

INITIATIVE PETITION

10 FEB 26 PM 3: 53

SECRETARY OF STATE
STATE OF IDAHO

WARNING

It is a felony for anyone to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a qualified elector.

To the Honorable Ben Ysursa, Secretary of State of the State of Idaho:

"We, the undersigned citizens and qualified electors of the State of Idaho, respectfully demand that the following proposed law, to-wit:

Short Title

xx

General Title

xx

Be it Enacted by the Voters of the State of Idaho:

SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 91, Title 39, Idaho Code, and to read as follows:

**CHAPTER 91
IDAHO MEDICAL MARIJUANA ACT**

39-9101. **SHORT TITLE.** This act may be cited as the "Idaho Medical Marijuana Act."

39-9102. **FINDINGS.** The people of Idaho find and declare the following;

WHEREAS numerous organizations have endorsed medical access to marijuana, including the American College of Physicians, AIDS Action Council, American Nurses Association, American Academy of HIV Medicine, American Bar Association, American Medical Student Association, American Academy of Family Physicians, American Preventive Medical Association, American Public Health Association, Institute of Medicine, Lymphoma Foundation of America, National Association for Public Health Policy, National Association of People with AIDS, and the National Women's Health Network;

WHEREAS since 1978 the Food and Drug Administration has allowed fifteen (15) patients to use National Institute on Drug Abuse-provided medical marijuana grown at the University of Mississippi under the Compassionate Investigational New Drug program, of which four patients remain as of January 2013;

WHEREAS data from the Federal Bureau of Investigation's Uniform Crime Reports and the

Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law, changing state law will have the practical effect of protecting from arrest the majority of seriously ill patients who have a medical need to use marijuana;

WHEREAS in 1988 DEA Administrative Judge Francis Young ruled with respect to whether there is "a lack of accepted safety for use of [marijuana] under medical supervision the record shows the facts to be uncontroverted that marijuana, in its natural form, is one of the safest therapeutically active substances known to man. By any measure of rational analysis marijuana can be safely used within a supervised routine of medical care.";

WHEREAS seriously ill people should not be punished or fined for acting in accordance with the opinions of their physicians in a bona fide attempt to relieve suffering;

WHEREAS compassion dictates that a distinction is made between medical and non-medical uses of marijuana;

THEREFORE the purpose of this chapter is to protect from arrest, prosecution, property forfeiture, and criminal and other penalties, those patients who use marijuana to alleviate suffering from debilitating medical conditions, as well as their physicians, primary caregivers, and those who are authorized to produce marijuana for medical purposes and to facilitate the availability of marijuana in Idaho for legal medical use."

39-9103. DEFINITIONS.

For purposes of this chapter, unless the context otherwise requires:

- (1) "Agent" includes a principal officer, board member, employee, or volunteer of a medical marijuana organization who is at least twenty-one years of age, who has not been convicted of a felony offense, and who is working at the direction or on behalf of the medical marijuana organization.
- (2) "Allowable amount of marijuana" means:
 - (a) With respect to a qualifying patient:
 - (i) Two-and-one-half (2.5) ounces of usable marijuana; and
 - (ii) If the qualifying patient's registry identification card states that the qualifying patient is exempt from criminal penalties for cultivating marijuana:
 1. Twelve (12) marijuana plants contained in an enclosed, locked facility, except the plants are not required to be in an enclosed, locked facility if the plants are being transported because the qualifying patient is moving; and
 2. Marijuana that is produced from allowable plants that is on the premises where the plants were grown.
 - (b) With respect to a designated caregiver, for each patient assisted by the designated caregiver under this chapter:
 - (i) Two-and-one-half (2.5) ounces of usable marijuana; and
 - (ii) If the designated caregiver's registry identification card provides that the designated caregiver is exempt from criminal penalties for cultivating marijuana:
 1. Twelve (12) marijuana plants, provided that the total number of plants may not exceed thirty (30), contained in an enclosed, locked facility, except the plants are

not required to be in an enclosed, locked facility if the plants are being transported because the designated caregiver is moving; and

2. Marijuana that is produced from allowable plants that is on the premises where the plants were grown.

(c) Marijuana that is incidental to medical use, but is not usable marijuana as defined in this chapter, may not be counted toward a qualifying patient's or designated caregiver's allowable amount of marijuana.

(3) "Cardholder" means a qualifying patient, a designated caregiver, or an agent of a medical marijuana organization who has been issued and possesses a valid registry identification card.

(4) "Debilitating medical condition" means:

(a) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, post-traumatic stress disorder, or the treatment of these conditions;

(b) A chronic or debilitating disease or medical condition or its treatment that produces cachexia or wasting syndrome, severe and chronic pain, severe nausea, seizures, including those characteristic of epilepsy, or severe and persistent muscle spasms, including those characteristic of multiple sclerosis;

(c) Any terminal illness with life expectancy of less than twelve (12) months; or

(d) Any other medical condition or its treatment added by the department pursuant to section 39-9104.

(5) "Department" means the department of health and welfare.

(6) "Designated caregiver" means a person who:

(a) Is at least twenty-one years (21) of age; and

(b) Has agreed to assist no more than five (5) qualifying patients with the medical use of marijuana.

