

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

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.*

SENATE
Am ended 3rd Reading
May 10, 2011

SENATE
Am ended 2nd Reading
May 9, 2011

HOUSE
3rd Reading Unam ended
April 15, 2011

HOUSE
Am ended 2nd Reading
April 11, 2011

revenue.

A medical marijuana infused-products manufacturer is limited to having no more than 500 marijuana plants on site unless the manufacturer is granted a waiver.

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

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

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

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

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

The bill creates 2 new classes of medical marijuana licenses:

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

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

registration card.

The bill states that the labeling of medical marijuana-infused products is a matter of statewide concern.

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

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

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

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

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

2 **SECTION 1.** 12-43.3-103 (2) (c), Colorado Revised Statutes, is
3 amended, and the said 12-43.3-103 (2) is further amended BY THE
4 ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

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

1 PROHIBITION ON LICENSURE. WHILE CONTINUING TO OPERATE PRIOR TO
2 THE LICENSING AUTHORITY ACTING ON THE APPLICATION, THE PERSON
3 SHALL OTHERWISE BE SUBJECT TO THE TERMS AND CONDITIONS OF THIS
4 ARTICLE AND ALL RULES PROMULGATED PURSUANT TO THIS ARTICLE.

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

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

19 (III) FOR A PERSON WHO HAS MET THE DEADLINES SET FORTH IN
20 PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION AND WHO
21 HAS LOST HIS OR HER LOCATION BECAUSE A CITY OR COUNTY HAS VOTED
22 PURSUANT TO SECTION 12-43.3-106 TO BAN HIS OR HER OPERATION, THE
23 PERSON MAY APPLY FOR A NEW LICENSE WITH A LOCAL LICENSING
24 AUTHORITY AND TRANSFER THE LOCATION OF ITS PENDING APPLICATION
25 WITH THE STATE LICENSING AUTHORITY.

26 (e) THIS ARTICLE SETS FORTH THE EXCLUSIVE MEANS BY WHICH
27 MANUFACTURE, SALE, DISTRIBUTION, AND DISPENSING OF MEDICAL

1 MARIJUANA MAY OCCUR IN THE STATE OF COLORADO. LICENSEES SHALL
2 NOT BE SUBJECT TO THE TERMS OF SECTION 14 OF ARTICLE XVIII OF THE
3 STATE CONSTITUTION, EXCEPT WHERE SPECIFICALLY REFERENCED IN THIS
4 ARTICLE.

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

7 12-43.3-104. Definitions. As used in this article, unless the
8 context otherwise requires:

9 (1.5) "IMMATURE PLANT" MEANS A NONFLOWERING MEDICAL
10 MARIJUANA PLANT THAT IS NO TALLER THAN EIGHT INCHES AND NO WIDER
11 THAN EIGHT INCHES PRODUCED FROM A CUTTING, CLIPPING, OR SEEDLING
12 AND THAT IS IN A GROWING CONTAINER THAT IS NO LARGER THAN TWO
13 INCHES WIDE AND TWO INCHES TALL THAT IS SEALED ON THE SIDES AND
14 BOTTOM.

15 SECTION 3. 12-43.3-104 (5) and (7), Colorado Revised Statutes,
16 are amended to read:

17 12-43.3-104. Definitions. As used in this article, unless the
18 context otherwise requires:

19 (5) "Local licensing authority" means an authority designated by
20 municipal or county charter, ~~municipal~~ ordinance, or ~~county~~ resolution,
21 OR THE GOVERNING BODY OF A MUNICIPALITY, CITY AND COUNTY, OR THE
22 BOARD OF COUNTY COMMISSIONERS OF A COUNTY IF NO SUCH AUTHORITY
23 IS DESIGNATED.

24 (7) "Medical marijuana" means marijuana that is grown and sold
25 pursuant to the provisions of this article and for a purpose authorized by
26 section 14 of article XVIII of the state constitution BUT SHALL NOT BE
27 CONSIDERED A NONPRESCRIPTION DRUG FOR PURPOSES OF SECTION

1 12-22-102(20) OR SECTION 39-26-717, C.R.S., OR AN OVER-THE-COUNTER
2 MEDICATION FOR PURPOSES OF SECTION 25.5-5-322, C.R.S.

