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HOUSE BILL 11-1043

BY REPRESENTATIVE(S) Massey, Labuda, Looper;
also SENATOR(S) Steadman and Spence.

CONCERNING MEDICAL MARIJUANA, AND MAKING AN APPROPRIATION
THEREFOR.

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

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

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

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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

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

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

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

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

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

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

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

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

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

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

(7) "Medical marijuana" means marijuana that is grown and sold pursuant to the provisions of this article and for a purpose authorized by section 14 of article XVIII of the state constitution BUT SHALL NOT BE CONSIDERED A NONPRESCRIPTION DRUG FOR PURPOSES OF SECTION 12-22-102 (20) OR SECTION 39-26-717, C.R.S., OR AN OVER-THE-COUNTER MEDICATION FOR PURPOSES OF SECTION 25.5-5-322, C.R.S.

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

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

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

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

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

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

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

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

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

(2) (a) A local licensing authority shall not issue a local license within a municipality, city and county, or the unincorporated portion of a county unless the governing body of the municipality or city and county has adopted an ordinance, or the governing body of the county has adopted a

resolution, containing specific standards for license issuance, or if no such ordinance or resolution is adopted prior to July 1, 2012, then a local licensing authority shall consider the minimum licensing requirements of this part 3 when issuing a license.

SECTION 6. 12-43.3-302 (1) and (4), Colorado Revised Statutes, are amended to read:

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

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

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

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

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

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

CULTIVATION OPERATIONS, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

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

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

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

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

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

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

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

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

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

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

(c) At the time of filing an application for issuance or renewal of a state medical marijuana center license, medical marijuana-infused product manufacturer license, or optional premises cultivation license, an applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a state license on forms prepared by the state licensing authority. The state OR LOCAL licensing authority shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The state OR LOCAL licensing authority may acquire a name-based criminal history record check for an applicant or a license holder who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state OR LOCAL licensing authority shall use the information resulting

from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a state license pursuant to this article. The state OR LOCAL licensing authority may verify any of the information an applicant is required to submit.

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

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

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

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

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

12-43.3-402. Medical marijuana center license. (3) Every person selling medical marijuana as provided for in this article shall sell only medical marijuana grown in its medical marijuana optional premises

licensed pursuant to this article. IN ADDITION TO MEDICAL MARIJUANA, A MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN SIX IMMATURE PLANTS TO A PATIENT; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY SELL MORE THAN SIX IMMATURE PLANTS, BUT MAY NOT EXCEED HALF THE RECOMMENDED PLANT COUNT, TO A PATIENT WHO HAS BEEN RECOMMENDED AN EXPANDED PLANT COUNT BY HIS OR HER RECOMMENDING PHYSICIAN. A MEDICAL MARIJUANA CENTER MAY SELL IMMATURE PLANTS TO A PRIMARY CAREGIVER, ANOTHER MEDICAL MARIJUANA CENTER, OR A MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER PURSUANT TO RULES PROMULGATED BY THE STATE LICENSING AUTHORITY. The provisions of this subsection (3) shall not apply to medical marijuana-infused products.

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

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

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

(5) Prior to initiating a sale, the employee of the medical marijuana center making the sale shall verify that the purchaser has a valid registration card issued pursuant to section 25-1.5-106, C.R.S., OR A COPY OF A CURRENT AND COMPLETE NEW APPLICATION FOR THE MEDICAL MARIJUANA REGISTRY ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL RETURN RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE DAYS, and a valid picture identification card that matches the name on the registration card. A PURCHASER MAY NOT PROVIDE A COPY OF A RENEWAL APPLICATION IN ORDER TO MAKE A PURCHASE AT A MEDICAL MARIJUANA CENTER. A

PURCHASER MAY ONLY MAKE A PURCHASE USING A COPY OF HIS OR HER APPLICATION FROM 8 A.M. TO 5 P.M., MONDAY THROUGH FRIDAY. IF THE PURCHASER PRESENTS A COPY OF HIS OR HER APPLICATION AT THE TIME OF PURCHASE, THE EMPLOYEE MUST CONTACT THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO DETERMINE WHETHER THE PURCHASER'S APPLICATION HAS BEEN DENIED. THE EMPLOYEE SHALL NOT COMPLETE THE TRANSACTION IF THE PURCHASER'S APPLICATION HAS BEEN DENIED. IF THE PURCHASER'S APPLICATION HAS BEEN DENIED, THE EMPLOYEE SHALL BE AUTHORIZED TO CONFISCATE THE PURCHASER'S COPY OF THE APPLICATION AND THE DOCUMENTATION OF THE CERTIFIED MAIL RETURN RECEIPT, IF POSSIBLE, AND SHALL, WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION, TURN IT OVER TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR LOCAL LAW ENFORCEMENT AGENCY. THE FAILURE TO CONFISCATE THE COPY OF THE APPLICATION AND DOCUMENT OF THE CERTIFIED MAIL RETURN RECEIPT OR TO TURN IT OVER TO THE STATE HEALTH DEPARTMENT OR A STATE OR LOCAL LAW ENFORCEMENT AGENCY WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION SHALL NOT CONSTITUTE A CRIMINAL OFFENSE.

