



FREQUENTLY ASKED QUESTIONS

PATIENT INFORMATION

How can I access medical cannabis?

Any sale or purchase of medical cannabis must comply with [SDCL 34-20G](#) and [ARSD 44:90](#). Any sale or purchase of cannabis outside of the regulated medical cannabis establishments is illegal.

What are the qualifying conditions to become a medical cannabis patient?

Under the law passed by the voters, a condition that allows a patient to use medical cannabis must be a “debilitating medical condition,” which is defined by [SDCL 34-20G-1](#) as “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”.

What is the process to apply for a medical cannabis card?

[ARSD 44:90:02](#) establishes the requirements for applying for a medical cannabis card including:

- A photocopy of an unexpired form of identification (e.g., driver’s license, passport, US government-issued ID card, tribal ID card, student ID card);
- A passport-quality photo; and
- A \$75 fee. Low-income individuals (those with gross monthly household income \leq 130% of the federal poverty level) can request a reduced fee by providing documentation of household income.

Applications for a medical cannabis card cannot be processed until the South Dakota Medical Cannabis Program receives the certification for medical cannabis use by the patient’s physician.

What type of photo should I submit with my application?

Per [44:90:04:04](#), a photograph meeting all the following requirements:

- a) A high-resolution color photo that is not blurry, grainy, pixelated, or digitally altered;
- b) Uses a clear image of the individual’s face without filters;
- c) Uses a plain white or off-white background;
- d) Is two by two inches in size;
- e) Is printed on matte or glossy photo quality paper; and
- f) Is not damaged with holes, creases, or smudges;

When will I be able to apply for a medical cannabis card?

The South Dakota Medical Cannabis Program began accepting applications from qualifying patients on November 8, 2021. [Click here](#) for an overview of the patient process.

Who provides the certification for a medical cannabis patient?

Per [SDCL 34-20G-1](#), physicians with authority to prescribe drugs to humans must provide a written certification stating that, in their 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 condition or symptom associated with the debilitating condition. The document must affirm that it is made in the course of a bona fide practitioner-patient relationship and must also specify the qualifying patient's debilitating medical condition. An in-person assessment is required. Physician participation in the medical cannabis patient certification process is voluntary.

Is there a list of physicians that will provide a certification for medical cannabis use?

No, the South Dakota Medical Cannabis Program does not maintain a list of physicians who will provide a certification for medical cannabis use.

Can a medical cannabis patient have a designated caregiver?

Yes, so long as the designated caregiver:

- Is at least twenty-one years of age;
- Has agreed to assist with a qualifying patient's medical use of cannabis;
- Has not been convicted of a disqualifying felony offense; and
- 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.

What do I need to be able to grow cannabis plants in my home?

As part of the application process to obtain a registry identification card for the South Dakota Medical Cannabis Program, applicants may also apply to cultivate three cannabis plants in their home. An application to cultivate more than three plants simultaneously for a single patient's use must be accompanied by a certification from the individual's physician authorizing cultivation of an extended plant count.

What if I'm stopped by Highway Patrol, but I don't have a medical cannabis card?

Highway Patrol personnel will not, at the scene of a stop or interaction, arrest a South Dakota resident who is unable to present an unexpired medical cannabis card, as long as each of the following apply:

- The individual possesses no more than three ounces of natural and unaltered marijuana, as defined by [SDCL 22-42-1](#);
- The individual claims at the time of the interaction that the medical cannabis is to treat or alleviate a debilitating medical condition as defined by [SDCL 34-20-1](#);
- The individual produces printed or electronic documentation relative to the debilitating medical condition from a licensed medical doctor.

What if I have a nonresident card or tribal card?

Highway Patrol personnel will not arrest nonresident or tribal cardholders for possession of cannabis, nor will they seize the cannabis or any associated paraphernalia, if the following applies:

- The cardholder presents an unexpired medical cannabis card issued by another state; and
- He or she possesses no more than three ounces of natural and unaltered cannabis, as defined by SDCL 22-42-1.



Am I allowed to consume cannabis in a car?

South Dakota's impaired driving laws still apply. An individual may not operate a motor vehicle under the influence of medical cannabis. Drivers are prohibited from smoking or consuming cannabis or cannabis concentrate. Passengers are also prohibited from smoking cannabis or cannabis concentrate.

Where do I find the laws and administrative rules for medical cannabis in South Dakota?

Initiated Measure 26 became [SDCL 34-20G](#). Administrative rules for the program can be found at [ARSD 44:90](#).

How will medical professionals/ care provider(s) and/or law enforcement representatives be able to verify I hold a valid medical cannabis permit holder?

The South Dakota Medical Cannabis Program is in the final stages of implementing a statewide patient registry, verification, and licensing system that will ensure that only verified patients and caregivers have access to medical cannabis. The patient verification system will also ensure that South Dakota law enforcement officials have the necessary tools to accurately identify medical cannabis patients/caregivers they may encounter.

Will the information I provide to obtain a medical cannabis registration be secure?

The South Dakota Medical Cannabis Program takes privacy and health information security seriously. The secure online registry system for patients, caregivers, physicians, and law enforcement will meet or exceed all state and federal standards for confidentiality, accessibility, and information security.

How does medical cannabis use impact a qualifying patient's employment, housing, parole status, child custody, etc.?

The South Dakota Medical Cannabis Program cannot provide legal advice to qualifying patients as to the impact of medical cannabis use. Qualifying patients or others with legal questions should consult with their own legal counsel.

MEDICAL CANNABIS ESTABLISHMENTS

What kind of business registrations will be available for medical cannabis establishments?

SDCL 34-20G establishes the following registration types: cultivator, manufacturer, dispensary, and testing. Collectively these are referred to as establishments.

Where do I find the laws and administrative rules for medical cannabis in South Dakota?

Initiated Measure 26 became [SDCL 34-20G](#). Administrative rules for the program can be found at [ARSD 44:90](#).

Where do I apply for a medical cannabis business registration?

You may register your medical cannabis establishment with the Department of Health [using this link](#).
Note: Additional registration and operational requirements may be established/required at the local level.



To apply for a medical cannabis business license, what documents will I need, and how much will the registration cost?

The South Dakota Medical Cannabis program has developed a [checklist](#) to help establishments in preparing to apply for a medical cannabis establishment registration certificate.

Can my business transport cannabis from other states to sell in South Dakota?

No, the transportation of cannabis across state lines remains a federal crime and could result in federal criminal prosecution.

FOR MEDICAL CANNABIS ESTABLISHMENT APPLICATIONS THAT MUST BE SUBMITTED BY NOVEMBER 1, 2021 PURSUANT TO ARSD [44:90:03:12](#):

Can I submit my establishment application without a sales tax ID number if I have not received a sales tax ID number from the Department of Revenue?

Yes, the Department of Health will allow applicants who must submit applications by November 1, 2021 (per ARSD 44:90:03:12) to submit applications that do not have a sales tax ID number. You must supplement your application with the sales tax ID number within 14 days of submission, or as soon as you receive the sales tax ID number from Department of Revenue. Please contact the Department of Health with questions.

Can I submit my establishment application to the Department of Health without Form E, the local government compliance certification?

Yes, the Department of Health will allow applicants who must submit applications by November 1, 2021 (per ARSD 44:90:03:12) to submit applications without an attached Form E. You must supplement your application with a completed Form E within 90 days of submission. Please contact the Department of Health with questions.