



SOUTH DAKOTA
DEPARTMENT OF HEALTH

**Overview of Proposed Medical Cannabis
Administrative Rules**

August 4, 2021



Medical Cannabis – Key Dates

- ❖ November 2021 – Initiate Measure 26 passes
- ❖ Law effective: July 1, 2021 (SDCL 34-20G)
- ❖ DOH to promulgate rules to be effective by October 29, 2021 (SDCL 34-20G-72)
- ❖ Cards issued to patients and caregivers by November 18, 2021 (SDCL 34-20G-29)
- ❖ Cannabis grown in registered establishments not likely to be available before summer/early fall 2022





Implementation Status

- ❖ Staff positions filled
 - Program manager – Geno Adams
 - Attorney – Ali Schaeftbauer

- ❖ RFP for patient registry and licensing system
 - April 26 – RFP published
 - August – Contract selection (pending)
 - September – Contract start date
 - By October 29 – System in place
 - By November 18 – Cards issued to patients and caregivers

- ❖ RFP for seed to sale tracking system
 - July 12 – RFP published
 - August 23 – Responses due





Administrative Rules Development

- ❖ January 2021 – Contracted with Cannabis Public Policy Consulting (CPPC) to advise on implementation of medical cannabis program
 - CPPC assisting with drafting administrative rules (ARSD 44:90)
- ❖ June 24 – released draft of ARSD 44:90 to the general public
- ❖ June 28 – Hosted two tele-townhalls to receive public input on the draft rules
- ❖ June 29 – Hosted four Zoom sessions with stakeholders (cannabis industry, law enforcement, local municipalities/counties, and health care providers) to receive input on the draft rules
- ❖ July 16 – Met with representatives of the cannabis industry to receive input on draft rules
- ❖ Received 98 comments on draft rules
 - 46 comments were accepted/changes made (47%)



Administrative Rules Promulgation Timeline

- ❖ July 27 – Released an updated draft of rules and initiated the formal rules promulgation process
 - Posted on Administrative Rules Portal (<https://rules.sd.gov/>)
 - Notice published in Aberdeen American News, Argus Leader, and Rapid City Journal
 - News release issued

- ❖ August 18 – public hearing on proposed ARSD 44:90
 - 1:30 – 3:30 pm in Kneip Conference Room 3
 - Remote testimony permitted (must pre-register)
 - Written comments can be mailed to the DOH or submitted electronically to dohcomments@state.sd.us or DOHAdminRules@state.sd.us (must reach DOH by August 28th)

- ❖ August 30–September 3 – DOH revises ARSD 44:90 based on written and oral testimony

- ❖ September 13 – Interim Rules Review Committee

- ❖ October 4– ARSD 44:90 becomes effective (if approved by Rules Review Committee)

Overview of Proposed Medical Cannabis Rules



ARSD 44:90:01 - Definitions

- ❖ Provides for the definitions of terms used throughout ARSD 44:90

ARSD 44:90:02 – Registry Identification Card

- ❖ Outlines the requirements for a registry identification card for South Dakota residents (e.g., written certification, debilitating medical condition, designation of caregivers, designation for home cultivation)
- ❖ Outlines the requirements for a registry identification card for non-residents (e.g., written certification, debilitating medical condition recognized in SD, state of residence allows use of medical cannabis)
- ❖ Outlines requirements for caregivers (e.g., 21 years of age, background check, no more than 5 qualifying patients, no caregiver collaboratives)
- ❖ Provides an equivalent cannabis chart for possession of medical cannabis

ARSD 44:90:03 – Registration Certificates

- ❖ Establishes requirements for a registration certificate for medical cannabis establishments (e.g., operating procedures, compliance with applicable local ordinances, background checks)
- ❖ Provides for tiebreaking procedures in instances where there are more applications than allowed by a local government



ARSD 44:90:04 – Establishments

- ❖ Establishes security requirements for establishments (e.g., lighting, doors, security cameras, controlled access by contractors/visitors)
- ❖ Outlines requirements for transport of medical cannabis (e.g., transport manifests, registered agents, storage, permitted stops)

ARSD 44:90:05 – Cannabis Cultivation Facilities

- ❖ Outlines requirements for cannabis cultivation facilities (e.g., manager on-site, cultivation areas, hours of operation)
- ❖ Establishes requirements for the use of pesticides/other chemicals (e.g., staff training, DANR pesticide applicator certification, list of approved pesticides)

ARSD 44:90:06 – Cannabis Testing Facilities

- ❖ Outlines requirements for cannabis testing facilities (e.g., ISO/IEC accreditation, collection of samples, chain of custody, reporting test results)



ARSD 44:90:07 – Cannabis Product Manufacturing Facilities

- ❖ Outlines standards for manufacturing practices (e.g., equipment, storage)
- ❖ Outlines conditions that deem medical cannabis non usable (e.g., pesticides, mold, bacteria, etc.) and provides for remediation, if applicable
- ❖ Establishes prohibited manufacturing activities (e.g., nothing in shape of human, animal, cartoon, etc.)
- ❖ Outlines permitted medical cannabis products
- ❖ Establishes extractions standards (e.g., generally safe, potentially hazardous, inherently hazardous)

ARSD 44:90:08 – Cannabis Dispensaries

- ❖ Outlines requirements for cannabis dispensaries(e.g., controlled access, staff training, websites)

ARSD 44:90:09 – Sampling and Testing

- ❖ Establishes phased-in mandatory testing requirements for cannabis products
- ❖ Provides for collection/packaging of samples and storage of products awaiting test results



ARSD 44:90:10 – Packaging, Labeling, and Advertising

- ❖ Establishes packaging/labeling requirements for medical cannabis for retail sale (e.g., child-resistant, tamper-evident, resealable, font-size)
- ❖ Outlines requirements for advertising (e.g., targeted at cardholders 21 years of age and older)
- ❖ Establishes prohibited forms of advertising (e.g., signs/billboards, handbills in public areas, direct mail/ phone/text/email without verifying recipient is cardholder, tv/radio)
- ❖ Dispensaries may advertise on their own premises

ARSD 44:90:11 – Recordkeeping

- ❖ Requires use of electronic inventory tracking system (seed to sale) prescribed by DOH

ARSD 44:90:12 – Enforcement

- ❖ Provides for routine, unannounced inspections by DOH
- ❖ Provides for suspension or revocation of registration certificate for serious or multiple violations
- ❖ Provides for revocation of registry identification care for unauthorized sale or multiple violations



ARSD 44:90:13 – Petitions to Recognize Debilitating Medical Conditions

- ❖ In addition to the conditions listed in SDCL 34-20G-1(8), recognizes the following conditions and treatments as qualifying debilitating medical conditions
 - AIDS/HIV
 - ALS
 - Multiple sclerosis
 - Cancer or its treatment, if associated with severe or chronic pain, nausea or severe vomiting, or cachexia or severe wasting
 - Crohn's disease
 - Epilepsy/ seizures
 - Glaucoma
 - PTSD

- ❖ Outlines requirements to petition to add medical condition to list
 - SD resident, description of specific medical condition including ICD-10 code, diagnostic criteria for determining whether medical cannabis is appropriate for the medical condition, peer-reviewed research, and letters of support from two SD physicians



Proposed Rules – How to Provide Comments

- ❖ Proposed rules available at: <https://medcannabis.sd.gov/>
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