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

~~(6) A licensed medical marijuana center may provide a small amount of its medical marijuana for testing to a laboratory that is licensed pursuant to the occupational licensing rules promulgated pursuant to section 12-43.3-202 (2) (a) (IV)~~ A MEDICAL MARIJUANA CENTER MAY PROVIDE A SAMPLE OF ITS PRODUCTS TO A LABORATORY THAT HAS AN OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR TESTING AND RESEARCH PURPOSES. THE LABORATORY MAY DEVELOP, TEST, AND PRODUCE MEDICAL MARIJUANA-BASED PRODUCTS. THE LABORATORY MAY CONTRACT METHOD OR PRODUCT DEVELOPMENT WITH A LICENSED MEDICAL MARIJUANA CENTER OR LICENSED MEDICAL MARIJUANA INFUSED-PRODUCT MANUFACTURER. THE STATE LICENSING AUTHORITY SHALL PROMULGATE RULES PURSUANT TO ITS AUTHORITY IN SECTION 12-43.3-202 (1) (b), C.R.S., RELATED TO ACCEPTABLE TESTING AND RESEARCH PRACTICES; INCLUDING

BUT NOT LIMITED TO TESTING, STANDARDS, QUALITY CONTROL ANALYSIS, EQUIPMENT CERTIFICATION AND CALIBRATION, AND CHEMICAL IDENTIFICATION AND OTHER SUBSTANCES USED IN BONA-FIDE RESEARCH METHODS. A LABORATORY THAT HAS AN OCCUPATIONAL LICENSE FROM THE STATE LICENSING AUTHORITY FOR TESTING PURPOSES SHALL NOT HAVE ANY INTEREST IN A LICENSED MEDICAL MARIJUANA CENTER OR A LICENSED MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER.

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

(a) MEDICAL MARIJUANA; OR

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

(c) MEDICAL MARIJUANA-INFUSED PRODUCTS TO PATIENTS.

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

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

(2) OPTIONAL PREMISES CULTIVATION LICENSES MAY BE COMBINED IN A COMMON AREA SOLELY FOR THE PURPOSES OF GROWING AND CULTIVATING MEDICAL MARIJUANA AND USED TO PROVIDE MEDICAL MARIJUANA TO MORE THAN ONE LICENSED MEDICAL MARIJUANA CENTER OR LICENSED MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER SO LONG AS THE HOLDER OF THE OPTIONAL PREMISE CULTIVATION LICENSE IS ALSO A

COMMON OWNER OF EACH LICENSED MEDICAL MARIJUANA CENTER OR LICENSED MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER TO WHICH MEDICAL MARIJUANA IS PROVIDED. IN ACCORDANCE WITH PROMULGATED RULES RELATING TO PLANT AND PRODUCT TRACKING REQUIREMENTS, EACH OPTIONAL PREMISES CULTIVATION LICENSEE SHALL SUPPLY MEDICAL MARIJUANA ONLY TO ITS ASSOCIATED LICENSED MEDICAL MARIJUANA CENTERS OR LICENSED MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURERS.

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

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

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

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

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

(I) THE NATURE OF THE PRODUCTS MANUFACTURED;

(II) THE BUSINESS NEED;