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

5 **12-43.3-202. Powers and duties of state licensing authority -**
6 **repeal.** (1) The state licensing authority shall:

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

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

26 (d) Maintain the confidentiality of reports ~~OR OTHER INFORMATION~~
27 obtained from a licensee showing the sales volume or quantity of medical

1 marijuana sold, OR REVEALING ANY PATIENT INFORMATION, or any other
2 records that are exempt from public inspection pursuant to state law.
3 SUCH REPORTS OR OTHER INFORMATION MAY BE USED ONLY FOR A
4 PURPOSE AUTHORIZED BY THIS ARTICLE OR FOR ANY OTHER STATE OR
5 LOCAL LAW ENFORCEMENT PURPOSE. ANY INFORMATION RELEASED
6 RELATED TO PATIENTS MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY
7 THIS ARTICLE OR TO VERIFY THAT A PERSON WHO PRESENTED A REGISTRY
8 IDENTIFICATION CARD TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL
9 IS LAWFULLY IN POSSESSION OF SUCH CARD.

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

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

16 **SECTION 5.** 12-43.3-301 (2) (a), Colorado Revised Statutes, is
17 amended to read:

18 **12-43.3-301. Local licensing authority - applications - licenses.**

19 (2) (a) A local licensing authority shall not issue a local license within a
20 municipality, city and county, or the unincorporated portion of a county
21 unless the governing body of the municipality or city and county has
22 adopted an ordinance, or the governing body of the county has adopted
23 a resolution, containing specific standards for license issuance, or if no
24 such ordinance or resolution is adopted prior to July 1, ~~2011~~ 2012, then
25 a local licensing authority shall consider the minimum licensing
26 requirements of this part 3 when issuing a license.

27 **SECTION 6.** 12-43.3-302 (1) and (4), Colorado Revised Statutes,

1 are amended to read:

2 **12-43.3-302. Public hearing notice - posting and publication.**

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

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

23 **SECTION 7.** 12-43.3-303 (2), Colorado Revised Statutes, is
24 amended to read:

25 **12-43.3-303. Results of investigation - decision of authorities.**

26 (2) Before entering a decision approving or denying the application for
27 a local license, the local licensing authority may consider, except where

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

10 **SECTION 8.** 12-43.3-306, Colorado Revised Statutes, is
11 amended to read:

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

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

25 **SECTION 9.** 12-43.3-307 (1) (h), (1) (m), (2) (a), and (2) (c),
26 Colorado Revised Statutes, are amended to read:

27 **12-43.3-307. Persons prohibited as licensees - repeal.** (1) A

1 license provided by this article shall not be issued to or held by:

2 (h) A person who has discharged a sentence in the five years
3 immediately preceding the application date for a conviction of a felony
4 or a person who at any time has been convicted of a felony pursuant to
5 any state or federal law regarding the possession, distribution,
6 MANUFACTURING, CULTIVATION, or use of a controlled substance;
7 EXCEPT THAT THE LICENSING AUTHORITY MAY GRANT A LICENSE TO AN
8 EMPLOYEE IF THE EMPLOYEE HAS A STATE FELONY CONVICTION BASED ON
9 POSSESSION OR USE OF A CONTROLLED SUBSTANCE THAT WOULD NOT BE
10 A FELONY IF THE PERSON WERE CONVICTED OF THE OFFENSE ON THE DATE
11 HE OR SHE APPLIED FOR LICENSURE;

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

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

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

21 (2) (a) In investigating the qualifications of an applicant or a
22 licensee, the state AND LOCAL licensing ~~authority~~ AUTHORITIES may have
23 access to criminal history record information furnished by a criminal
24 justice agency subject to any restrictions imposed by such agency. In the
25 event the state OR LOCAL licensing authority considers the applicant's
26 criminal history record, the state OR LOCAL licensing authority shall also
27 consider any information provided by the applicant regarding such

1 criminal history record, including but not limited to evidence of
2 rehabilitation, character references, and educational achievements,
3 especially those items pertaining to the period of time between the
4 applicant's last criminal conviction and the consideration of the
5 application for a state license.

