



SOUTH DAKOTA
DEPARTMENT OF HEALTH

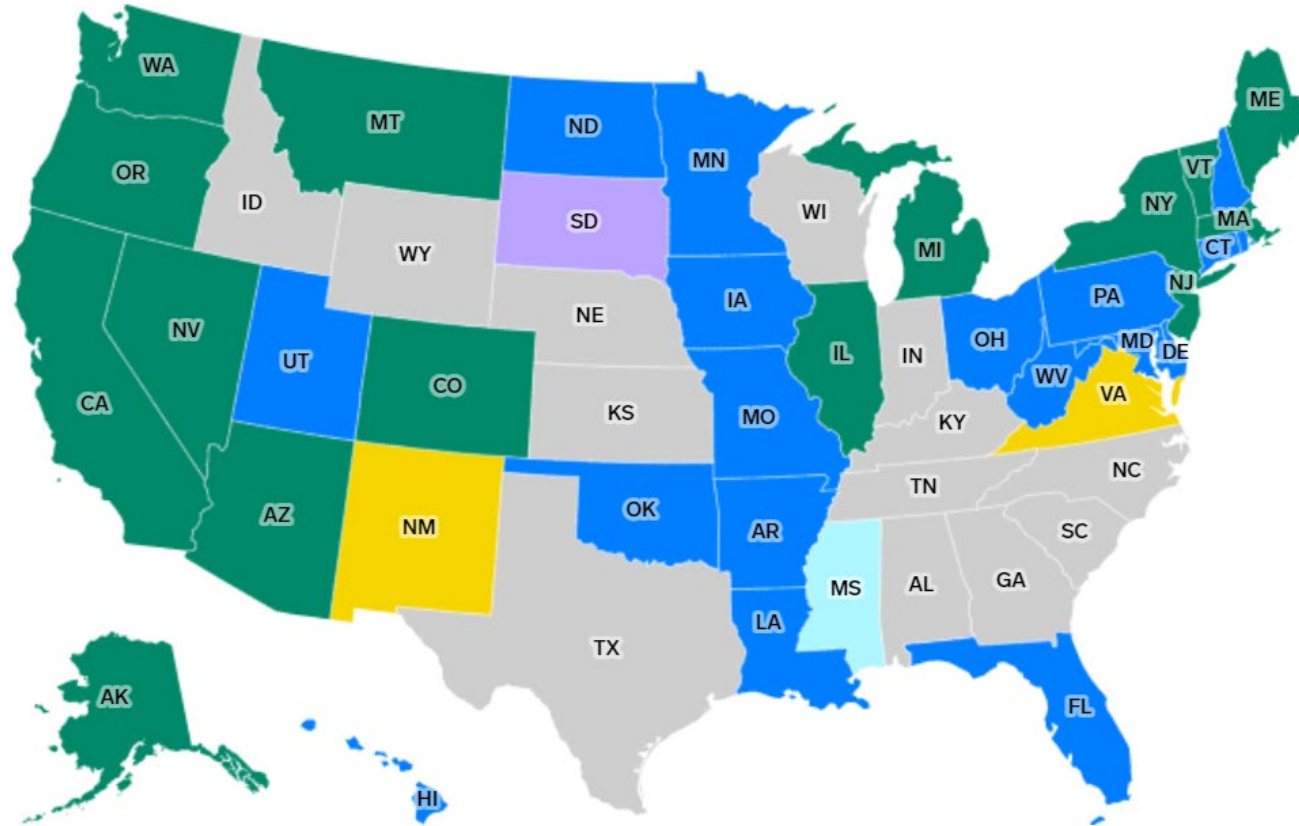
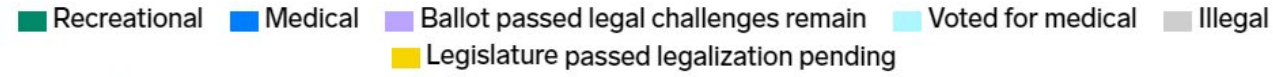
**SD Medical Cannabis Program
Information for Law Enforcement
June 2021**