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

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

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

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

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

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

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

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

(5) FOLLOWING THE ISSUANCE OF A FINAL AGENCY ORDER BY THE LICENSING AUTHORITY IMPOSING A DISCIPLINARY ACTION AGAINST A LICENSEE AND ORDERING DESTRUCTION AUTHORIZED BY SUBSECTION (4) OF THIS SECTION, A LICENSEE SHALL HAVE FIFTEEN DAYS WITHIN WHICH TO FILE A PETITION FOR STAY OF AGENCY ACTION WITH THE DISTRICT COURT. THE ACTION SHALL BE FILED IN THE CITY AND COUNTY OF DENVER, WHICH SHALL BE DEEMED TO BE THE RESIDENCE OF THE STATE LICENSING AUTHORITY FOR PURPOSES OF THIS SECTION. THE LICENSEE SHALL SERVE THE PETITION IN ACCORDANCE WITH THE RULES OF CIVIL PROCEDURE. THE DISTRICT COURT SHALL PROMPTLY RULE UPON THE PETITION AND SHALL DETERMINE WHETHER THE LICENSEE HAS A SUBSTANTIAL LIKELIHOOD OF SUCCESS ON JUDICIAL REVIEW SO AS TO WARRANT DELAY OF THE DESTRUCTION AUTHORIZED BY SUBSECTION (4) OF THIS SECTION OR WHETHER OTHER CIRCUMSTANCES, INCLUDING BUT NOT LIMITED TO THE NEED FOR PRESERVATION OF EVIDENCE, WARRANT DELAY OF SUCH DESTRUCTION. IF DESTRUCTION IS SO DELAYED PURSUANT TO JUDICIAL ORDER, THE COURT SHALL ISSUE AN ORDER SETTING FORTH TERMS AND CONDITIONS PURSUANT TO WHICH THE LICENSEE MAY MAINTAIN THE MARIJUANA AND MARIJUANA-INFUSED PRODUCT PENDING JUDICIAL REVIEW, AND PROHIBITING THE LICENSEE FROM USING OR DISTRIBUTING THE MARIJUANA OR MARIJUANA-INFUSED PRODUCT PENDING THE REVIEW. THE LICENSING AUTHORITY SHALL NOT CARRY OUT THE DESTRUCTION AUTHORIZED BY

SUBSECTION (4) OF THIS SECTION UNTIL FIFTEEN DAYS HAVE PASSED WITHOUT THE FILING OF A PETITION FOR STAY OF AGENCY ACTION, OR UNTIL THE COURT HAS ISSUED AN ORDER DENYING STAY OF AGENCY ACTION PURSUANT TO THIS SUBSECTION (5).

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

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

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

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

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

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

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

(d) (I) To sell medical marijuana to a person not licensed pursuant to this article or to a person not able to produce a valid patient registry identification card, UNLESS THE PERSON HAS A COPY OF A CURRENT AND

COMPLETE NEW APPLICATION FOR THE MEDICAL MARIJUANA REGISTRY ADMINISTERED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT THAT IS DOCUMENTED BY A CERTIFIED MAIL RETURN RECEIPT AS HAVING BEEN SUBMITTED TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT WITHIN THE PRECEDING THIRTY-FIVE DAYS AND THE EMPLOYEE ASSISTING THE PERSON HAS CONTACTED THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND, AS A RESULT, DETERMINED THE PERSON'S APPLICATION HAS NOT BEEN DENIED. Notwithstanding any provision in this subparagraph (I) to the contrary, a person under twenty-one years of age shall not be employed to sell or dispense medical marijuana at a medical marijuana center or grow or cultivate medical marijuana at an optional premises cultivation operation.

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

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

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

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

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

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

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

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

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

~~(XIII) State and local applications and licenses for an optional premises cultivation operation as described in section 12-43.3-403, C.R.S.; and the location of the optional premises cultivation operation. THE INFORMATION PROVIDED TO THE STATE MEDICAL MARIJUANA LICENSING AUTHORITY PURSUANT TO SECTION 25-1.5-106 (7) (e), C.R.S.~~

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

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

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

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

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

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

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

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

25-1.5-106. Medical marijuana program - powers and duties of the state health agency - medical review board - medical marijuana program cash fund - created - repeal. (7) Primary caregivers. (e) A PRIMARY CAREGIVER WHO CULTIVATES MEDICAL MARIJUANA FOR HIS OR HER PATIENTS SHALL REGISTER THE LOCATION OF HIS OR HER CULTIVATION OPERATION WITH THE STATE MEDICAL MARIJUANA LICENSING AUTHORITY AND PROVIDE THE REGISTRATION IDENTIFICATION NUMBER OF EACH PATIENT TO THE STATE LICENSING AUTHORITY. THE INFORMATION PROVIDED TO THE STATE MEDICAL MARIJUANA LICENSING AUTHORITY PURSUANT TO THIS PARAGRAPH (e) SHALL NOT BE PROVIDED TO THE PUBLIC AND SHALL BE CONFIDENTIAL. THE STATE LICENSING AUTHORITY SHALL VERIFY THE LOCATION OF A PRIMARY CAREGIVER CULTIVATION OPERATION TO A LOCAL GOVERNMENT OR LAW ENFORCEMENT AGENCY UPON RECEIVING AN ADDRESS-SPECIFIC REQUEST FOR VERIFICATION. THE LOCATION OF THE CULTIVATION OPERATION SHALL COMPLY WITH ALL APPLICABLE LOCAL LAWS, RULES, OR REGULATIONS.