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

1 **SECTION 10.** 12-43.3-310 (6), Colorado Revised Statutes, is
2 amended to read:

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

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

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

27 **SECTION 12.** 12-43.3-402 (3), (4), (5), and (6), Colorado

1 Revised Statutes, are amended, and the said 12-43.3-402 is further
2 amended BY THE ADDITION OF THE FOLLOWING NEW
3 SUBSECTIONS, to read:

4 **12-43.3-402. Medical marijuana center license.** (3) Every
5 person selling medical marijuana as provided for in this article shall sell
6 only medical marijuana grown in its medical marijuana optional premises
7 licensed pursuant to this article. IN ADDITION TO MEDICAL MARIJUANA, A
8 MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN SIX IMMATURE
9 PLANTS TO A PATIENT; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY
10 SELL MORE THAN SIX IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE
11 RECOMMENDED PLANT COUNT, TO A PATIENT WHO HAS BEEN
12 RECOMMENDED AN EXPANDED PLANT COUNT BY HIS OR HER
13 RECOMMENDING PHYSICIAN. A MEDICAL MARIJUANA CENTER MAY SELL
14 IMMATURE PLANTS TO A PRIMARY CAREGIVER, ANOTHER MEDICAL
15 MARIJUANA CENTER, OR A MEDICAL MARIJUANA-INFUSED PRODUCT
16 MANUFACTURER PURSUANT TO RULES PROMULGATED BY THE STATE
17 LICENSING AUTHORITY. The provisions of this subsection (3) shall not
18 apply to medical marijuana-infused products.

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

27 (a) TO A MEDICAL MARIJUANA CENTER OR APPLICANT IF THE

1 MEDICAL MARIJUANA CENTER OR APPLICANT SUFFERS A CATASTROPHIC
2 EVENT RELATED TO ITS INVENTORY; OR

3 (b) TO A NEW MEDICAL MARIJUANA CENTER LICENSEE FOR A
4 PERIOD NOT TO EXCEED NINETY DAYS SO THE NEW LICENSEE CAN
5 CULTIVATE THE NECESSARY MEDICAL MARIJUANA TO COMPLY WITH THIS
6 SUBSECTION (4).

7 (5) Prior to initiating a sale, the employee of the medical
8 marijuana center making the sale shall verify that the purchaser has a
9 valid registration card issued pursuant to section 25-1.5-106, C.R.S., OR
10 A COPY OF A CURRENT AND COMPLETE NEW APPLICATION FOR THE
11 MEDICAL MARIJUANA REGISTRY ADMINISTERED BY THE DEPARTMENT OF
12 PUBLIC HEALTH AND ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED
13 MAIL RETURN RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT
14 OF PUBLIC HEALTH AND ENVIRONMENT WITHIN THE PRECEDING
15 THIRTY-FIVE DAYS, ___ and a valid picture identification card that matches
16 the name on the registration card. A PURCHASER MAY NOT PROVIDE A
17 COPY OF A RENEWAL APPLICATION IN ORDER TO MAKE A PURCHASE AT A
18 MEDICAL MARIJUANA CENTER. A PURCHASER MAY ONLY MAKE A
19 PURCHASE USING A COPY OF HIS OR HER APPLICATION FROM 8 A.M. TO 5
20 P.M., MONDAY THROUGH FRIDAY. IF THE PURCHASER PRESENTS A COPY
21 OF HIS OR HER APPLICATION AT THE TIME OF PURCHASE, THE EMPLOYEE
22 MUST CONTACT THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
23 TO DETERMINE WHETHER THE PURCHASER'S APPLICATION HAS BEEN
24 DENIED. THE EMPLOYEE SHALL NOT COMPLETE THE TRANSACTION IF THE
25 PURCHASER'S APPLICATION HAS BEEN DENIED. IF THE PURCHASER'S
26 APPLICATION HAS BEEN DENIED, THE EMPLOYEE SHALL BE AUTHORIZED TO
27 CONFISCATE THE PURCHASER'S COPY OF THE APPLICATION AND THE

