2022 South Dakota Legislature

Senate Bill 26

AMENDMENT 26B FOR THE SENATE HEALTH AND HUMAN SERVICES ENGROSSED BILL

An Act to revise the definition of practitioner for purposes of the medical cannabis program.

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

Section 1. That § 34-20G-1 be AMENDED:

34-20G-1. Terms used in this chapter mean:

(1) "Allowable amount of cannabis," ~~means~~:

(a) Three ounces of cannabis or less;

(b) The quantity of cannabis products as established by rules promulgated by the department under § 34-20G-72;

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

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

(2) "Bona fide practitioner-patient relationship,":

(a) A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;

(b) The practitioner has consulted with the patient with respect to the patient's debilitating medical condition; and

(c) The practitioner is available to or offers to provide follow-up care and treatment to the patient, including patient examinations;

(3) "Cannabis products," any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures;

(4) "Cannabis product manufacturing facility," an entity registered with the department pursuant to this chapter that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a medical cannabis dispensary;

(5) "Cannabis testing facility" or "testing facility," an independent entity registered with the department pursuant to this chapter to analyze the safety and potency of cannabis;

(6) "Cardholder," a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card;

(7) "Cultivation facility," an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment;

(8) "Debilitating medical condition,":

(a) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

(b) Any other medical condition or its treatment added by the department, as provided for in § 34-20G-26;

(9) "Department," ~~means~~ the Department of Health;

(10) "Designated caregiver," a person who:

(a) Is at least twenty-one years of age;

(b) Has agreed to assist with a qualifying patient's medical use of cannabis;

(c) Has not been convicted of a disqualifying felony offense; and

(d) Assists no more than five qualifying patients with the medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed;

(11) "Disqualifying felony offense," a violent crime that was classified as a felony in the jurisdiction where the person was convicted;

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

(a) Contains or is infused with cannabis or an extract thereof;

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

(c) Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;

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

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

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

(16) "Medical cannabis establishment," a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary;

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

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

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

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

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

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

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

(b) Is not a resident of this state or who has been a resident of this state for fewer than forty-five days;

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

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

(20) "Practitioner," a physician, physician assistant, or advanced practice registered nurse, who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence;

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

(22) "Registry identification card," a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to §§ 34-20G-29 to 34-20G-42, inclusive; and

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

Section 2. That § 34-20G-88 be AMENDED:

34-20G-88. Data kept or maintained by the department may be disclosed solely for:

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

(2) Submission of the annual report required by this chapter;

(3) Notification of state or local law enforcement of an apparent criminal violation of this chapter;

(4) Notification of state and local law enforcement about falsified or fraudulent information submitted for the purpose of obtaining or renewing a registry identification card; or

(5) Notification of the ~~South Dakota Board of Medical and Osteopathic Examiners~~ applicable licensing board if there is reason to believe that a practitioner provided a written certification and the department has reason to believe the practitioner otherwise violated the standard of care for evaluating a medical condition.

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