



SOUTH DAKOTA  
DEPARTMENT OF HEALTH

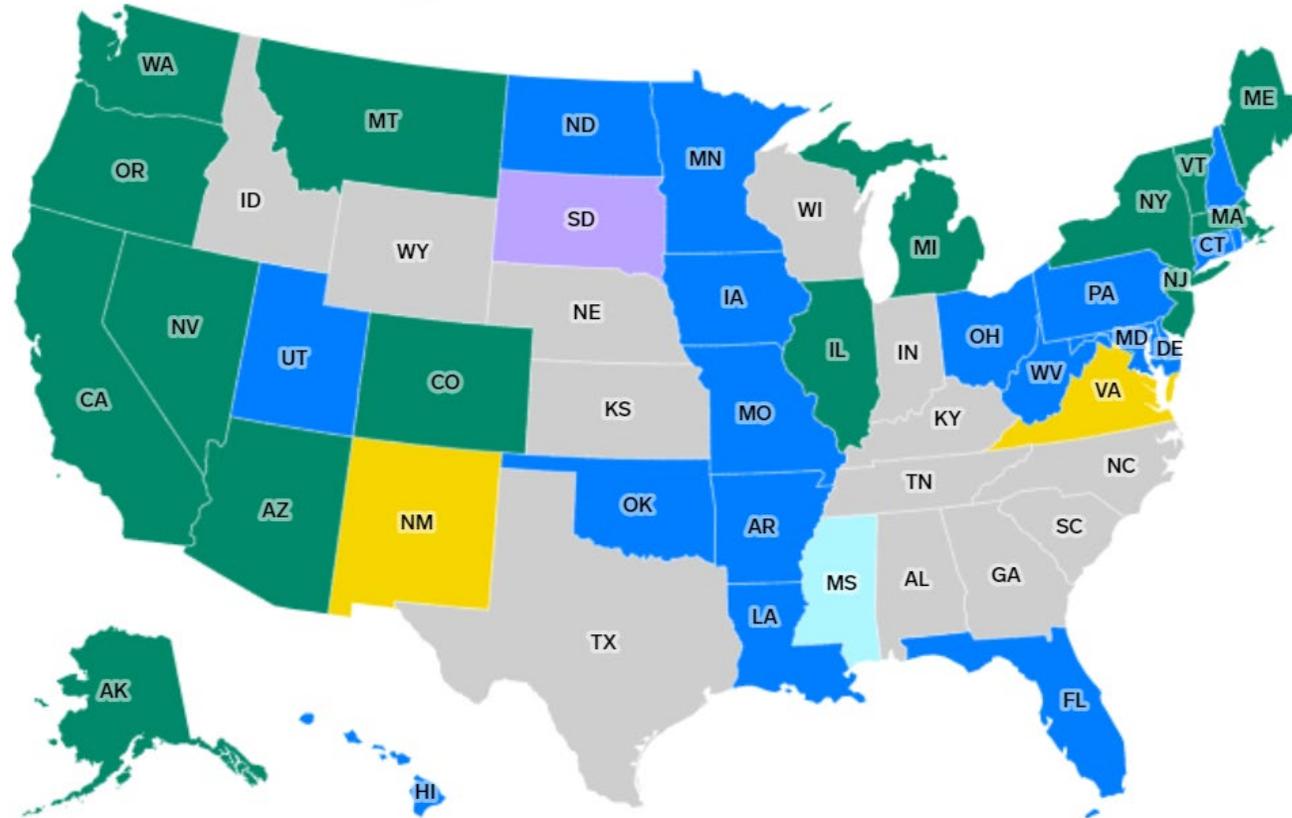
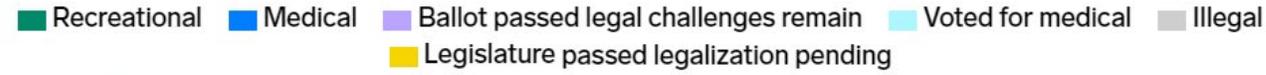
**SD Medical Cannabis Program**  
**Information for Healthcare Providers & Facilities**  
**June 2021**



# Overview

- ✓ National Landscape
- ✓ Medical Cannabis in SD
- ✓ Key Implementation Dates
- ✓ Role of DOH
- ✓ 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 by 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



## Patient Qualifications:

Per SDCL 34-20G-1(8):

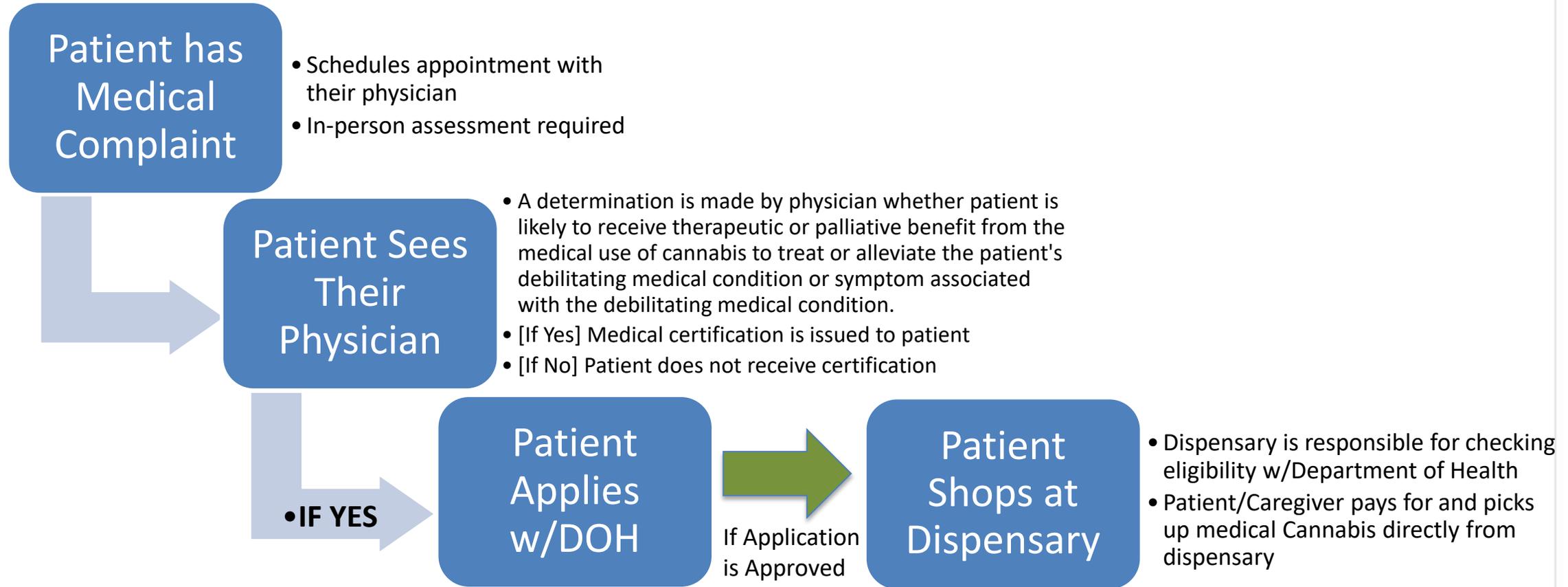
Individuals must have a debilitating medical condition which is defined as:

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

The process to request qualifying conditions be added to the list will be governed by Administrative Rules. The Department of Health will promulgate these rules by October 29, 2021. *See slide 14 for more information.*



## Process Overview



### Note:

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



## Practitioners' Written Certification (ARSD 44:90:02:01):

- ✓ Except in connection with nonresidents, the department shall reject a written certification not issued by a physician currently licensed pursuant to SDCL chapter 36-4.
- ✓ A practitioner's written certification shall be on a form supplied by the Department and shall include:
  - The practitioner's name and address;
  - The practitioner's South Dakota medical license and National Practitioner Identification numbers;
  - Certification that the practitioner has assessed the patient's medical history and current medical condition, including an in-person physical examination;
  - The date on which the physical examination was conducted;
  - Certification that the patient has a debilitating medical condition, as defined by 34-20G- 1(8), specifying the International Classification of Diseases, Tenth Revision (ICD-10) code;
  - Certification that the practitioner and patient have discussed treatment options for the patient's debilitating medical condition, including the benefits and risks of the medical use of cannabis;
  - Certification that the practitioner is available for further consultation with the patient as required;
  - The date, if applicable, on which the patient's need for the medical use of cannabis is expected to end;
  - The number of caregivers, if more than one, that the patient's age or medical condition necessitates.



## **Designated caregiver requirements (SDCL 34-20G-1(10)):**

- (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.

Caregiver employed by healthcare facilities designated to act as caregiver at a facility will require signature of officer of facility (ARSD 44:90:02:04).



## Home Cultivation of Cannabis (ARSD 44:90:02:02):

- ✓ Except in connection with nonresidents, the department shall reject a recommendation for the cultivation of cannabis not issued by a physician currently licensed pursuant to SDCL chapter 36-4.
- ✓ Unless the practitioner specifies otherwise, a recommendation to allow cultivation of cannabis shall be for **three plants** and shall expire on the same date as the patient's registry identification card.
  - ✓ See section 44:90:02:05 for patient designation of caregivers to cultivate cannabis
- ✓ If the practitioner recommends the cultivation of more than three plants, the recommendation shall specify the reasons for the extended plant count, including:
  - The research on which the practitioner relied in calculating the amount of cannabis required by the patient and that the risks associated with using that amount of cannabis are outweighed by the benefits;
  - The difficulty the patient would experience in obtaining an adequate supply of cannabis from dispensaries due to the patient's place of residence or level of disability;
  - The practitioner's reasoning as to why the extended plant count does not create an undue risk of diversion or abuse; and;
  - Any other factors justifying the recommendation.
- ✓ A recommendation for the cultivation of more than three plants shall expire 90 days after the date of the recommendation.



## 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



## Application Fees (ARSD 44:90:02:11):

- ✓ Initial application & yearly renewal of a patient registry ID card for South Dakota residents:
  - (A) \$20 for a low-income qualifying patient; and
  - (B) \$100 for all other applicants
- ✓ Qualifying patients shall submit an additional \$20 fee for the issuance of any caregiver registry identification card, except no fee shall be charged for the designation of a caregiver at the time of the initial or renewal application.
- ✓ An additional \$20 fee is required for the printing of a two-part registry identification card for patients electing to cultivate cannabis or designate a caregiver to cultivate cannabis.
- ✓ Nonresidents shall submit a \$100 fee with a registration application.
- ✓ All fees imposed under this section shall be nonrefundable.





## Process to Recognize Additional Debilitating Medical Conditions (ARSD 44:90:13):

- ✓ **SDCL 34-20G-72(1)**: A petition to the secretary to add a medical condition to the list of debilitating medical conditions for which a practitioner may recommend the medical use of cannabis must be submitted on forms provided by the department. The petition must include:
  - The name and address of the South Dakota resident filing the petition;
  - A clear description of the specific medical condition, defined as narrowly as possible, including any International Classification of Diseases, Tenth Revision (ICD-10) code applicable to the condition;
  - The diagnostic criteria for determining whether cannabis is appropriate for a patient with the medical condition; and
  - A detailed summary, with citations, of peer-reviewed research that treatment with cannabis produces superior treatment outcomes or fewer side effects, compared to currently available medications or other interventions;
  - Letters of support from two physicians currently licensed pursuant to SDCL chapter 36-4; and
  - Complete copies of any research cited in the petition.
  
- ✓ **SDCL 34-20G-72(1)**: The secretary's written decision to approve or deny a petition shall be issued within 180 days of submission and shall include the factors supporting the decision, including whether the written petition, public testimony, written comments, peer-reviewed research, and consultation with practitioners support the following conclusions:
  - The proposed medical condition is recognized by the medical profession as a serious and chronic medical condition;
  - Treatments currently available for the proposed condition are either ineffective or produce harmful side effects; and
  - Medical use of cannabis will provide therapeutic or palliative benefits that outweigh the risks of cannabis use.



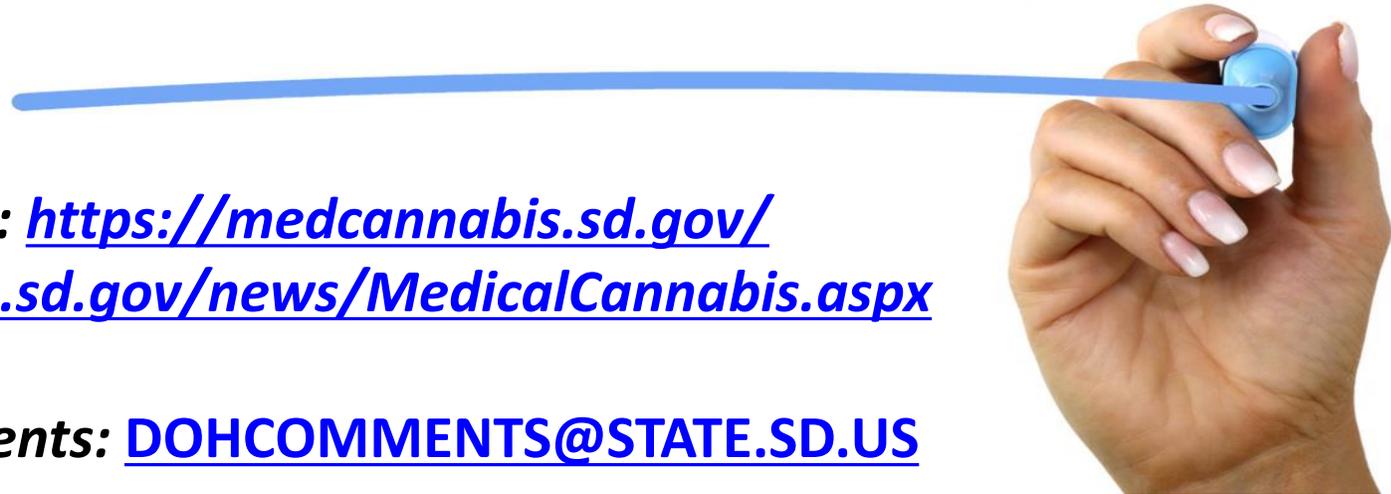
## Packaging, Labeling, and Advertising (ARSD 44:90:10)

- ✓ Expected effects – Time to take effect – Duration of effect (ARSD 44:90:10:11)
- ✓ Ingredients – Allergen warnings (ARSD 44:90:10:12)
- ✓ Contents – Net weight or volume – Nutritional information (ARSD 44:90:10:13)
- ✓ Required warnings – Indication that edible product contains cannabis – Side effects – Legal status of cannabis (ARSD 44:90:10:14)
- ✓ Prohibited forms of advertising (ARSD 44:90:10:17)
- ✓ Target audience – Establishments and adult cardholders only – Prohibition on advertising to practitioners (ARSD 44:90:10:18)





# QUESTIONS



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