(7) "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

(8) "Felony offense" means:

(a) An offense that was classified as a felony in the jurisdiction where the person was convicted and was:

(i) A violent crime; or

(ii) A violation of a state or federal controlled substance law.

(b) The term does not include an offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed five or more years earlier.

(8) "Marijuana" means all parts of any plant of the genus cannabis whether growing or not, the seeds of the plant, the resinous product of the combustion of the plant cannabis, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(9) "Medical marijuana dispensary" means an entity registered under section 39-9107 that

c.

- acquires marijuana plants, marijuana seeds, or usable marijuana from medical marijuana production facilities and distributes marijuana plants, marijuana seeds, usable marijuana, or related supplies and educational materials to registered qualifying patients or registered designated caregivers.
- (10) “Medical marijuana organization” means a medical marijuana dispensary, a medical marijuana production facility, or a safety compliance facility.
- (11) “Medical marijuana production facility” means an entity registered under section 39-9107 that cultivates, harvests, processes, manufactures, prepares, packs, and stores marijuana and delivers, transfers, or sells the marijuana to medical marijuana dispensaries.
- (12) “Medical use” means the acquisition, possession, planting, cultivation, propagation, harvest, production, processing, manufacture, testing, compounding, converting, use, administration, preparation, delivery, transfer, or transportation of marijuana and all related supplies and equipment to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.
- (13) “Practitioner” means an individual who is authorized to prescribe drugs pursuant to chapter 18, title 54, Idaho Code.
- (14) “Qualifying patient” means a person who has been diagnosed by a practitioner as having a debilitating medical condition.
- (15) “Registration certificate” means a document issued by the department that identifies an entity as a medical marijuana dispensary, medical marijuana production facility, or a safety compliance facility.
- (16) “Registry identification card” means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver, or an agent of a medical marijuana organization.
- (17) “Safety compliance facility” means an entity registered under section 39-9107 by the department to provide consumer protection services to the public by means of laboratory sampling and testing for potency and contaminants or public information and training services regarding:
- (i) The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;
 - (ii) Security and inventory accountability procedures; or
 - (iii) Scientific and medical research findings related to medical marijuana.
- (18) “Usable marijuana” means the flowers of the marijuana plant, or any mixture or preparation thereof, but does not include the seeds, stalks, leaves, and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink.
- (19) “Verification system” means a secure phone or web-based system that is established and maintained by the department and is available to law enforcement personnel and registered medical marijuana organization agents for verification of registry identification cards.
- (20) “Visiting qualifying patient” means a person who was diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence, who possesses a registry identification card, or its equivalent, that was issued pursuant to the laws of another state, and:

- (a) Is not a resident of Idaho; or
 - (b) Has been a resident of Idaho fewer than thirty (30) days.
- (21) "Written certification" means a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The practitioner must:
- (a) Specify the qualifying patient's debilitating medical condition in the written certification; and
 - (b) Sign and date the written certification only in the course of a practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history and current medical condition.

39-9104. Addition of debilitating medical conditions.

- (1) The public may petition the department to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 39-9103(4). The department shall consider petitions in the manner required by department rule. The department shall approve or deny a petition within one hundred eighty (180) days of its submission. The approval or denial of a petition is subject to review pursuant to chapter 52, title 67, Idaho Code.
- (2) The department shall add a debilitating medical condition or treatment to the list of debilitating medical conditions set forth in 39-9103(4) upon receipt by the department of a petition signed by at least fifty (50) practitioners requesting the debilitating medical condition or treatment be added.

39-9105. Limitations.

This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for:

- (1) Undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice.
- (2) Possessing or engaging in the medical use of marijuana:
 - (a) On a school bus.
 - (b) On the grounds of any preschool or primary or secondary school.
 - (c) In any correctional facility.
- (3) Smoking marijuana:
 - (a) On any form of public transportation.
 - (b) In any public place.
- (4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana, except a registered qualifying patient or a visiting qualifying patient may not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
- (5) Using marijuana except as authorized under this chapter.

39-9106. Rulemaking.

- (1) The department shall adopt rules that set forth the procedures and methods for

implementing this chapter, including rules:

- (a) Governing the manner it must consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in section 39-9104, including public notice of, and an opportunity to comment in, a public hearing upon petitions.
- (b) Establishing the form and content of registration and renewal applications submitted under this chapter.
- (c) Establishing a system to numerically score competing medical marijuana dispensary applicants that must include analysis of:
 - (i) The suitability of the proposed location and its accessibility for patients;
 - (ii) The character, veracity, background, and relevant experience of principal officers and board members; and
 - (iii) The business plan proposed by the applicant, including its ability to maintain an adequate supply of marijuana, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income registered qualifying patients.
- (d) Governing the manner it shall consider applications for and renewals of registry identification cards.
- (e) Governing medical marijuana organizations to prevent diversion and theft without imposing an undue burden or compromising the confidentiality of cardholders, including:
 - (i) The manner it must consider applications for and renewals of registration certificates.
 - (ii) Oversight requirements.
 - (iii) Recordkeeping requirements.
 - (iv) Security requirements, including requirements for protection of each location by a fully operational security alarm system.
 - (v) Safety requirements.
 - (vi) Requirements for the dispensing of medical marijuana by use of an automated machine.
 - (vii) Requirements and procedures for the safe and accurate packaging and labeling of medical marijuana.
- (f) Procedures for suspending or revoking the registration certificates or registry identification cards of medical marijuana organizations or cardholders who violate the provisions of this chapter or the rules adopted pursuant to this section.
- (g) Establishing application and renewal fees for registry identification cards and registration certificates, according to the following:
 - (i) The total amount of all fees must generate revenues sufficient to implement and administer this chapter, except fee revenue may be offset or supplemented by private donations.
 - (ii) The fee for a registry identification card, a registration certificate, a renewal registry identification card, or a renewal of a registration certificate may be no greater than necessary.
 - (iii) The total amount of revenue from registration certificate application and renewal fees and registry identification card fees for the agents of medical marijuana organizations must be sufficient to implement and administer the provisions of