1 DOCUMENTATION OF THE CERTIFIED MAIL RETURN RECEIPT, IF POSSIBLE,
2 AND SHALL, WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION,
3 TURN IT OVER TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
4 OR LOCAL LAW ENFORCEMENT AGENCY. THE FAILURE TO CONFISCATE THE
5 COPY OF THE APPLICATION AND DOCUMENT OF THE CERTIFIED MAIL
6 RETURN RECEIPT OR TO TURN IT OVER TO THE STATE HEALTH DEPARTMENT
7 OR A STATE OR LOCAL LAW ENFORCEMENT AGENCY WITHIN SEVENTY-TWO
8 HOURS AFTER THE CONFISCATION SHALL NOT CONSTITUTE A CRIMINAL
9 OFFENSE.

10 (5.5) TRANSACTIONS FOR THE SALE OF MEDICAL MARIJUANA OR A
11 MEDICAL MARIJUANA-INFUSED PRODUCT AT A MEDICAL MARIJUANA
12 CENTER MAY BE COMPLETED BY USING AN AUTOMATED MACHINE THAT IS
13 IN A RESTRICTED ACCESS AREA OF THE CENTER IF THE MACHINE COMPLIES
14 WITH THE RULES PROMULGATED BY THE STATE LICENSING AUTHORITY
15 REGARDING THE TRANSACTION OF SALE OF PRODUCT AT A MEDICAL
16 MARIJUANA CENTER AND THE TRANSACTION COMPLIES WITH SUBSECTION
17 (5) OF THIS SECTION.

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

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

12 (9) NOTWITHSTANDING THE PROVISIONS OF SECTION 12-43.3-901
13 (4) (m), A MEDICAL MARIJUANA CENTER MAY SELL BELOW COST OR
14 DONATE TO A PATIENT WHO HAS BEEN DESIGNATED INDIGENT BY THE
15 STATE HEALTH AGENCY OR WHO IS IN HOSPICE CARE:

16 (a) MEDICAL MARIJUANA; OR

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

22 (c) MEDICAL MARIJUANA-INFUSED PRODUCTS TO PATIENTS.

23 ==

24 **SECTION 13.** 12-43.3-403, Colorado Revised Statutes, is
25 amended to read:

26 **12-43.3-403. Optional premises cultivation license.** (1) An
27 optional premises cultivation license may be issued only to a person

1 licensed pursuant to section 12-43.3-402 (1) or 12-43.3-404 (1) who
2 grows and cultivates medical marijuana at an additional Colorado
3 licensed premises contiguous or not contiguous with the licensed
4 premises of the person's medical marijuana center license or the person's
5 medical marijuana-infused products manufacturing license.

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

20 **SECTION 14.** 12-43.3-404 (5) and (8), Colorado Revised
21 Statutes, are amended, and the said 12-43.3-404 is further amended BY
22 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to
23 read:

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

1 MEDICAL MARIJUANA-INFUSED PRODUCTS IS A MATTER OF STATEWIDE
2 CONCERN.

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

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

14 (b) THE DIRECTOR OF THE DIVISION THAT REGULATES MEDICAL
15 MARIJUANA SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING
16 WHETHER TO GRANT THE WAIVER DESCRIBED IN PARAGRAPH (a) OF THIS
17 SUBSECTION (9):

18 (I) THE NATURE OF THE PRODUCTS MANUFACTURED;

19 (II) THE BUSINESS NEED;

20 (III) EXISTING BUSINESS CONTRACTS WITH LICENSED MEDICAL
21 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
22 MARIJUANA-INFUSED PRODUCTS; AND

23 (IV) THE ABILITY TO CONTRACT WITH LICENSED MEDICAL
24 MARIJUANA CENTERS FOR THE PRODUCTION OF MEDICAL
25 MARIJUANA-INFUSED PRODUCTS.

