



SOUTH DAKOTA
DEPARTMENT OF HEALTH

**SD Medical Cannabis Program
Information for Establishments**

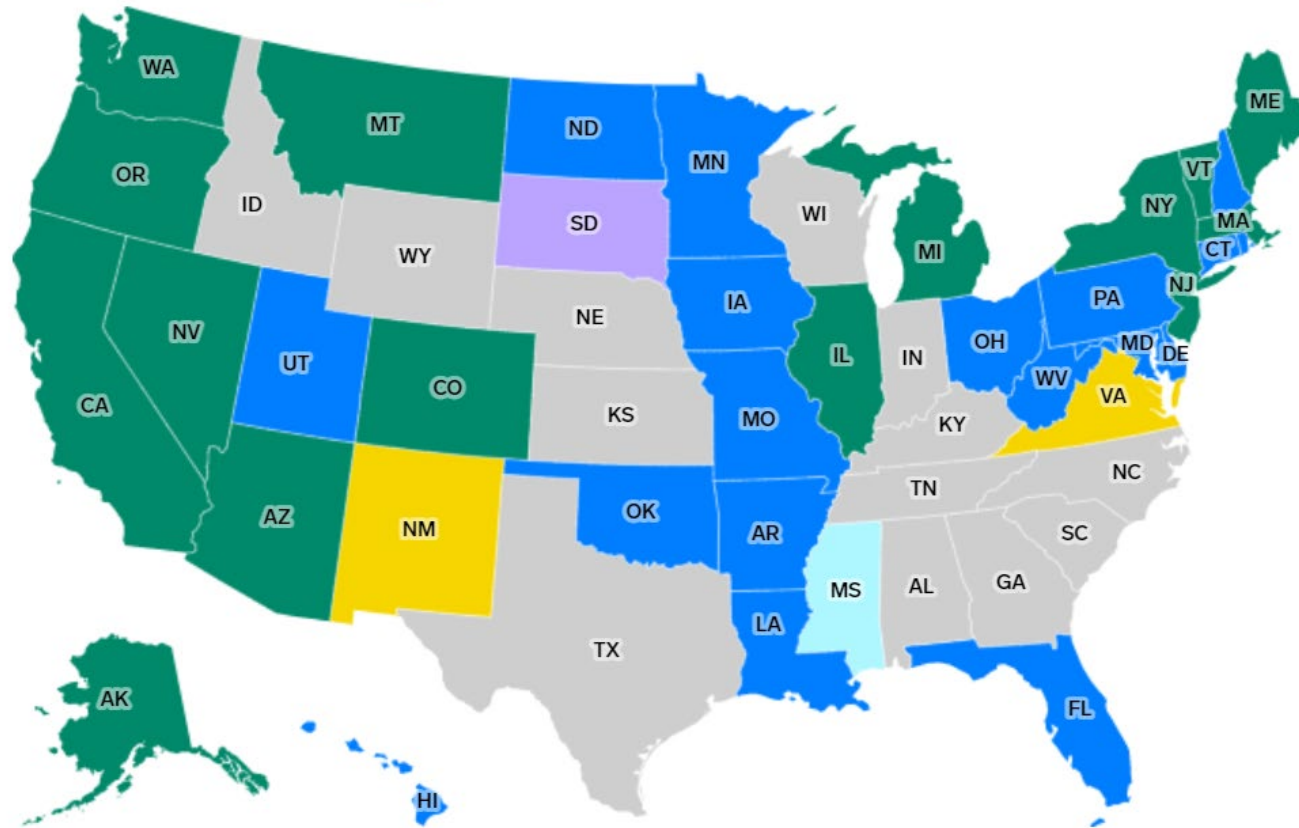
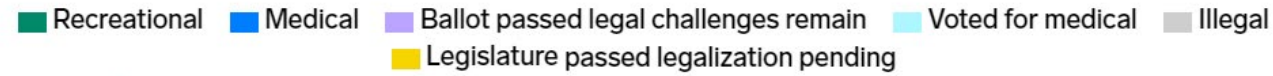
June 2021



Overview

- ✓ National Landscape
- ✓ Medical Cannabis in SD
- ✓ Key Implementation Dates
- ✓ Role of DOH
- ✓ Process Overview
- ✓ Input on Draft ARSD
- ✓ Q&A / Contact Information





As of 04/14/21:

- Recreational Cannabis is legal for adults in 16 states & D.C.
 - Medical Cannabis is legal in 36 states



Medical Cannabis in SD

- ✓ Prior attempts to legalize via legislature
- ✓ IM 26
 - ✓ Approved by 70% voters
 - ✓ 95 sections
 - ✓ Complex
- ✓ IM26 codified in 34-20G





Key Implementation Dates

- ✓ Law effective: July 1, 2021
- ✓ Public comments on draft rules due by July 9, 2021
- ✓ ARSD effective by October 29, 2021
- ✓ Cards issued to patients and caregivers by November 18, 2021
- ✓ Cannabis grown in registered establishments not likely to be available before summer/early fall 2022



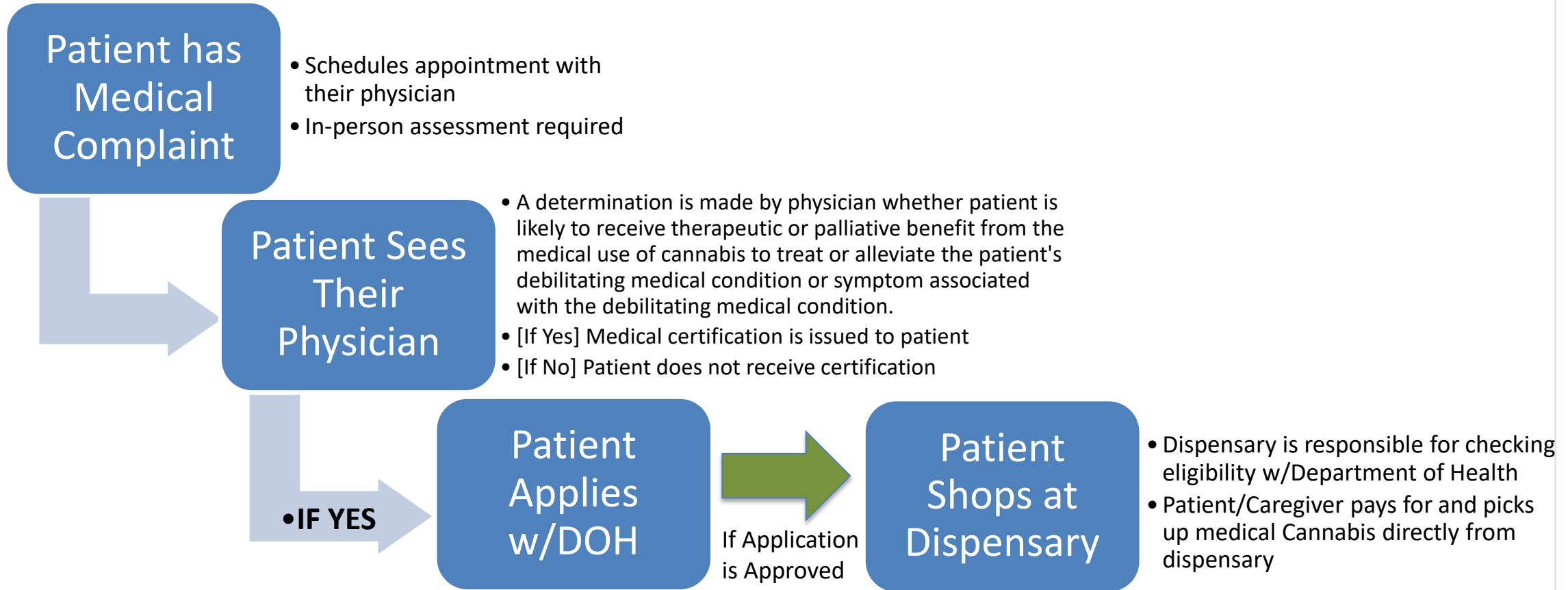


Role of DOH

- ✓ DOH is the lead state agency responsible for implementing a medical Cannabis program
- ✓ **Requirements per SDCL 34-20G include:**
 - ✓ Development of criteria for applicants to qualify
 - ✓ Define amount individuals can possess
 - ✓ Current law has minimum of three plants for home grow
 - ✓ Issuance of cards to qualified individuals
 - ✓ To include patients and caregivers
 - ✓ Allows non-residents to use medical Cannabis in SD
 - ✓ Registration of 'establishments'
 - ✓ Includes cultivators, manufacturers and dispensaries
 - ✓ Development of patient verification system for use by establishments & law enforcement
 - ✓ Development of testing criteria;
 - ✓ Development of fees and sliding fee scale for patients
 - ✓ Implementation of administrative rules for each of these areas



Process Overview



Note:

- Dispensaries, not pharmacies, will sell Cannabis in SD
- Medical certification is not a prescription



Establishment Regulation:

Establishments include:

- ✓ Cultivation facilities
 - ✓ Testing facilities
 - ✓ Manufacturing facilities
 - ✓ Dispensaries
-
- ✓ No limits to number of establishments in law
 - ✓ DOH will work with any local ordinances that are passed on number and location of establishments

Product testing:

- ✓ Pesticide restrictions
- ✓ Health and safety labeling





Equivalent Cannabis Chart (ARSD 44:90:02:10):

- ✓ Under SDCL 34-20G-1(1)(b), cardholders and nonresident cardholders may possess a quantity of cannabis products with an equivalent cannabis weight totaling 3 ounces minus the amount of cannabis flower and trim possessed pursuant to SDCL 34-20G-1(1)(a).
- ✓ The equivalent cannabis weight of cannabis products shall be:

| Type of cannabis | Amount equivalent to one ounce of cannabis |
|--|--|
| Concentrated cannabis | 8,000 mg |
| Vaporizer pens or cartridges | 8,000 mg |
| Edibles (including tinctures, oils, or beverages tested by a certified testing facility) | 80 servings providing 10 mg of THC |
| Tinctures, oils, or beverages (untested) | 30 milliliters/1 fluid ounce |
| Topical (ointment or cream) | 12 fluid ounces |
| Transdermal patches (tested) | 80 doses of 10 mg THC |
| Transdermal patches (untested) | 12 patches |



Establishment Fees (ARSD 44:90:03:13):

- Applicants shall submit a \$5,000 fee with an initial or renewal application for a registration certificate.
- Establishments shall submit a \$250 fee with an application to
 - Operate at a different physical location.
 - Transfer an ownership interest to any person not listed on the establishment's most recent initial or renewal application.
- Establishments shall submit a \$50 fee with each request for an agent identification badge.
- The fees imposed under this section shall increase annually based on the index factor.
- The fees imposed under this section shall be nonrefundable.



Establishment Applications (ARSD 44:90:03:01):

- ✓ An initial application for a registration certificate for any type of medical cannabis establishment shall include:
 - A completed application form;
 - Operating procedures consistent with this article;
 - Proof of property owner's consent to cultivation or manufacturing;
 - Certification of compliance from the local municipality or county ensuring applicant's proposed plans and location meet all local zoning and ordinance requirements;
 - Copies of all required registrations, licenses, or permits;
 - Photocopies of a valid form of identification issued in South Dakota, or its equivalent issued in another U.S. jurisdiction, for all principal officers and board members;
 - Photocopies of organizing documents, operating agreements, management agreements, bylaws, or other legal documents relating to the applicant's business structure;
 - Certification that background checks have been completed for all medical cannabis establishment agents; and
 - The applicable fee.



Establishment Applications Continued (ARSD 44:90:03:01):

- ✓ A renewal application for a registration certificate:
 - Is required every 12 months or whenever 50 percent or more of the ownership interest in the establishment has been transferred since the most recent renewal application; and
 - Shall include all components of an initial application, except that a detailed description of any changes to operating procedures, or a certification that no such changes exist, may be substituted for a complete set of operating procedures.

- ✓ An application for the transfer of a registration certificate to a different physical location shall include:
 - (A) A completed change of location form;
 - (B) Diagrams of all locations in which cannabis will be cultivated, harvested, dried, stored, manufactured, or destroyed;
 - (C) A detailed description of any changes to operating procedures, or a certification that no such changes exist;
 - (D) Certification of compliance with all local zoning requirements;
 - (E) Copies of all required registration, licenses, or permits reflecting the establishment's new address; and
 - (F) The applicable fee.



Establishment Applications Continued (ARSD 44:90:03:01):

- ✓ An application to transfer less than 50 percent of the ownership interest in a medical cannabis establishment shall include:
 - A completed transfer of ownership interest form;
 - Photocopies of a valid form of identification issued in South Dakota, or its equivalent issued in another U.S. jurisdiction, for any new principal officers and board members;
 - Certification that background checks have been completed for any new medical cannabis establishment agents; and
 - The applicable fee.





Review of Competitive Applications – Scoring Criteria (ARSD 44:90:03:11):

- ✓ In cases where more applicants apply than are allowed by the local government, the department shall numerically score competitive applications according to the following criteria:
 - The city or county limiting the number of establishments, in response to the department's inquiry, has endorsed the application as beneficial to the community (1 point).
 - The city or county limiting the number of establishments has not informed the department the location specified in the application is unsuitable, due to zoning regulations or inaccessibility to the public, for the proposed use (1 point).
 - All principal officers and board members have certified that they have not, in the previous 10 years, in any U.S. jurisdiction:
 - (A) Been convicted of a criminal offense involving fraud or false statements to a unit of government (1 point); or
 - (B) Served as a principal officer or board member of any business that has had a license or permit suspended or revoked for violations of laws or regulations relating to cannabis, alcohol, tobacco, or gaming (1 point).
 - The applicant has submitted a floorplan with sufficient detail to enable the department to determine where all activities listed in the operating procedures will take place (1 point).
 - The applicant has submitted a business plan outlining the details contained in SDCL 34-20G-72(3)(d) (1 point).



Competitive Applications – Tiebreaking Procedure (ARSD 44:90:03:12):

- ✓ The dispensary applicant with the highest score shall be awarded a registration certificate.
- ✓ If the city or county has enacted an overall limit on the number of establishments, the department shall award registration certificates, in order of final score, until the limit is reached.
- ✓ If the city or county has enacted a limit on establishments by establishment type, the department shall award registration certificates, in order of final score, until the limit is reached for each establishment type.
- ✓ If applicants are tied for one or more openings in a locality, the affected applicants shall have the opportunity to view, in person or via videoconference, a random drawing to determine the successful applicants.
- ✓ The notification of unsuccessful applicants shall identify the department's decision as a final department action subject to judicial review.



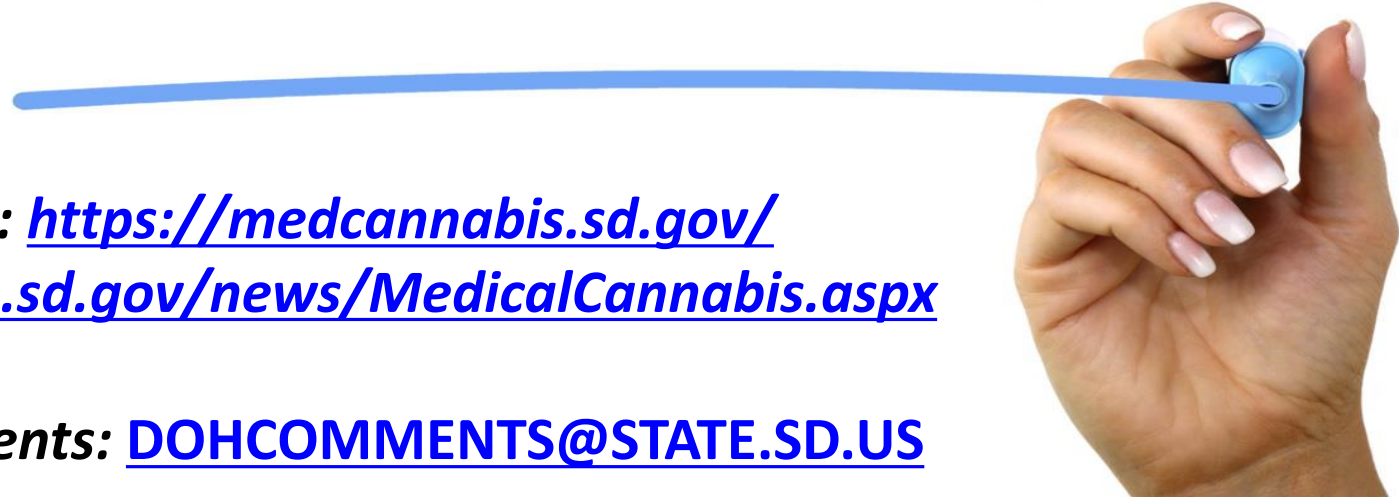
Other Provisions:

- ✓ Registration Certificates – ARSD 44:90:03
- ✓ Establishments – ARSD 44:90:04
- ✓ Cannabis Cultivation Facilities – ARSD 44:90:05
- ✓ Cannabis Testing Facilities – ARSD 44:90:06
- ✓ Cannabis Product Manufacturing Facilities – ARSD 44:90:07
- ✓ Cannabis Dispensaries – ARSD 44:90:08
- ✓ Sampling and Testing – ARSD 44:90:09
- ✓ Packaging, Labeling, and Advertising – ARSD 44:90:10
- ✓ Recordkeeping – ARSD 44:90:11
- ✓ Enforcement – ARSD 44:90:12





QUESTIONS



On the Web: <https://medcannabis.sd.gov/>
FAQ's: <https://doh.sd.gov/news/MedicalCannabis.aspx>
Questions/Comments: DOHCOMMENTS@STATE.SD.US