- this chapter relating to medical marijuana organizations, including the verification system, except fee revenue may be offset or supplemented by private donations.
- (iv) The application or renewal fee for a qualifying patient shall not exceed one hundred dollars (\$100), with this upper limit adjusted annually for inflation, unless the department determines a greater fee is necessary to carry out its responsibilities under this chapter.
 - (v) The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income.
 - (vi) The department may consider private donations under section 39-9128 to reduce application and renewal fees.
- (2) The department is authorized to adopt the rules set forth in subsection 1 and must adopt those rules pursuant to chapter 52, title 67, Idaho Code.

39-9107. Registration and certification of medical marijuana organizations.

- (1) Medical marijuana organizations shall register with the department.
- (2) Not later than ninety (90) days after receiving an application for a medical marijuana organization, the department shall register the prospective medical marijuana organization and issue a registration certificate and a random twenty (20) digit alphanumeric identification number if all of the following conditions are satisfied:
 - (a) The prospective medical marijuana organization has submitted all of the following:
 - (i) The application fee.
 - (ii) An application, including:
 - 1. The legal name of the prospective medical marijuana organization;
 - 2. The physical address of the prospective medical marijuana organization that is not within one thousand (1,000) feet of a public or private school existing before the date of the medical marijuana organization application;
 - 3. The name and date of birth of each principal officer and board member of the proposed medical marijuana organization;
 - 4. The name and date of birth of each additional agent of the proposed medical marijuana organization; and
 - 5. Any additional information requested by the department.
 - (iii) Operating procedures consistent with department rules for oversight of the proposed medical marijuana organization, including procedures to ensure accurate record keeping and adequate security measures.
 - (iv) If the city or county where the proposed medical marijuana organization would be located has enacted zoning restrictions, a sworn statement certifying that the proposed medical marijuana organization is in compliance with the restrictions.
 - (b) None of the principal officers or board members has served as a principal officer or board member for a medical marijuana organization that has had its registration certificate revoked if the principal officer or board member had knowledge of an ongoing violation of this chapter at the former medical marijuana organization.
 - (c) None of the principal officers or board members is under twenty-one (21) years of age.
 - (d) At least one (1) principal officer is a resident of Idaho.
 - (e) If the proposed medical marijuana organization is a medical marijuana dispensary applicant, it is located in a county with more than twenty thousand (20,000)

permanent residents and the county does not already contain a medical marijuana dispensary.

- (3) When competing applications are submitted for a proposed medical marijuana dispensary within a single county, the department shall use an impartial and numerically scored competitive bidding process to determine which application among those competing will be approved. The department may conduct a background check of the principal officers and board members of the prospective medical marijuana dispensary to carry out this provision.
- (4) The department may register additional medical marijuana organizations at its discretion.

39-9108. Registration of medical marijuana organization agents.

- (1) Any prospective agent of a medical marijuana organization shall be registered with the department before volunteering or working at a medical marijuana organization.
- (2) A medical marijuana organization may apply to the department for a registry identification card for each prospective agent of the medical marijuana organization by submitting:
 - (a) The name and date of birth of the prospective agent;
 - (b) A medical marijuana organization agent application; and
 - (c) The application fee.

39-9109. Registration of qualifying patients and designated caregivers.

- (1) A qualifying patient may apply to the department for a registry identification card by submitting all of the following:
 - (a) Written certification issued by a practitioner within the ninety (90) days immediately preceding the date of application.
 - (b) The application fee.
 - (c) An application, including:
 - (i) Name, mailing address, and date of birth of the qualifying patient;
 - (ii) Name, mailing address, and telephone number of the qualifying patient's practitioner;
 - (iii) Name, mailing address, and date of birth of the qualifying patient's designated caregiver, if any;
 - (iv) A signed statement from the designated caregiver, if any, agreeing to be the patient's designated caregiver and certifying that if the application is approved he will not be a registered designated caregiver for more than five (5) registered qualifying patients; and
 - (v) A designation as to who will be allowed to cultivate marijuana plants for the qualifying patient's medical use if a medical marijuana dispensary is not operating within fifteen (15) miles of the qualifying patient's home and the address where the marijuana plants will be cultivated.
- (2) The application for a qualifying patient's registry identification card must ask whether the patient would like the department to notify him of any clinical studies needing human subjects for research on the medical use of marijuana. The department shall notify interested patients if it is notified of studies that will be conducted in the United States.