26

==

27 (10) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER

1 MAY PROVIDE A SAMPLE OF ITS PRODUCTS TO A LABORATORY THAT HAS A
2 OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR
3 TESTING AND RESEARCH PURPOSES. THE STATE LICENSING AUTHORITY
4 SHALL PROMULGATE RULES PURSUANT TO ITS AUTHORITY IN SECTION
5 12-43.3-202 (1) (b), C.R.S., RELATED TO ACCEPTABLE TESTING AND
6 RESEARCH PRACTICES. A LABORATORY THAT HAS AN OCCUPATIONAL
7 LICENSE FROM THE STATE LICENSING AUTHORITY FOR TESTING PURPOSES
8 SHALL NOT HAVE ANY INTEREST IN A LICENSED MEDICAL MARIJUANA
9 CENTER OR A LICENSED MEDICAL MARIJUANA-INFUSED PRODUCTS
10 MANUFACTURER.

11 **SECTION 15.** Part 6 of article 43.3 of title 12, Colorado Revised
12 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
13 read:

14 **12-43.3-602. Disposition of unauthorized marijuana or**
15 **marijuana-infused products and related materials.** (1) THE
16 PROVISIONS OF THIS SECTION SHALL APPLY IN ADDITION TO ANY CRIMINAL,
17 CIVIL, OR ADMINISTRATIVE PENALTIES AND IN ADDITION TO ANY OTHER
18 PENALTIES PRESCRIBED BY THIS ARTICLE OR ANY RULES PROMULGATED
19 PURSUANT TO THIS ARTICLE. ANY PROVISIONS IN THIS ARTICLE RELATED
20 TO LAW ENFORCEMENT SHALL BE CONSIDERED A CUMULATIVE RIGHT OF
21 THE PEOPLE IN THE ENFORCEMENT OF THE CRIMINAL LAWS.

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

26 (3) A STATE OR LOCAL AGENCY SHALL NOT BE REQUIRED TO
27 CULTIVATE OR CARE FOR ANY MARIJUANA OR MARIJUANA-INFUSED

1 PRODUCT BELONGING TO OR SEIZED FROM A LICENSEE. A STATE OR LOCAL
2 AGENCY SHALL NOT BE AUTHORIZED TO SELL MARIJUANA, MEDICAL OR
3 OTHERWISE.

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

22 (5) FOLLOWING THE ISSUANCE OF A FINAL AGENCY ORDER BY THE
23 LICENSING AUTHORITY IMPOSING A DISCIPLINARY ACTION AGAINST A
24 LICENSEE AND ORDERING DESTRUCTION AUTHORIZED BY SUBSECTION (4)
25 OF THIS SECTION, A LICENSEE SHALL HAVE FIFTEEN DAYS WITHIN WHICH
26 TO FILE A PETITION FOR STAY OF AGENCY ACTION WITH THE DISTRICT
27 COURT. THE ACTION SHALL BE FILED IN THE CITY AND COUNTY OF

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

21 (6) THE LICENSING AUTHORITY SHALL NOT CARRY OUT THE
22 DESTRUCTION AUTHORIZED BY SUBSECTION (4) OF THIS SECTION UNTIL IT
23 HAS NOTIFIED THE DISTRICT ATTORNEY FOR THE JUDICIAL DISTRICT IN
24 WHICH THE MARIJUANA IS LOCATED TO DETERMINE WHETHER THE
25 MARIJUANA OR PRODUCT CONSTITUTES EVIDENCE IN A CRIMINAL
26 PROCEEDING SUCH THAT IT SHOULD NOT BE DESTROYED, AND UNTIL
27 FIFTEEN DAYS HAVE PASSED FROM THE DATE OF THE ISSUANCE OF SUCH

1 NOTICE.

2 (7) ON OR BEFORE JANUARY 1, 2012, THE STATE LICENSING
3 AUTHORITY SHALL PROMULGATE RULES GOVERNING THE IMPLEMENTATION
4 OF THIS SECTION.

