



## 2026 South Dakota Legislature

# House Bill 1053

Introduced by: **Representative Emery**

1 **An Act to require that terminal care facilities allow terminally ill patients to use**  
 2 **medical cannabis.**

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

4 **Section 1. That § 34-20G-25.1 be AMENDED:**

5 **34-20G-25.1.** ~~A~~Except as provided in section 2 of this Act, a health care facility,  
 6 as defined in § 34-12-1.1, an accredited prevention or treatment facility, as defined in  
 7 § 34-20A-2, a mental health center, as defined in § 27A-1-1, a child welfare agency, as  
 8 defined in § 26-6-1, or a community support provider or community services provider, as  
 9 defined in § 27B-1-17, may adopt restrictions on the use of medical cannabis by a  
 10 cardholder who resides at, is actively receiving ~~treatment or~~ care from, or is visiting the  
 11 facility.

12 The restrictions may include ~~a provisions~~ that the facility will not store or maintain  
 13 the cardholder's supply of medical cannabis, that the facility is not responsible for  
 14 providing the medical cannabis for to the cardholders, and that the medical cannabis be  
 15 used only in a place specified by the facility. Nothing in this section requires a facility to  
 16 adopt such these restrictions or requires a facility to allow the consumption of medical  
 17 cannabis on the grounds of the facility.

18 No employee or agent of a facility may be subject to arrest, prosecution, or penalty  
 19 of any kind, ~~or may be denied any right or privilege,~~ including any civil penalty or  
 20 disciplinary action by a court or occupational or professional licensing board, and may not  
 21 be denied any right or privilege, for possession of medical cannabis while carrying out  
 22 employment duties, including ~~providing or supervising the provision of~~ care to a  
 23 cardholder, or ~~distribution of~~ the distribution of medical cannabis to a cardholder who  
 24 resides at or is actively receiving ~~treatment or care~~ is receiving care at the facility ~~with~~  
 25 which the employee or agent is affiliated.

26 **Section 2. That a NEW SECTION be added to chapter 34-20G:**

1           Notwithstanding § 34-20G-25.1, a terminal care facility shall permit a cardholder,  
2 who is a patient or resident of the facility and has a terminal condition, to store and use  
3 medical cannabis in the facility.

4           Prior to bringing medical cannabis on the facility's premises, the cardholder or the  
5 cardholder's designated caregiver shall provide a copy of the cardholder's registry  
6 identification card to the terminal care facility, and the cardholder's attending practitioner  
7 shall indicate the use of medical cannabis in the cardholder's medical records.

8           A cardholder may not smoke or vape medical cannabis in a terminal care facility.

9           A terminal care facility shall establish policies and procedures for the  
10 administration, storage, and use of medical cannabis within the facility.

11           This section does not apply to a cardholder receiving treatment in the emergency  
12 care department of a hospital. Nothing in this section requires a terminal care facility, or  
13 personnel working at the facility, to procure or administer medical cannabis to a patient.

14           Terms used in this section mean:

15           (1) "Terminal care facility," a hospital, inpatient hospice, or residential hospice, as  
16 defined in § 34-12-1.1; and

17           (2) "Terminal condition" a medical condition that is diagnosed by a health care  
18 practitioner and has a life prognosis of less than one year.

19           **Section 3. That a NEW SECTION be added to chapter 34-20G:**

20           A terminal care facility, as defined in section 2 of this Act, is not required to comply  
21 with section 2 of this Act if any agency or department of the United States government:

22           (1) Initiates enforcement action against the terminal care facility related to the  
23 facility's compliance with this chapter; or

24           (2) Issues a rule, or otherwise provides notification to the terminal care facility, that  
25 expressly prohibits the use of medical cannabis in the facility.