39-9110. Issuance of registry identification cards.

- (1) Except as provided in subsection (2) and in section 39-9112, the department shall:
 - (a) Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within ten (10) days of receiving a completed application or renewal.
 - (b) Issue a registry identification card to a qualifying patient and his designated caregiver, if any, within five (5) days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his qualifying patients.
 - (c) Issue each medical marijuana organization agent a registry identification card and log-in information for the verification system within five (5) days of approving the application or renewal.
- (2) The department may not issue a registry identification card to a qualifying patient who is under the age of eighteen (18) unless:
 - (a) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian responsible for health care decisions for the qualifying patient;
 - (b) A custodial parent or legal guardian responsible for health care decisions for the qualifying patient submits a written certification from two (2) practitioners; and
 - (c) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to allow the qualifying patient's medical use of marijuana, to serve as the qualifying patient's designated caregiver, and to control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.
- (3) If the registry identification card of either a qualifying patient or the patient's designated caregiver does not state that the cardholder is authorized to cultivate marijuana plants, the department must give written notice to the registered qualifying patient, when the qualifying patient's registry identification card is issued, of the names and addresses of all registered medical marijuana dispensaries.
- (4) The department may conduct a background check of any prospective medical marijuana organization agent to carry out this provision.

31-9111. Contents of registry identification cards.

- (1) Registry identification cards for qualifying patients and designated caregivers must contain all of the following:
 - (a) Name and date of birth of the cardholder;
 - (b) A statement of whether the cardholder is a qualifying patient or a designated caregiver;
 - (c) The date of issuance and expiration date of the registry identification card;
 - (d) A random twenty (20) digit alphanumeric identification number that is unique to the cardholder and contains at least four (4) numbers and at least four (4) letters;
 - (e) If the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting;
 - (f) A photograph of the cardholder; and
 - (g) A clear indication of whether the cardholder has been authorized by this chapter to cultivate marijuana plants for the qualifying patient's medical use.
- (2) Registry identification cards for medical marijuana organization agents must contain the

following:

- (a) The name and date of birth of the agent;
- (b) A statement that the cardholder is an agent of a medical marijuana dispensary, a medical marijuana production facility, or a safety compliance facility;
- (c) The legal name and the registration certificate number of the medical marijuana organization that the agent is affiliated with;
- (d) A random twenty (20) digit alphanumeric identification number that is unique to the cardholder;
- (e) The date of issuance and expiration date of the registry identification card; and
- (f) A photograph of the cardholder, if the department decides to require one.

39-9112. Denial of registry identification cards.

- (1) The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:
 - (a) Does not meet the requirements of section 39-9103(14);
 - (b) Does not provide the information required;
 - (c) Previously had a registry identification card revoked for violating this chapter; or
 - (d) Provides false information.
- (2) The department may deny an application or renewal of a designated caregiver's registry identification card only if the applicant:
 - (a) Does not meet the requirements of section 39-9103(6);
 - (b) Does not provide the information required;
 - (c) Previously had a registry identification card revoked for violating this chapter; or
 - (d) Provides false information.
- (3) The department may deny a registry identification card to a prospective agent of a medical marijuana organization only if:
 - (a) The applicant does not meet the requirements of section 39-9103(1);
 - (b) The applicant or medical marijuana organization does not provide the required information;
 - (c) The applicant previously had a registry identification card revoked for violating this chapter; or
 - (d) The applicant or medical marijuana organization provides false information.
- (4) At the time the department denies a registry identification card to a prospective agent of a medical marijuana organization, it shall give written notice to the medical marijuana organization of the reason for denying a registry identification card to the prospective agent.
- (5) At the time the department denies a registry identification card to a patient or to a designated caregiver, it shall give written notice to the qualifying patient of the reason for denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver.
- (6) Denial of an application or renewal is subject to review pursuant to chapter 52, title 67, Idaho Code.

39-9113. Expiration and renewal of registry identification cards and registration certificates – Replacement.

- (1) All registry identification cards and registration certificates expire at least one (1) year

after the date of issue.

- (2) The department shall immediately cancel the registry identification card of a registered medical marijuana organization agent and shall immediately deactivate a registered medical marijuana dispensary agent's access to the verification system upon notification to the department by a medical marijuana organization that the agent is no longer employed by or no longer volunteers at the medical marijuana organization.
- (3) The department shall issue a renewal registration certificate within ten (10) days of receipt of the prescribed renewal application and renewal fee from a medical marijuana organization if its registration certificate is not under suspension and has not been revoked.
- (4) If a cardholder loses his registry identification card, he shall promptly notify the department. Within five (5) days of the notification, and upon payment of a ten dollar (\$10) fee, the department shall issue a new registry identification card with a new random identification number to the cardholder and, if the cardholder is a registered qualifying patient, to the registered qualifying patient's registered designated caregiver, if any.

39-9114. Facility restrictions.

- (1) Any nursing facility, intermediate care facility, hospice house, hospital, or other type of residential care or assisted living facility may adopt reasonable restrictions on the use of marijuana by their residents or a person receiving inpatient services, including:
 - (a) That the facility will not store or maintain the patient's supply of marijuana;
 - (b) That the facility, caregivers, or hospice agencies serving the facility's residents are not responsible for providing the marijuana for qualifying patients;
 - (c) That marijuana is consumed by a method other than smoking; or
 - (d) That marijuana is consumed only in a place specified by the facility.
- (2) Nothing in this section requires a facility listed in subsection (1) to adopt restrictions on the medical use of marijuana.
- (3) A facility listed in subsection (1) may not unreasonably limit a registered qualifying patient's access to or use of marijuana authorized under this chapter unless failing to do so would cause the facility to lose a monetary or licensing-related benefit under federal law or rule.

39-9115. Requirements for medical marijuana organizations.

- (1) The operating documents of a medical marijuana organization must include procedures for the oversight of the medical marijuana organization and procedures to ensure accurate recordkeeping.
- (2) A medical marijuana organization shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.
- (3) All cultivation, harvesting, manufacture, and packaging of marijuana by a medical marijuana production facility must take place in an enclosed, locked facility at a physical address provided to the department during the registration process. The enclosed, locked facility may only be accessed by registered agents of the medical marijuana production facility.
- (4) A medical marijuana dispensary or medical marijuana production facility may acquire usable marijuana or marijuana plants from a registered qualifying patient or a registered

designated caregiver only if the registered qualifying patient or registered designated caregiver receives no compensation for the marijuana.

- (5) A medical marijuana dispensary shall not share office space with or refer patients to a practitioner.
- (6) A medical marijuana organization may not permit any person to consume marijuana on the property of a medical marijuana organization.
- (7) Medical marijuana organizations are subject to reasonable inspection by the department. The department shall give reasonable notice of an inspection under this subsection.

39-9116. Medical marijuana organization locations.

A city and county may enact reasonable zoning rules that limit the use of land for medical marijuana dispensaries, medical marijuana production facilities, or safety compliance facilities to specified areas pursuant to chapter 65, Title 67, Idaho Code.

39-9117. Dispensing marijuana for medical use.

- (1) Before marijuana may be dispensed to a registered qualifying patient or a registered designated caregiver, a registered medical marijuana dispensary agent must not believe that the amount dispensed would cause the cardholder to possess more than the allowable amount of marijuana.
- (2) Usable marijuana may be dispensed to a registered qualifying patient or to a registered designated caregiver by an automated machine located in a restricted access area of the medical marijuana dispensary if the machine complies with the rules promulgated by the department and the requirements of this section.

39-9118. Verification system.

- (1) The department shall establish and maintain a verification system for use by law enforcement personnel and registered medical marijuana organization agents to verify registry identification cards.
- (2) The verification system must allow law enforcement personnel and registered medical marijuana dispensary agents to enter a registry identification number and verify whether the number corresponds with a current, valid identification card at all times.
- (3) The system may disclose only whether the identification card is valid, the name of the cardholder, whether the cardholder is a qualifying patient, a designated caregiver, or a medical marijuana organization agent, whether the cardholder is permitted to cultivate marijuana plants and the location where the plants are cultivated, the registration certificate number of any affiliated medical marijuana organization, and the registry identification number of any affiliated registered qualifying patient.
- (4) At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.

39-9119. Notifications to department.

- (1) A registered qualifying patient shall notify the department within ten (10) days of any change in the registered qualifying patient's name, mailing address, designated caregiver, preference regarding who may cultivate marijuana for the registered qualifying patient, address where marijuana plants are cultivated, or if the registered qualifying patient

- ceases to have his debilitating medical condition.
- (2) A registered designated caregiver shall notify the department within ten (10) days of any change in his name or mailing address.
 - (3) A registered medical marijuana organization agent shall notify the department within ten (10) days of any change in his name.
 - (4) If a cardholder notifies the department of any changes listed in this section but remains eligible under this chapter, the department shall issue the cardholder a new registry identification card with new random twenty (20) digit alphanumeric identification numbers within ten (10) days of receiving the updated information and a ten (\$10) dollar fee. If the person notifying the department is a registered qualifying patient, the department shall also issue his registered designated caregiver, if any, a new registry identification card within ten (10) days of receiving the updated information.
 - (5) If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana and that the certifying practitioner has notified the qualifying patient of this belief, the card is void upon notification by the department to the qualifying patient.
 - (6) If a registered qualifying patient ceases to be a registered qualifying patient or changes the registered designated caregiver, the department shall promptly notify the former designated caregiver that his duties and rights under this chapter for the qualifying patient expire fifteen (15) days after the department sends notification.
 - (7) A medical marijuana organization shall notify the department within one (1) business day after an agent is no longer employed by or volunteers at the medical marijuana organization.
 - (8) A medical marijuana organization shall notify the department within one (1) business day of any theft or significant loss of marijuana.

39-9120. Annual report.

The department shall submit to the legislature an annual public report that does not disclose any identifying information about cardholders, medical marijuana organizations, or practitioners but contains all of the following information:

- (1) The number of registry identification card applications and renewals;
- (2) The number of qualifying patients and designated caregivers approved;
- (3) The nature of the debilitating medical conditions of the qualifying patients;
- (4) The number of registry identification cards revoked;
- (5) The number of practitioners providing written certifications for qualifying patients;
- (6) The number of medical marijuana dispensaries, medical marijuana production facilities, and safety compliance facilities; and
- (7) The number of medical marijuana dispensary agents, medical marijuana production facility agents, and safety compliance facility agents.

39-9121. Confidentiality.

- (1) Information received and records kept by the department for purposes of administering this chapter are confidential and may be disclosed only as authorized by this chapter, including:

- (a) Applications or renewals, their contents, and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and practitioners.
 - (b) Applications or renewals, their contents, and supporting information submitted by agents of medical marijuana organizations.
 - (c) Applications or renewals, their contents, and supporting information submitted by or on behalf of medical marijuana organizations operating in compliance with this chapter, including the physical addresses of medical marijuana organizations.
 - (d) The individual names and other information identifying persons to whom the department has issued registry identification cards.
- (2) Any dispensing information kept or maintained by medical marijuana organizations or by the department must identify cardholders and medical marijuana organizations by their registry identification numbers and not contain names or other personally identifying information.
 - (3) Any department hard drives or other data recording media that are no longer in use and that contain cardholder information must be destroyed. The department shall retain a signed statement from a department employee confirming the destruction.
 - (4) Data subject to this section must not be combined or linked in any manner with any other list or database, and it may not be used for any purpose not provided for in this chapter.
 - (5) Confidential information may be disclosed as necessary for authorized department employees to perform official duties of the department pursuant to this chapter, including the verification of registration certificates and registry identification cards pursuant to section 39-9118 or submission of the section 39-9120 report to the legislature.
 - (6) Nothing in this section precludes the following notifications:
 - (a) Department employees may notify state or local law enforcement about falsified or fraudulent information submitted to the department if the employee who suspects falsified or fraudulent information was submitted has conferred with his supervisor and both agree the circumstances warrant reporting.
 - (b) The department may notify state or local law enforcement about apparent criminal violations of this chapter if the employee who suspects the offense has conferred with his supervisor and both agree the circumstances warrant reporting.
 - (c) Department employees may notify the board of medical examiners if they have reason to believe that a practitioner provided a written certification without completing a full assessment of the qualifying patient's medical history and current medical condition, or if the department has reason to believe the practitioner violated the standard of care, or for other suspected violations of this chapter.

39-9122. Presumption of medical use of marijuana - Protections - Civil penalty.

- (1) There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana pursuant to this chapter.
 - (a) The presumption exists if the qualifying patient or designated caregiver:
 - (i) Is in possession of a registry identification card; and
 - (ii) Is in possession of an amount of marijuana that does not exceed the allowable amount of marijuana.
 - (b) The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating

- medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to this chapter.
- (2) A registered qualifying patient or registered designated caregiver is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for:
 - (a) The registered qualifying patient's medical use of marijuana pursuant to this chapter, if the registered qualifying patient does not possess more than the allowable amount of marijuana;
 - (b) The registered designated caregiver assisting a registered qualifying patient to whom he is connected through the department's registration process with the registered qualifying patient's medical use of marijuana pursuant to this chapter if the registered designated caregiver does not possess more than the allowable amount of marijuana;
 - (c) Payment by a registered qualifying patient and receipt by the patient's registered designated caregiver for goods or services provided in assisting with the registered qualifying patient's medical use of marijuana;
 - (d) Transferring marijuana to a safety compliance facility for testing;
 - (e) Compensating a medical marijuana dispensary or a safety compliance facility for goods or services provided; or
 - (f) Offering or providing marijuana to a registered qualifying patient, to a registered designated caregiver for a registered qualifying patient's medical use, to a visiting qualifying patient, or to a medical marijuana dispensary if nothing of value is transferred in return and the person giving the marijuana does not knowingly cause the recipient to possess more than the allowable amount of marijuana.
 - (3) A visiting qualifying patient is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for the medical use of marijuana pursuant to this chapter, if the visiting qualifying patient does not possess more than the allowable amount of marijuana.
 - (4) A practitioner may not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by the state board of medicine or by any other business, occupational, or professional licensing board or bureau, based solely on providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition, but nothing in this chapter prevents a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.
 - (5) No person may be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:
 - (a) Providing or selling marijuana paraphernalia to a cardholder or to a medical marijuana organization upon presentation of a valid registry identification card or registration certificate;
 - (b) Being in the presence or vicinity of the medical use of marijuana authorized under