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

25-1.5-106. Medical marijuana program - powers and duties of the state health agency - medical review board - medical marijuana program cash fund - created - repeal. (16) Fees - repeal. (a) The state health agency may collect fees from patients who, pursuant to section 14 of article XVIII of the state constitution, apply to the medical marijuana program for a registry identification card for the purpose of offsetting the state health agency's direct and indirect costs of administering the program. The amount of the fees shall be set by rule of the state health agency. The amount of the fees set pursuant to this section shall reflect the actual direct and indirect costs of the state licensing authority in the administration and enforcement of this article so that the fees avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds as set forth in section 24-75-402 (3), C.R.S. ~~The state health agency shall also promulgate rules that allow a patient to claim indigence as it relates to~~

~~paying the fee approved pursuant to this subsection (16). The rules shall establish the standard for indigence, the process the state health agency shall use to determine whether a patient who claims indigence meets the standard for indigence, and the process for granting a waiver if the state health agency determines that the patient meets the standard for indigence. THE STATE HEALTH AGENCY SHALL NOT ASSESS A MEDICAL MARIJUANA REGISTRY APPLICATION FEE TO AN APPLICANT WHO DEMONSTRATES, PURSUANT TO A COPY OF THE APPLICANT'S STATE TAX RETURN CERTIFIED BY THE DEPARTMENT OF REVENUE, THAT THE APPLICANT'S INCOME DOES NOT EXCEED ONE HUNDRED EIGHTY-FIVE PERCENT OF THE FEDERAL POVERTY LINE, ADJUSTED FOR FAMILY SIZE. All fees collected by the state health agency through the medical marijuana program shall be transferred to the state treasurer who shall credit the same to the medical marijuana program cash fund, which fund is hereby created.~~

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

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

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

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

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

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

(6) (a) For any state fiscal year commencing on or after July 1, 2010, the general assembly shall annually appropriate the first two million dollars of sales taxes attributable to sales of medical marijuana or equally appropriate the sales taxes attributable to sales of medical marijuana if two

~~million dollars is not generated~~ TAXES REMITTED, PURSUANT TO THIS ARTICLE, BY PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., OR EQUALLY APPROPRIATE THE SALES TAXES ATTRIBUTABLE TO SALES TAXES REMITTED, PURSUANT TO THIS ARTICLE, BY PERSONS OR ENTITIES LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., IF LESS THAN TWO MILLION DOLLARS IS GENERATED.

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

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

12-36-118. Disciplinary action by board - immunity - rules.
(19) IF A PHYSICIAN HAS A RESTRICTION PLACED ON HIS OR HER LICENSE, THE RESTRICTION SHALL, IF PRACTICABLE, STATE WHETHER THE RESTRICTION PROHIBITS THE PHYSICIAN FROM MAKING A MEDICAL MARIJUANA RECOMMENDATION.

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

12-43.3-202. Powers and duties of state licensing authority -

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

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

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

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

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

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

18-18-406.3. Medical use of marijuana by persons diagnosed with debilitating medical conditions - unlawful acts - penalty - medical marijuana program cash fund. (6) AN OWNER, OFFICER, OR EMPLOYEE OF A BUSINESS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., OR AN EMPLOYEE OF THE STATE MEDICAL MARIJUANA LICENSING AUTHORITY, A LOCAL MEDICAL MARIJUANA LICENSING AUTHORITY, OR THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, WHO RELEASES OR MAKES PUBLIC A PATIENT'S MEDICAL RECORD OR ANY CONFIDENTIAL INFORMATION CONTAINED IN ANY SUCH RECORD THAT IS PROVIDED TO OR BY THE BUSINESS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., WITHOUT THE WRITTEN AUTHORIZATION OF THE PATIENT COMMITS A CLASS 1 MISDEMEANOR; EXCEPT THAT THE OWNER, OFFICER, OR EMPLOYEE SHALL

RELEASE THE RECORDS OR INFORMATION UPON REQUEST BY THE STATE OR LOCAL MEDICAL MARIJUANA LICENSING AUTHORITY. THE RECORDS OR INFORMATION PRODUCED FOR REVIEW BY THE STATE OR LOCAL LICENSING AUTHORITY SHALL NOT BECOME PUBLIC RECORDS BY VIRTUE OF THE DISCLOSURE AND MAY BE USED ONLY FOR A PURPOSE AUTHORIZED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR FOR ANOTHER STATE OR LOCAL LAW ENFORCEMENT PURPOSE. THE RECORDS OR INFORMATION SHALL CONSTITUTE MEDICAL DATA AS DEFINED BY SECTION 24-72-204 (3) (a) (I), C.R.S. THE STATE OR LOCAL MEDICAL MARIJUANA LICENSING AUTHORITY MAY DISCLOSE ANY RECORDS OR INFORMATION SO OBTAINED ONLY TO THOSE PERSONS DIRECTLY INVOLVED WITH ANY INVESTIGATION OR PROCEEDING AUTHORIZED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR FOR ANY STATE OR LOCAL LAW ENFORCEMENT PURPOSE.

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

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

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

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

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

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

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

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

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

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

SECTION 33. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO