



SOUTH DAKOTA
DEPARTMENT OF HEALTH

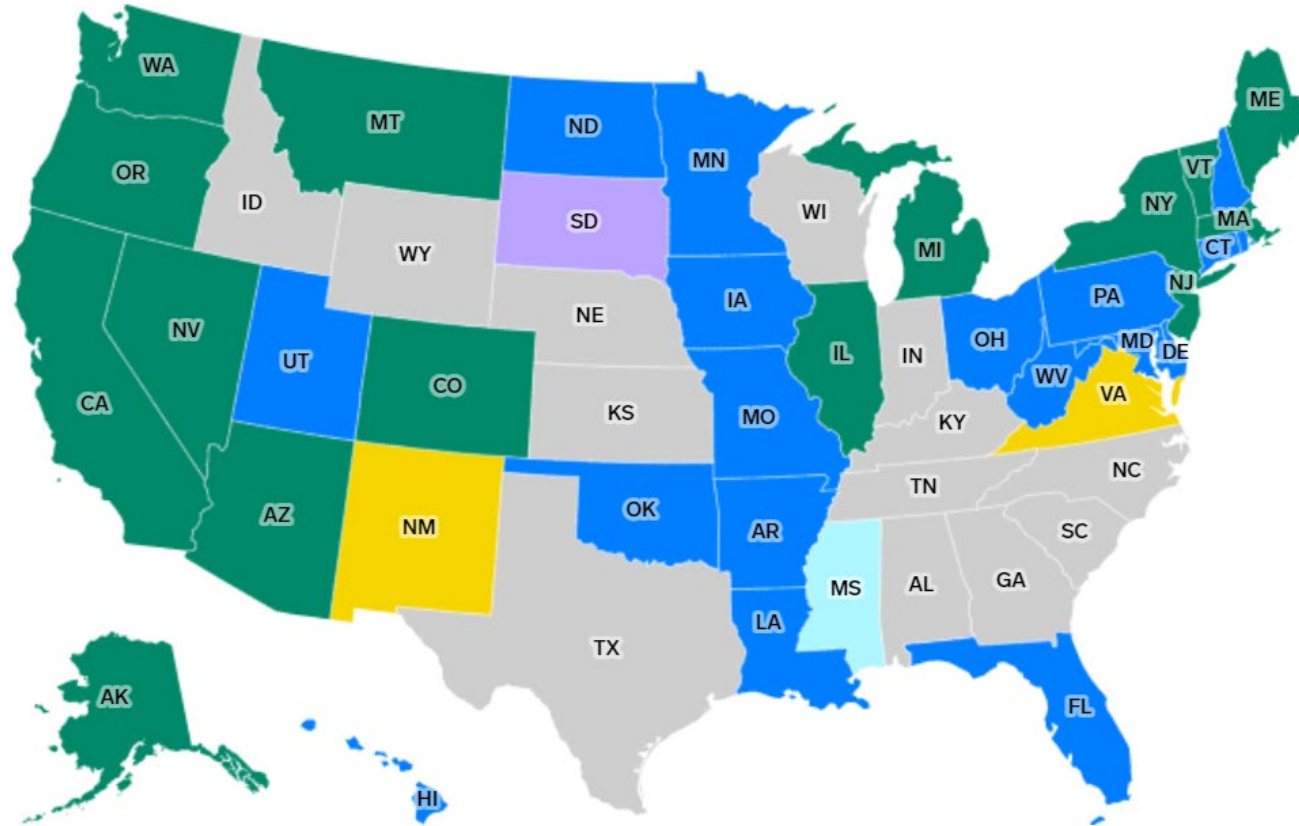
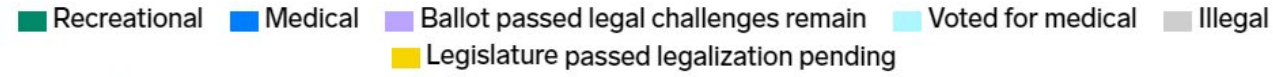
**SD Medical Cannabis Program
Information for Local Governments
June 2021**