- this chapter; or
- (c) Assisting a registered qualifying patient with administering marijuana as authorized by this chapter.
- (6) A medical marijuana dispensary or a medical marijuana dispensary agent is not subject to prosecution, search, or inspection, except by the department pursuant to 39-9115(7), seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department rule to:
- (a) Purchase or otherwise acquire marijuana from medical marijuana production facilities or from other medical marijuana dispensaries;
 - (b) Acquire, possess, or purchase any marijuana related supplies or equipment;
 - (c) Possess, deliver, transfer, or transport marijuana or related supplies and educational materials to or from other medical marijuana organizations;
 - (d) Provide or otherwise transfer marijuana to a safety compliance facility or to compensate a safety compliance facility for services or goods provided;
 - (e) Accept marijuana offered by a registered qualifying patient or a registered designated caregiver if nothing of value is transferred in return; or
 - (f) Dispense, supply, or sell marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other medical marijuana dispensaries.
- (7) A medical marijuana production facility or a medical marijuana production facility agent is not subject to prosecution, search, or inspection, except by the department pursuant to 39-9115(7), seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department rule to:
- (a) Acquire, possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store marijuana;
 - (b) Acquire, possess, or purchase any marijuana related supplies or equipment.
 - (c) Purchase or otherwise acquire marijuana from another medical marijuana production facility or from a medical marijuana dispensary;
 - (d) Deliver, transfer, transport, supply, or sell marijuana to a medical marijuana dispensary; or
 - (e) Provide or otherwise transfer marijuana to a safety compliance facility or to compensate a safety compliance facility for services or goods provided.
- (8) A safety compliance facility or a safety compliance facility agent is not subject to prosecution, search, or inspection, except by the department pursuant to 39-9115(7), seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and department rule to provide the following services:
- (a) Acquiring, possessing, or transporting usable marijuana obtained from registered cardholders or medical marijuana organizations;
 - (b) Returning the usable marijuana to the registered cardholder or medical marijuana organization from whom it was obtained;
 - (c) Producing or selling educational materials related to medical marijuana;
 - (d) Possessing, producing, selling, or transporting equipment or materials other than marijuana to medical marijuana organizations or to cardholders, including lab

- equipment and packaging materials;
 - (e) Testing usable marijuana, including for potency, pesticides, mold, or contaminants;
 - (f) Providing training to cardholders; or
 - (g) Receiving compensation for services or goods provided under this chapter.
- (9) Property, including all interests in the property, otherwise subject to forfeiture under title 37, Idaho Code that is possessed, owned, or used in connection with the medical use of marijuana authorized under this chapter or acts incidental to the medical use of marijuana authorized under this chapter, is not subject to seizure or forfeiture. This subsection does not prevent civil forfeiture if the basis for the forfeiture is unrelated to the medical use of marijuana.
- (10) Mere possession of, or application for, a registry identification card may not constitute probable cause or reasonable suspicion, nor may it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card does not preclude the existence of probable cause if probable cause exists on other grounds.
- (11) No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder, and no landlord may be penalized or denied any benefit under state law for leasing to a registered medical marijuana organization.
- (12) An attorney may not be subject to disciplinary action by the state bar association or other professional licensing association for providing legal assistance to a person related to activity that is not subject to criminal penalties under state law pursuant to this chapter.

39-9123. Affirmative defense.

- (1) Except as provided in section 39-9105, a qualifying patient, a visiting qualifying patient, or a caregiver may assert the medical purpose for using marijuana as a defense to any prosecution of an offense involving marijuana intended for a qualifying patient's or visiting qualifying patient's medical use, and this defense must be presumed valid if the evidence shows that:
- (a) A person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence states that, in his professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition;
 - (b) The patient and the patient's caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition;
 - (c) All marijuana plants were contained in an enclosed locked facility; and
 - (d) The patient and the patient's caregiver, if any, were engaged in the acquisition, possession, cultivation, manufacture, use, or transportation of marijuana, paraphernalia, or both, relating to the administration of marijuana solely to treat or alleviate the patient's debilitating medical condition or symptoms associated with the

- patient's debilitating medical condition.
- (2) A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges must be dismissed following an evidentiary hearing if the person shows the elements listed in subsection (1).
 - (3) If a patient or a patient's caregiver demonstrates the patient's medical purpose for using marijuana pursuant to this section, the patient and the patient's caregiver must not be subject to disciplinary action by a court or occupational or professional licensing board or forfeiture of any interest in or right to non-marijuana licit property for the patient's medical use of marijuana.

39-9124. Discrimination prohibited.

- (1) No school, landlord, nursing facility, intermediate care facility, hospice house, hospital, or other type of residential care or assisted living facility may refuse to enroll, admit, or lease to and may not otherwise penalize a person solely for his status as a cardholder, unless failing to do so would violate federal law or cause the school, landlord, nursing facility, intermediate care facility, hospice house, hospital, or other type of residential care or assisted living facility to lose a monetary or licensing-related benefit under federal law.
- (2) Except as provided in this chapter, a registered qualifying patient who uses marijuana for medical purposes is afforded all the same rights and privileges under state and local law as the individual would have been afforded if he were solely prescribed pharmaceutical medications, including those guaranteed pursuant to chapter 59, title 67, Idaho Statutes and those relating to:
 - (a) Any interaction with the person's employer;
 - (b) Drug testing by the person's employer; or
 - (c) Drug testing required by a state or local law enforcement agency or government official.
- (3) The rights provided by subsection 2 do not apply to the extent that they conflict with an employer's obligations under federal law or rule or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or rule.
- (4) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana is the equivalent of the authorized use of any other medication used as directed by a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.
- (5) No person may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

39-9125. Acts not required - Acts not prohibited.

- (1) Nothing in this chapter requires:
 - (a) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana;
 - (b) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property; or

- (c) An employer to allow the ingestion of marijuana in any workplace or any employee to work while under the influence of marijuana, except a registered qualifying patient may not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.
- (2) Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

39-9126. Revocation.