5 **SECTION 16.** 12-43.3-901 (1) (c), (1) (d), (4) (d) (I), (4) (l), and
6 (7), Colorado Revised Statutes, are amended, and the said 12-43.3-901 (4)
7 is further amended BY THE ADDITION OF THE FOLLOWING NEW
8 PARAGRAPHS, to read:

9 **12-43.3-901. Unlawful acts - exceptions.** (1) Except as
10 otherwise provided in this article, it is unlawful for a person:

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

15 (d) ~~To continue operating a business for the purpose of~~
16 ~~cultivation, manufacture, or sale of medical marijuana or medical~~
17 ~~marijuana-infused products without satisfying the conditions of section~~
18 ~~12-43.3-103 (2) (b).~~

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

21 (d) (I) To sell medical marijuana to a person not licensed pursuant
22 to this article or to a person not able to produce a valid patient registry
23 identification card, UNLESS THE PERSON HAS A COPY OF A CURRENT AND
24 COMPLETE NEW APPLICATION FOR THE MEDICAL MARIJUANA REGISTRY
25 ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND
26 ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL RETURN
27 RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF PUBLIC

1 HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE DAYS
2 AND THE EMPLOYEE ASSISTING THE PERSON HAS CONTACTED THE
3 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND, AS A RESULT,
4 DETERMINED THE PERSON'S APPLICATION HAS NOT BEEN DENIED. == ==

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

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

11 (n) TO BURN OR OTHERWISE DESTROY MARIJUANA OR ANY
12 SUBSTANCE CONTAINING MARIJUANA FOR THE PURPOSE OF EVADING AN
13 INVESTIGATION OR PREVENTING SEIZURE; OR

14 (o) TO ABANDON A LICENSED PREMISES OR OTHERWISE CEASE
15 OPERATION WITHOUT NOTIFYING THE STATE AND LOCAL LICENSING
16 AUTHORITIES AT LEAST FORTY-EIGHT HOURS IN ADVANCE AND WITHOUT
17 ACCOUNTING FOR AND FORFEITING TO THE STATE LICENSING AUTHORITY
18 FOR DESTRUCTION ALL MARIJUANA OR PRODUCTS CONTAINING
19 MARIJUANA.

20 (7) A person who commits any acts that are unlawful pursuant to
21 ~~this section~~ ARTICLE OR THE RULES AUTHORIZED AND ADOPTED PURSUANT
22 TO THIS ARTICLE commits a class 2 misdemeanor and shall be punished
23 as provided in section 18-1.3-501, C.R.S., except for violations that
24 would also constitute a violation of title 18, C.R.S., which violation shall
25 be charged and prosecuted pursuant to title 18, C.R.S.

26 **SECTION 17.** 12-43.3-901, Colorado Revised Statutes, is
27 amended BY THE ADDITION OF A NEW SUBSECTION to read:

1 **12-43.3-901. Unlawful acts - exceptions.** (6.5) A PEACE OFFICER
2 OR A LAW ENFORCEMENT AGENCY SHALL NOT USE ANY PATIENT
3 INFORMATION TO MAKE TRAFFIC STOPS PURSUANT TO SECTION 42-4-1302,
4 C.R.S.

5 **SECTION 18.** 24-72-202 (6) (b) (XIII), Colorado Revised
6 Statutes, is amended to read:

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

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

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

13 THE INFORMATION PROVIDED TO THE STATE MEDICAL MARIJUANA
14 LICENSING AUTHORITY PURSUANT TO SECTION 25-1.5-106 (7) (e), C.R.S.

15 **SECTION 19.** 25-1.5-106 (2) (c) (II), Colorado Revised Statutes,
16 is amended to read:

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

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

25 (II) The physician holds a valid ~~unrestricted and unconditioned~~
26 license to practice medicine in Colorado THAT DOES NOT CONTAIN A
27 RESTRICTION OR CONDITION THAT PROHIBITS THE RECOMMENDATION OF

1 MEDICAL MARIJUANA OR FOR A LICENSE ISSUED PRIOR TO JULY 1, 2011, A
2 VALID, UNRESTRICTED AND UNCONDITIONED LICENSE; and

3 **SECTION 20.** 25-1.5-106 (5) (a), Colorado Revised Statutes, is
4 amended to read:

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

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

13
14 **SECTION 21.** 25-1.5-106 (7), Colorado Revised Statutes, is
15 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