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



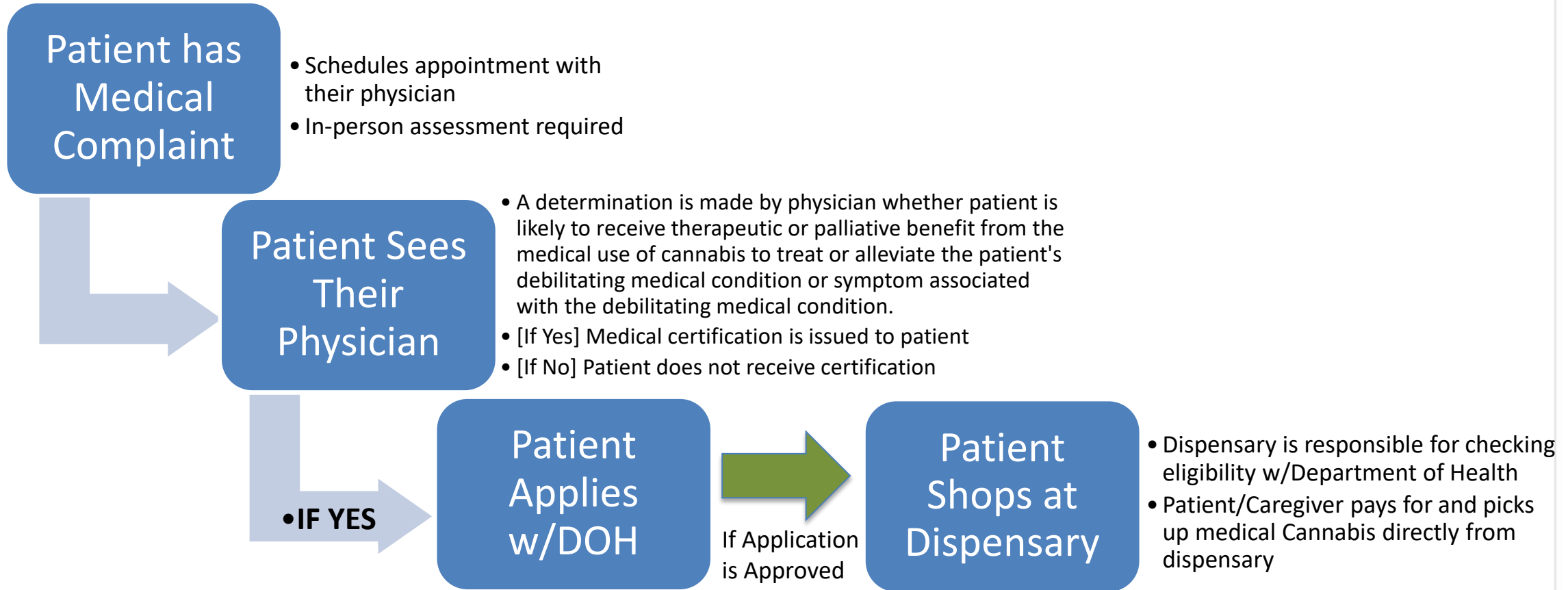


Role of DOH

- ✓ 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



Legal Protections/Crimes (SDCL 34-20G-2 through 34-20G-11, etc.)

- ✓ Affirmative defense for cardholders
- ✓ 34-20G-5 Practitioner not subject to arrest, prosecution, penalty or disciplinary action by the BMOE solely for providing written certifications or professional opinion as to therapeutic or palliative benefit.
- ✓ 34-20G-78 Certain conduct of practitioner as misdemeanor
 - No self-dealing – Class 2 misdemeanor for violation





Registry Identification Cards (ARSD 44:90:02)

- ✓ The department will issue to resident, who has met all registration requirements, a card with a unique identification number. This number may not be shared and/or transferred to any other individual/caregiver.
- ✓ Identification card will indicate whether cardholder is authorized to cultivate cannabis in their home, and if so, how the allowable amount.
 - Upon approval of the application, the Department will issue a two-part registry identification card to the patient or caregiver designated to cultivate cannabis:
 - One part of the registration card must be posted inside the enclosed, locked facility in which the cannabis is cultivated; and
 - The other part of the registration card must be carried by the patient or caregiver.
 - The entirety of a patient's cannabis must be cultivated in a single enclosed, locked facility.



Non-Resident's Provisions (ARSD 44:90:02:08 and 44:90:02:09):

- ✓ The department shall accept any of the following as sufficient documentation of a nonresident's debilitating medical condition:
 - Practitioner certification issued in the person's jurisdiction of residence and listing a debilitating medical condition consistent with SDCL 34-20G-1;
 - Practitioner certification issued in the person's jurisdiction of residence, along with additional medical records indicating a debilitating medical condition recognized by the department pursuant to SDCL 34-20G-1; or
 - Practitioner certification on a form supplied by the department.
- ✓ The department shall accept, as a nonresident's authorization to use medical cannabis, registry identification cards or their equivalent from any state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that enacts legislation allowing patients to purchase, at minimum, cannabis or cannabis products containing 5,000 mg of THC per month, except jurisdictions that limit the medical use of cannabis to hemp, as defined in SDCL 38-35-1, and its derivatives.



Non-Resident's Provisions (Continued):

- ✓ The department shall issue to a nonresident cardholder who has met all registration requirements a nonrenewable 10-digit identification number, which shall expire on the earliest of:
 - Six months from the date of issuance of the identification number;
 - The expiration date of the nonresident's proof of authorization issue by the jurisdiction where the nonresident cardholder resides; or
 - Any earlier expiration date specified by the practitioner's statement.
- ✓ The registration number shall be valid at no more than two dispensaries, which shall be designated by the nonresident cardholder at the time of registration.



Cannabis Transport Provisions (ARSD 44:90:04:20):

- ✓ A transport manifest is required for all authorized transfers of any amounts of cannabis, cannabis extracts, or cannabis products, except retail sales at the dispensary.