Overview

- ✓ National Landscape
- ✓ Medical Cannabis in SD
- ✓ Key Implementation Da
- ✓ 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



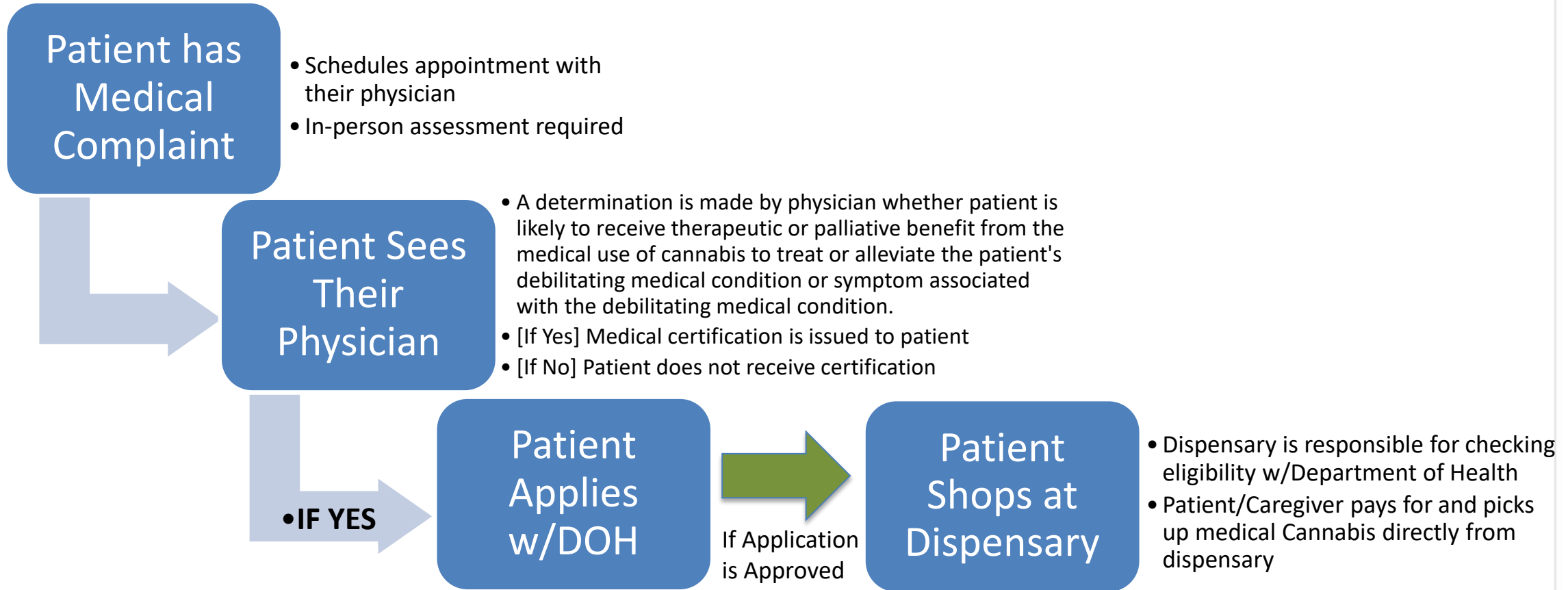


Role of DOH

- ✓ 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





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):

- ✓ 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.



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.



Prohibited Forms of Advertising (ARSD 44:90:10:17):

- ✓ No establishment shall advertise:
 - ✓ On a sign or billboard, except that a dispensary may advertise on signs on its own premises;
 - ✓ By distributing handbills in public areas or on publicly owned property;
 - ✓ Through direct mail, phone, text, or email without verifying the recipient is a cardholder or medical cannabis establishment and offering a permanent opt-out feature;
 - ✓ On television or radio;
 - ✓ Through a practitioner or health care facility, including placement of advertising material onsite or targeting their patients through direct mail, phone, text or email.