16 **25-1.5-106. Medical marijuana program - powers and duties**
17 **of the state health agency - medical review board - medical**
18 **marijuana program cash fund - created - repeal. (7) Primary**
19 **caregivers.** (e) A PRIMARY CAREGIVER WHO CULTIVATES MEDICAL
20 MARIJUANA FOR HIS OR HER PATIENTS SHALL REGISTER THE LOCATION OF
21 HIS OR HER CULTIVATION OPERATION WITH THE STATE MEDICAL
22 MARIJUANA LICENSING AUTHORITY AND PROVIDE THE REGISTRATION
23 IDENTIFICATION NUMBER OF EACH PATIENT TO THE STATE LICENSING
24 AUTHORITY. THE INFORMATION PROVIDED TO THE STATE MEDICAL
25 MARIJUANA LICENSING AUTHORITY PURSUANT TO THIS PARAGRAPH (e)
26 SHALL NOT BE PROVIDED TO THE PUBLIC AND SHALL BE CONFIDENTIAL.
27 THE STATE LICENSING AUTHORITY SHALL VERIFY THE LOCATION OF A

1 PRIMARY CAREGIVER CULTIVATION OPERATION TO A LOCAL GOVERNMENT
2 OR LAW ENFORCEMENT AGENCY UPON RECEIVING AN ADDRESS-SPECIFIC
3 REQUEST FOR VERIFICATION. THE LOCATION OF THE CULTIVATION
4 OPERATION SHALL COMPLY WITH ALL APPLICABLE LOCAL LAWS, RULES, OR
5 REGULATIONS.

6 **SECTION 22.** 25-1.5-106 (16) (a), Colorado Revised Statutes, is
7 amended to read:

8 **25-1.5-106. Medical marijuana program - powers and duties**
9 **of the state health agency - medical review board - medical**
10 **marijuana program cash fund - created - repeal. (16) Fees - repeal.**

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

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

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

12 **39-1-102. Definitions.** As used in articles 1 to 13 of this title,
13 unless the context otherwise requires:

14 (1.6) (d) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
15 THE CONTRARY, PROPERTY THAT IS USED SOLELY FOR THE CULTIVATION
16 OF MEDICAL MARIJUANA SHALL NOT BE CLASSIFIED AS AGRICULTURAL
17 LAND.

18 **SECTION 24.** 39-26-123 (1) (a.5) (6) (a), and (6) (b) (I),
19 Colorado Revised Statutes, are amended to read:

20 **39-26-123. Receipts - disposition - transfers of general fund**
21 **surplus - sales tax holding fund - creation - definitions.** (1) As used
22 in this section, unless the context otherwise requires:

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

26 (6) (a) For any state fiscal year commencing on or after July 1,
27 2010, the general assembly shall annually appropriate the first two million

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

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

1 HEALTH INSTITUTE AT PUEBLO.

2 **SECTION 25.** 12-36-118, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **12-36-118. Disciplinary action by board - immunity - rules.**

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

9 **SECTION 26.** 12-43.3-202 (2) (a) (I), Colorado Revised Statutes,
10 is amended to read:

11 **12-43.3-202. Powers and duties of state licensing authority -**
12 **repeal.** (2) (a) Rules promulgated pursuant to paragraph (b) of
13 subsection (1) of this section may include, but need not be limited to, the
14 following subjects:

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

20 **SECTION 27.** 18-4-412 (2) (a), Colorado Revised Statutes, is
21 amended to read:

22 **18-4-412. Theft of medical records or medical information -**
23 **penalty.** (2) As used in this section:

24 (a) "Medical record" means the written or graphic documentation,
25 sound recording, or computer record pertaining to medical, mental health,
26 and health care services, INCLUDING MEDICAL MARIJUANA SERVICES,
27 which are performed at the direction of a physician or other licensed

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

6 **SECTION 28.** 18-18-406.3, Colorado Revised Statutes, is
7 amended BY THE ADDITION OF A NEW SUBSECTION to read:

8 **18-18-406.3. Medical use of marijuana by persons diagnosed**
9 **with debilitating medical conditions - unlawful acts - penalty -**
10 **medical marijuana program cash fund.** (6) AN OWNER, OFFICER, OR
11 EMPLOYEE OF A BUSINESS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE
12 12, C.R.S., OR AN EMPLOYEE OF THE STATE MEDICAL MARIJUANA
13 LICENSING AUTHORITY, A LOCAL MEDICAL MARIJUANA LICENSING
14 AUTHORITY, OR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT,
15 WHO RELEASES OR MAKES PUBLIC A PATIENT'S MEDICAL RECORD OR ANY
16 CONFIDENTIAL INFORMATION CONTAINED IN ANY SUCH RECORD THAT IS
17 PROVIDED TO OR BY THE BUSINESS LICENSED PURSUANT TO ARTICLE 43.3
18 OF TITLE 12, C.R.S., WITHOUT THE WRITTEN AUTHORIZATION OF THE
19 PATIENT COMMITS A CLASS 1 MISDEMEANOR; EXCEPT THAT THE OWNER,
20 OFFICER, OR EMPLOYEE SHALL RELEASE THE RECORDS OR INFORMATION
21 UPON REQUEST BY THE STATE OR LOCAL MEDICAL MARIJUANA LICENSING
22 AUTHORITY. THE RECORDS OR INFORMATION PRODUCED FOR REVIEW BY
23 THE STATE OR LOCAL LICENSING AUTHORITY SHALL NOT BECOME PUBLIC
24 RECORDS BY VIRTUE OF THE DISCLOSURE AND MAY BE USED ONLY FOR A
25 PURPOSE AUTHORIZED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR FOR
26 ANOTHER STATE OR LOCAL LAW ENFORCEMENT PURPOSE. THE RECORDS
27 OR INFORMATION SHALL CONSTITUTE MEDICAL DATA AS DEFINED BY

1 SECTION 24-72-204 (3) (a) (I), C.R.S. . THE STATE OR LOCAL MEDICAL
2 MARIJUANA LICENSING AUTHORITY MAY DISCLOSE ANY RECORDS OR
3 INFORMATION SO OBTAINED ONLY TO THOSE PERSONS DIRECTLY INVOLVED
4 WITH ANY INVESTIGATION OR PROCEEDING AUTHORIZED BY ARTICLE 43.3
5 OF TITLE 12, C.R.S., OR FOR ANY STATE OR LOCAL LAW ENFORCEMENT
6 PURPOSE.

7 SECTION 29. 25-1-1202 (1), Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

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

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

16 SECTION 30. **Appropriation - adjustments in 2011 long bill.**
17 For the implementation of this act, appropriations made in the annual
18 general appropriation act for the fiscal year beginning July 1, 2011, shall
19 be adjusted as follows:

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

25 (2) The general fund appropriation to the department of human
26 services, division of mental health and alcohol and drug abuse services,
27 for co-occurring behavioral health services, for behavioral health services

1 for juveniles and adults at risk or involved in the criminal justice system,
2 is decreased by one million dollars (\$1,000,000).

3 (3) The cash funds appropriation to the department of revenue,
4 enforcement business group, medical marijuana enforcement division, is
5 decreased by seven thousand six hundred ninety-six dollars (\$7,696) cash
6 funds. Said sum shall be from the medical marijuana license cash fund
7 created in section 12-43.3-501 (1), Colorado Revised Statutes.

8 **SECTION 31. Appropriation.** (1) In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 medical marijuana license cash fund created in section 12-43.3-501 (1),
11 Colorado Revised Statutes, not otherwise appropriated, to the department
12 of revenue, for allocation to the information technology division, for the
13 fiscal year beginning July 1, 2011, the sum of seven thousand six hundred
14 ninety-six dollars (\$7,696) cash funds, or so much thereof as may be
15 necessary, for the implementation of this act.

16 (2) In addition to any other appropriation, there is hereby
17 appropriated to the governor - lieutenant governor - state planning and
18 budgeting, for allocation to the office of information technology, for the
19 fiscal year beginning July 1, 2011, sum of seven thousand six hundred
20 ninety-six dollars (\$7,696), or so much thereof as may be necessary, for
21 the provision of programming services to the department of revenue
22 related to the implementation of this act. Said sum shall be from
23 reappropriated funds received from the department of revenue out of the
24 appropriation made in subsection (1) of this section.

25 **SECTION 32. Effective date.** This act shall take effect July 1,
26 2011.

27 **SECTION 33. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.