

1 SENATE BILL NO. 218

2 INTRODUCED BY D. SANDS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING REQUIREMENTS RELATED TO REPORTING
5 REQUIREMENTS FOR THE MONTANA MEDICAL MARIJUANA PROGRAM; AMENDING SECTIONS 37-3-
6 203, 50-46-329, AND 50-46-332, MCA; REPEALING SECTION 50-46-343, MCA; AND PROVIDING AN
7 IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 37-3-203, MCA, is amended to read:12 **"37-3-203. Powers and duties -- rulemaking authority.** (1) The board may:

13 (a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1
14 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency
15 care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for
16 emergency care providers with an endorsement to provide community-integrated health care must address the
17 scope of practice, competency requirements, and educational requirements.

18 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers
19 and duties vested in the board;

20 (c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter
21 as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers
22 licensed by the board. The board also may assist the county attorneys of this state in the prosecution of
23 persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection
24 (1)(c).

25 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle
26 as provided in 87-2-803(11); and

27 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by
28 increasing license fees as necessary.

1 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees
 2 who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by
 3 habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by
 4 mental illness or chronic physical illness.

5 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical
 6 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to
 7 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a
 8 qualified treatment program outside the state unless the board finds that there is no qualified treatment program
 9 in this state.

10 ~~(3) (a) The board shall report annually on the number and types of complaints it has received
 11 involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana
 12 for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:~~

13 ~~(i) the number of complaints received by the board pursuant to 37-1-308;~~

14 ~~(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-
 15 307;~~

16 ~~(iii) the general nature of the complaints;~~

17 ~~(iv) the number of investigations conducted into physician practices in providing written certification;~~

18 and

19 ~~(v) the number of physicians disciplined by the board for their practices in providing written
 20 certification for the use of marijuana for a debilitating medical condition.~~

21 ~~(b) Except as provided in subsection (3)(c), the report may not contain individual identifying
 22 information regarding the physicians about whom the board received complaints.~~

23 ~~(c) For each physician against whom the board takes disciplinary action related to the physician's
 24 practices in providing written certification for the use of marijuana for a debilitating medical condition, the report
 25 must include:~~

26 ~~(i) the name of the physician;~~

27 ~~(ii) the general results of the investigation of the physician's practices; and~~

28 ~~(iii) the disciplinary action taken against the physician.~~

1 ~~(d) The board shall provide the report to the children, families, health, and human services interim~~
 2 ~~committee by August 1 of each year and shall make a copy of the report available on the board's website.~~

3 (4)(3) The board may enter into agreements with other states for the purposes of mutual recognition
 4 of licensing standards and licensing of physicians and emergency care providers from other states under the
 5 terms of a mutual recognition agreement."
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7 **Section 2.** Section 50-46-329, MCA, is amended to read:

8 **"50-46-329. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1)**

9 The department shall conduct unannounced inspections of registered premises and testing laboratories.

10 (2) (a) The department shall inspect annually each registered premises and testing laboratory.

11 (b) The department shall collect samples during the inspection of registered premises and submit
 12 them to one or more testing laboratories for testing as provided in 50-46-304 and by the state laboratory by
 13 rule.

14 (c) The department may collect samples during the inspection of a registered premises and submit
 15 the samples to all registered testing laboratories for testing as provided by the department by rule.

16 (3) (a) Each provider and marijuana-infused products provider shall keep a complete set of records
 17 necessary to show all transactions with registered cardholders. The records must be open for inspection by the
 18 department or state laboratory, as appropriate, and state or local law enforcement agencies during normal
 19 business hours.

20 (b) Each testing laboratory shall keep:

21 (i) a complete set of records necessary to show all transactions with providers and marijuana-infused
 22 products providers; and

23 (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused
 24 products.

25 (c) The records and data required under this subsection (3) must be open for inspection by the
 26 department and state or local law enforcement agencies during normal business hours.

27 (d) The department may require a provider, marijuana-infused products provider, or testing laboratory
 28 to furnish information that the department considers necessary for the proper administration of this part.

1 (4) (a) Registered premises and testing laboratories, including any places of storage, where
2 marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or
3 local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

4 (b) If any part of the registered premises or testing laboratory consists of a locked area, the provider,
5 marijuana-infused products provider, or testing laboratory shall make the area available for inspection without
6 delay upon request of the department or state or local law enforcement officials.

7 (5) A provider or marijuana-infused products provider shall maintain records showing the names and
8 registry identification numbers of registered cardholders to whom mature plants, seedlings, usable marijuana,
9 or marijuana-infused products were sold or transferred and the quantities sold or transferred to each
10 cardholder.

11 (6) The state laboratory shall conduct the inspections of testing laboratories required under this
12 section.

13 (7) If the department conducts an inspection because of a complaint against a licensee or registered
14 premises and does not find a violation of this part, the department shall give the licensee a copy of the
15 complaint with the name of the complainant redacted.

16 (8) The department may not hire or contract with a person to be an inspector if the person has worked
17 during the previous 4 years for a Montana business or facility operating under this part.

18 (9) In addition to any other penalties provided under this part, the department may revoke, suspend
19 for up to 1 year, or refuse to renew a license or endorsement issued under this part if, upon inspection and
20 subsequent notice to the licensee, the department finds that any of the following circumstances exist:

21 (a) a cause for which issuance of the license or endorsement could have been rejected had it been
22 known to the department at the time of issuance;

23 (b) a violation of an administrative rule adopted to carry out the provisions of this part; or

24 (c) noncompliance with any provision of this part.

25 (10) The department may suspend or modify a license or endorsement without advance notice upon a
26 finding that presents an immediate threat to the health, safety, or welfare of registered cardholders, employees
27 of the licensee, or members of the public.

28 (11) Review of a department action imposing a suspension, revocation, or other modification under this

1 part must be conducted as a contested case hearing under the provisions of the Montana Administrative
2 Procedure Act.

3 (12) The department shall establish a training protocol to ensure uniform application and enforcement
4 of the requirements of this part.

5 ~~(13) The department shall report biennially to the children, families, health, and human services interim
6 committee concerning the results of inspections conducted under this section. The report must include the
7 information required under 50-46-343."~~

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9 **Section 3.** Section 50-46-332, MCA, is amended to read:

10 **"50-46-332. Confidentiality of registry information -- penalty.** (1) ~~Except as provided in 37-3-203,~~
11 ~~a~~A person, including an employee or official of the department, commits the offense of disclosure of
12 confidential information related to registry information if the person knowingly or purposely discloses
13 confidential information in violation of this part.

14 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned
15 in the county jail for a term not to exceed 6 months, or both."

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17 NEW SECTION. **Section 4. Repealer.** The following section of the Montana Code Annotated is
18 repealed:

19 50-46-343. Legislative monitoring.

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21 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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