- (1) The department shall immediately revoke the registry identification card of a medical marijuana dispensary agent who violates section 39-9127(2).
- (2) The department shall immediately revoke the registry identification card of a medical marijuana production facility agent who violates section 39-9127(3).
- (3) The department shall immediately revoke the registry identification card of a safety compliance facility agent who violates section 39-9127(4).
- (4) The department shall revoke the registry identification card of a medical marijuana dispensary agent who willfully provides marijuana to a registered qualifying patient or a registered designated caregiver if there is reason to believe that the patient is attempting to acquire an amount of marijuana that exceeds the patient's personal need.
- (5) The department may suspend or revoke the registry identification card of a medical marijuana organization agent for other violations of this chapter.
- (6) The department shall immediately revoke the registration certificate of a medical marijuana dispensary that violates section 39-9127(2), and its board members and principal officers may not serve as board members or principal officers for any other medical marijuana dispensary.
- (7) The department shall immediately revoke the registration certificate of a medical marijuana production facility that violates section 39-9127(3), and its board members and principal officers may not serve as board members or principal officers for any other medical marijuana dispensary.
- (8) The department shall immediately revoke the registration certificate of a safety compliance facility that violates section 39-9127(4), and its board members and principal officers may not serve as board members or principal officers for any other medical marijuana dispensary.
- (9) The department shall immediately revoke the registry identification card of any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter.
- (10) The department may revoke the registry identification card of any cardholder who knowingly violates this chapter.
- (11) Revocation is subject to review pursuant to chapter 52, title 67, Idaho Code.

39-9127. Violations - Civil penalty – Classification.

- (1) A registered qualifying patient, designated caregiver, or medical marijuana organization agent who willfully fails to comply with subsection 39-9119 (1), (2), (3), (7), or (8) is guilty of an infraction.
- (2) A medical marijuana dispensary or its agent may not willfully dispense, deliver, or otherwise transfer marijuana to a person other than another medical marijuana

organization or its agent, a registered qualifying patient, or a registered qualifying patient's registered designated caregiver.

- (3) A medical marijuana production facility or its agent may not willfully deliver or otherwise transfer marijuana to a person other than a medical marijuana dispensary or its agent or a safety compliance facility or its agent.
- (4) A safety compliance facility or its agent may not willfully deliver or otherwise transfer marijuana to any person other than the registered qualifying patient, visiting qualifying patient, registered designated caregiver, medical marijuana dispensary or its agent, or medical marijuana production facility or its agent that provided the marijuana to the safety compliance facility for laboratory sampling or testing.
- (5) A practitioner may not refer patients to a medical marijuana organization or to a registered designated caregiver and shall not advertise in a medical marijuana organization. A person who willfully violates this subsection is guilty of an infraction.
- (6) A practitioner who holds a financial interest in a medical marijuana organization may not issue written certifications. A person who violates this subsection is guilty of an infraction.
- (7) It is a misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter.
- (8) A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is guilty of an infraction in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of marijuana not protected by this chapter.

39-9128. Medical marijuana fund - Private donations.

- (1) The medical marijuana fund is established consisting of fees collected, civil penalties imposed, and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.
- (2) The director of the department may accept and spend private grants, gifts, donations, contributions, and devises to assist in carrying out the provisions of this chapter.
- (3) Monies in the medical marijuana fund do not revert to the state general fund at the end of a fiscal year.

39-9129. Enforcement of this act – Mandamus.

- (1) If the department fails to adopt rules to implement this chapter within one hundred twenty (120) days of the effective date of this chapter, any citizen may commence a mandamus action in the district court to compel the department to perform the actions mandated under this chapter.
- (2) If the department fails to establish the verification system required by section 39-9118 within one hundred twenty (120) days of the effective date of this chapter, any citizen may commence a mandamus action in the district court to compel the department to perform the actions mandated by this chapter.
- (3) If the department fails to issue a registry identification card or a notice of denial within forty-five (45) days of submission of an application or renewal, the registry identification card is deemed issued, and a copy of the registry identification card application or

renewal is deemed a valid registry identification card.

- (4) If at any time after one hundred forty (140) days following the effective date of this chapter the department is not accepting applications or has not adopted rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to section 39-9109, together with a written certification issued by a practitioner within the ninety (90) days immediately preceding the notarized statement, are deemed a valid registry identification card.

SECTION 2. Severability

The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this act.

...shall be submitted to the qualified electors of the State of Idaho, for their approval or rejection at the regular general election, to be held on the 4th day of November A.D., 2014, and each for himself says: I have personally signed this petition; I am a qualified elector of the State of Idaho; my residence and post office are correctly written after my name.

Signature	Printed Name	Residence Street and Number	Zip Code	Date
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				

STATE OF IDAHO

ss.

County of _____.

I, _____, being first duly sworn, say: That I am a resident of the State of Idaho and at least eighteen (18) years of age: that every person who signed this sheet of the foregoing petition signed his or her name thereto in my presence: I believe that each has stated his or her name, post-office address and residence correctly, that each signer is a qualified elector of the State of Idaho, and a resident of the county of _____.

Signature of circulator

Post Office address

Subscribed and sworn to before me this _____ day of _____, 2013.

Notary Public

Residing at _____ My commission expires: _____

AN INITIATIVE PROVIDING THAT QUALIFIED PATIENTS USING MEDICAL MARIJUANA SHALL NOT BE SUBJECT TO CRIMINAL PROSECUTION