- 18 (d) Health and safety regulations, including restrictions on the use of pesticides
- 19 that are injurious to human health;
- 20 (e) Standards for the manufacture of cannabis products and both the indoor and
- 21 outdoor cultivation of cannabis by a cultivation facility;
- 22 (f) Requirements for the transportation and storage of cannabis by a medical
- 23 cannabis establishment;
- 24 (g) Employment and training requirements, including requiring that each medical

- 1 cannabis establishment create an identification badge for each agent;
- 2 (h) Standards for the safe manufacture of cannabis products, including extracts
3 and concentrates;
- 4 (i) Restrictions on the advertising, signage, and display of medical cannabis,
5 provided that the restrictions may not prevent appropriate signs on the
6 property of a dispensary, listings in business directories including phone
7 books, listings in marijuana-related or medical publications, or the sponsorship
8 of health or not-for-profit charity or advocacy events;
- 9 (j) Requirements and procedures for the safe and accurate packaging and labeling
10 of medical cannabis; and
- 11 (k) Certification standards for testing facilities, including requirements for
12 equipment and qualifications for personnel;
- 13 (6) Establishing procedures for suspending or terminating the registration certificates or
14 registry identification cards of cardholders and medical cannabis establishments that
15 commit multiple or serious violations of the provisions of this Act or the rules
16 promulgated pursuant to this section;
- 17 (7) Establishing labeling requirements for cannabis and cannabis products, including
18 requiring cannabis products' labels to include the following:
- 19 (a) The length of time it typically takes for a product to take effect;
- 20 (b) Disclosing ingredients and possible allergens;
- 21 (c) A nutritional fact panel; and
- 22 (d) Requiring that edible cannabis products be clearly identifiable, when
23 practicable, with a standard symbol indicating that it contains cannabis;
- 24 (8) Procedures for the registration of nonresident cardholders and the cardholders

- 1 designation of no more than two dispensaries, which must require the submission of:
- 2 (a) A practitioner's statement confirming that the patient has a debilitating medical
- 3 condition; and
- 4 (b) Documentation demonstrating that the nonresident cardholder is allowed to
- 5 possess cannabis or cannabis preparations in the jurisdiction where the
- 6 nonresident cardholder resides;
- 7 (9) Establishing the amount of cannabis products, including the amount of concentrated
- 8 cannabis, each cardholder and nonresident cardholder can possess; and
- 9 (10) Establishing reasonable application and renewal fees for registry identification cards
- 10 and registration certificates, according to the following:
- 11 (a) Application fees for medical cannabis establishments, not to exceed five
- 12 thousand dollars;
- 13 (b) The total fees collected must generate revenues sufficient to offset all expenses
- 14 of implementing and administering this Act;
- 15 (c) The department may establish a sliding scale of patient application and
- 16 renewal fees based upon a qualifying patient's household income;
- 17 (d) The fees charged to qualifying patients, nonresident cardholders, and
- 18 caregivers must be no greater than the costs of processing the applications and
- 19 issuing a registry identification card or registration; and
- 20 (e) The department may accept donations from private sources to reduce
- 21 application and renewal fees.

22 Section 73. That the code be amended by adding a NEW SECTION to read:

23 A cardholder or medical cannabis establishment who willfully fails to provide a notice

24 required by this Act is guilty of a civil infraction, punishable by a fine of no more than one

1 hundred fifty dollars.

2 Section 74. That the code be amended by adding a NEW SECTION to read:

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

9 Section 75. That the code be amended by adding a NEW SECTION to read:

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

14 Section 76. That the code be amended by adding a NEW SECTION to read:

15 A person who intentionally makes a false statement to a law enforcement official about any
16 fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is
17 guilty of a Class 2 misdemeanor. This penalty is in addition to any other penalty that applies for
18 making a false statement or for the possession, cultivation, or sale of cannabis not protected by
19 this Act. If a person convicted of violating this section is a cardholder, the person is disqualified
20 from further participation under this Act.

21 Section 77. That the code be amended by adding a NEW SECTION to read:

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

24 Section 78. That the code be amended by adding a NEW SECTION to read:

1 A practitioner who knowingly refers patients to a medical cannabis establishment or to a
2 designated caregiver, who advertises in a medical cannabis establishment, or who issues written
3 certifications while holding a financial interest in a medical cannabis establishment shall be
4 fined up to one thousand dollars.

5 Section 79. That the code be amended by adding a NEW SECTION to read:

6 It is a Class 2 misdemeanor for any person, including an employee or official of the
7 department or another state agency or local government who breaches the confidentiality of
8 information obtained pursuant to this Act.

9 Section 80. That the code be amended by adding a NEW SECTION to read:

10 A medical cannabis establishment shall be fined up to one thousand dollars for any violation
11 of this Act, or the rules promulgated pursuant to this Act, where no penalty is specified. This
12 penalty is in addition to any other penalty available under state law.

13 Section 81. That the code be amended by adding a NEW SECTION to read:

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

19 Section 82. That the code be amended by adding a NEW SECTION to read:

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

24 Section 83. That the code be amended by adding a NEW SECTION to read:

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

5 Section 84. That the code be amended by adding a NEW SECTION to read:

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

9 Section 85. That the code be amended by adding a NEW SECTION to read:

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

12 Section 86. That the code be amended by adding a NEW SECTION to read:

13 Revocation is a final decision of the department, subject to judicial review.

14 Section 87. That the code be amended by adding a NEW SECTION to read:

15 Data in a registration application and any supporting data submitted by a qualifying patient,
16 designated caregiver, nonresident cardholder, or medical cannabis establishment, including data
17 on designated caregivers or practitioners, is private data that is confidential.

18 Section 88. That the code be amended by adding a NEW SECTION to read:

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

21 Section 89. That the code be amended by adding a NEW SECTION to read:

22 Data kept or maintained by the department may be disclosed as necessary for:

23 (1) The verification of a registration certificate or registry identification card pursuant
24 to this Act;

- 1 (2) Submission of the annual report required by this Act;
- 2 (3) Notification of state or local law enforcement of an apparent criminal violation of
3 this Act;
- 4 (4) Notification of state and local law enforcement about falsified or fraudulent
5 information submitted for the purpose of obtaining or renewing a registry
6 identification card; or
- 7 (5) Notification of the South Dakota Board of Medical and Osteopathic Examiners if
8 there is reason to believe that a practitioner provided a written certification and the
9 department has reason to believe the practitioner otherwise violated the standard of
10 care for evaluating medical conditions.

11 Section 90. That the code be amended by adding a NEW SECTION to read:

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

15 Section 91. That the code be amended by adding a NEW SECTION to read:

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

19 Section 92. That the code be amended by adding a NEW SECTION to read:

20 The department shall promptly destroy any department hard drive or other data-recording
21 media that is no longer in use and that contains cardholder information.

22 Section 93. That the code be amended by adding a NEW SECTION to read:

23 The Executive Board of the Legislative Research Council shall appoint a nine-member
24 oversight committee comprised of: one member of the House of Representatives; one

1 representative of the department; one member of the Senate; one practitioner with experience
2 in medical cannabis issues; one nurse; one board member or principal officer of a cannabis
3 testing facility; one person with experience in policy development or implementation in the field
4 of medical cannabis; and three qualifying patients.

5 Section 94. That the code be amended by adding a NEW SECTION to read:

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

8 (1) The ability of qualifying patients in all areas of the state to obtain timely access to
9 high-quality medical cannabis;

10 (2) The effectiveness of the dispensaries and cultivation facilities, individually and
11 together, in serving the needs of qualifying patients, including the provision of
12 educational and support services by dispensaries, the reasonableness of their prices,
13 whether they are generating any complaints or security problems, and the sufficiency
14 of the number operating to serve the state's registered qualifying patients;

15 (3) The effectiveness of the cannabis testing facilities, including whether a sufficient
16 number are operating;

17 (4) The sufficiency of the regulatory and security safeguards contained in this Act and
18 adopted by the department to ensure that access to and use of cannabis cultivated is
19 provided only to cardholders;

20 (5) Any recommended additions or revisions to the department regulations or this Act,
21 including relating to security, safe handling, labeling, and nomenclature; and

22 (6) Any research studies regarding health effects of medical cannabis for patients.

23 Section 95. That the code be amended by adding a NEW SECTION to read:

24 The department shall report annually to the Legislature on the number of applications for

1 registry identification cards received, the number of qualifying patients and designated
2 caregivers approved, the number of registry identification cards revoked, the number of each
3 type of medical cannabis establishment that are registered, and the expenses incurred and
4 revenues generated from the medical cannabis program. The department may not include
5 identifying information on a qualifying patient, designated caregiver, or practitioner in the
6 report.