Prohibited Content - Advertisements (ARSD 44:90:10:19):

- ✓ No advertisement for a medical cannabis establishment shall:
 - Make deceptive, false or misleading statements;
 - Make claims related to potency (beyond listing of cannabinoid content verified by a testing facility);
 - Depict consumption of cannabis or cannabis products;
 - Depict pregnancy, breastfeeding, or operating a motorized vehicle, boat or machinery;
 - Depict or refer to candy or a specific type of candy;
 - Use a trademark associated with a non-cannabis product, including parody or other use that has similarity to the original;
 - Encourage the transportation of cannabis across state lines or otherwise encourage illegal activity;
 - Assert that cannabis is safe because it is regulated by the department, tested by a testing facility, or otherwise endorsed by any government agency;
 - Make claims that cannabis has curative or therapeutic effects;
 - Claim any health or physical benefits; or
 - Encourage excessive or rapid consumption.



Required Information- Advertisements (ARSD 44:90:10:20):

- ✓ Any advertisement shall contain the following information:
 - A statement “For medical use by qualifying patients only”; and
 - The medical cannabis establishment identification number

Nonconforming Advertising (ARSD 44:90:10:21):

- ✓ Any nonconforming advertising shall be considered a violation of this article and SDCL chapter 34-20G.
- ✓ Upon notification by the department, the establishment shall cease the nonconforming advertisements and remove any nonconforming advertising from websites, social media, mobile applications, or signs.
- ✓ Failure to cease or remove the advertising within 48 hours shall be considered a serious and knowing violation of this article and SDCL chapter 34-20G.

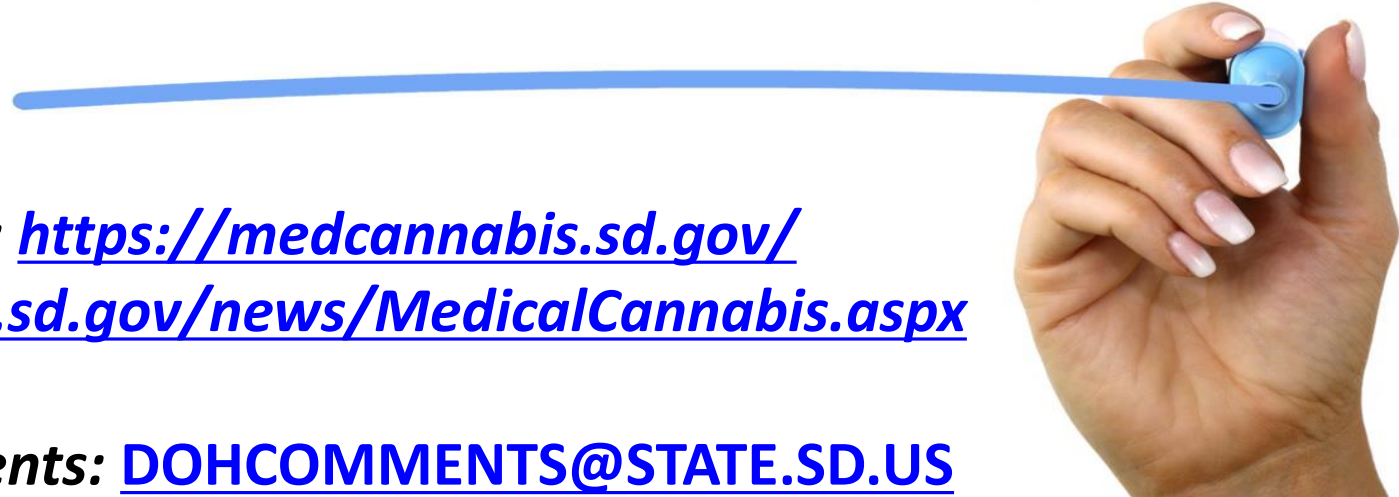


Other Provisions

- ✓ 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