- ✓ The transport manifest shall contain:
 - The name, address, phone number, and license number of the establishment transporting the cannabis, cannabis extracts, or cannabis products;
 - The name, address, phone number, and license number of the establishment receiving the items;
 - The phone number and web address of the department's secure verification system;
 - Description and quantities, either by weight or unit, of all items, including samples, contained in each transport;
 - Date of transport and approximate time of departure and arrival;
 - Vehicle make, model and license plate number;
 - The name and signature of driver and any other agent accompanying the transport; and
 - The name and signature of the person accepting the transport, upon delivery.



Cannabis Transport Provisions (Continued):

- ✓ A separate transport manifest must be prepared for each medical cannabis establishment that will receive cannabis, cannabis extracts, or cannabis products.

- ✓ The vehicle must carry three copies of each transport manifest:
 - One for the recipient;
 - One to be returned to the originating establishment for the purposes of record keeping; and
 - One to be provided at the request of law enforcement or an agent of the department, if the vehicle is involved in a traffic stop or collision.



Cannabis Transport Provisions (Continued):

- ✓ Any cannabis, cannabis products, or cannabis extracts, including samples, that are refused by the intended recipient shall be noted on the transport manifest and noted in the establishments inventory records after the items are returned.
- ✓ A transport manifest shall not otherwise be altered after departing from the originating premises.
- ✓ The transport manifest does not take the place of a chain-of-custody form that may be required of the establishment.



Labeling (ARSD 44:90:10)

- ✓ All cannabis, cannabis extract, and cannabis products shall be labeled in accordance with this chapter before sale or transfer to the patient or caregiver.
 - Prior to transferring cannabis to a dispensary, a cultivation facility must label the marketing layer of each container.
 - Prior to transferring cannabis products to a dispensary, a cannabis product manufacturing
- ✓ Unless otherwise specified, all required information may be printed directly on, or printed on a sticker attached to the marketing layer of the cannabis, cannabis extract, or cannabis product.
- ✓ Format of Labeling:
 - All required information shall be printed clearly in English in type no smaller than 6-point font (1/12 inch).
 - An establishment may affix an extendable, accordion-style, label, layered label, or multiple labels to the marketing layer, provided none of the required information is obstructed and the label can be easily identified by a patient or caregiver as containing important information.
- ✓ Labeling Claims (Result of Testing):
 - The results of any testing mandated by the department shall be included on the label of any cannabis or cannabis product.
 - No label shall contain claims regarding cannabinoid potency or the absence of microbials, metals, solvents, or pesticides except to list the results of analytical tests performed by a registered cannabis testing facility.

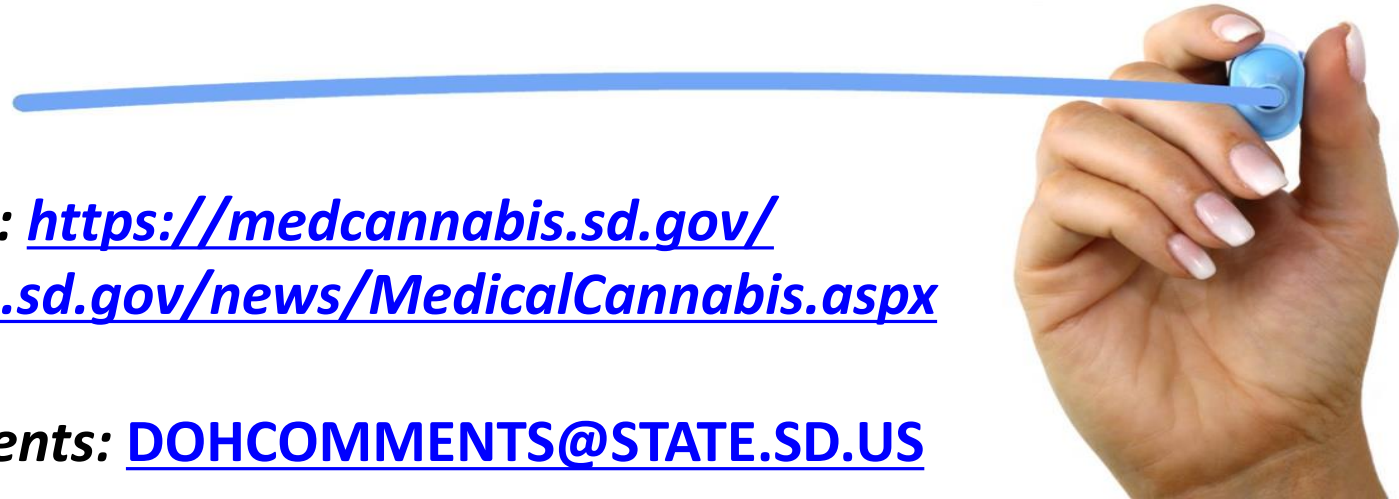


Other Provisions:

- ✓ Enforcement – ARSD 44:90:12
 - Department inspection of establishments
 - Suspension or revocation of registration certificates.
 - Revocation of registry identification card for unauthorized sale.
 - Revocation of registry identification card for serious or multiple violations.



QUESTIONS



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