

HOUSE BILL NO. 445

INTRODUCED BY M. DUNWELL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA MEDICAL MARIJUANA ACT TO
5 PROVIDE PROTECTIONS TO PEOPLE REGISTERED TO USE MARIJUANA FOR DEBILITATING MEDICAL
6 CONDITIONS; ESTABLISHING RESTRICTIONS ON LANDLORD AND EMPLOYER ACTIONS; ALLOWING
7 USE OF MARIJUANA FOR ADDITIONAL DEBILITATING MEDICAL CONDITIONS; PROVIDING RECIPROCITY
8 FOR CARDS ISSUED IN OTHER STATES; REDUCING THE TIME PERIOD FOR ISSUING CARDS;
9 PROHIBITING ADDITIONAL PROVIDER TRANSACTIONS WITH PHYSICIANS; ESTABLISHING IN STATUTE
10 THE FEE FOR A REGISTRY IDENTIFICATION CARD; AMENDING SECTIONS 50-46-302, 50-46-303,
11 50-46-307, 50-46-320, 50-46-327, 50-46-330, AND 50-46-344, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Cardholder employment and housing protections.** (1) Except as
16 otherwise provided in this part, unless required by federal law or to obtain federal funding, a landlord may not:

17 (a) refuse to rent or lease property to a registered cardholder solely on the basis of the individual's status
18 as a registered cardholder;

19 (b) prevent a registered cardholder who has not named a provider from cultivating marijuana in or on
20 a rented or leased property; or

21 (c) prohibit the use of marijuana by a registered cardholder in the rented or leased property.

22 (2) Property rented or leased through a state-funded housing assistance program is subject to the
23 provisions of this section.

24 (3) A landlord may:

25 (a) prohibit the smoking of marijuana by a registered cardholder in a rented or leased property if the
26 landlord prohibits all smoking in the rented or leased property; and

27 (b) charge a registered cardholder for the reasonable costs of repairing any damage caused by the
28 cultivation of marijuana or the manufacture of marijuana-infused products in the rented or leased property or the
29 grounds of the property.

30 (4) Except as otherwise provided in this part, unless required by federal law or to obtain federal funding

1 or allowed under 39-2-313, an employer may not refuse to:

2 (a) employ a person solely on the basis of the individual's status as a registered cardholder;

3 (b) prohibit use of marijuana by a registered cardholder at the cardholder's place of employment; or

4 (c) include in a contract a provision prohibiting the use of marijuana for a debilitating medical condition.

5 (5) An employer may place reasonable restrictions on the manner in which a registered cardholder may
6 use marijuana at the cardholder's place of employment. Use of marijuana at a place of employment may not
7 violate the provisions of Title 50, chapter 40, on smoking in public places and places of employment.

8 (6) Nothing in this section may be construed to restrict an employer's ability to discipline a person for
9 being under the influence of marijuana during work hours.

10 (7) This section does not apply to a correctional facility or program.

11

12 **NEW SECTION. Section 2. Reciprocity.** An individual who is not a resident of Montana and who
13 possesses the valid equivalent of a registry identification card from another state may possess the amount of
14 usable marijuana allowed under 50-46-319(1)(b) and use the marijuana as allowed under this part. The individual:

15 (1) must provide identification as required under 50-46-317 if requested; and

16 (2) may not cultivate or possess marijuana plants or seedlings or obtain marijuana from a provider or
17 marijuana-infused products provider licensed in Montana.

18

19 **Section 3.** Section 50-46-302, MCA, is amended to read:

20 **"50-46-302. Definitions.** As used in this part, the following definitions apply:

21 (1) "Canopy" means the total amount of square footage dedicated to live plant production at a registered
22 premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

23 (2) "Chemical manufacturing" means the production of marijuana concentrate.

24 (3) "Correctional facility or program" means: ~~a facility or program that is described in 53-1-202 and to~~
25 ~~which an individual may be ordered by any court of competent jurisdiction~~

26 (a) any of the prisons listed in 53-30-101; or

27 (b) community-based residential programs under contract with the department of corrections for the
28 placement, supervision, and rehabilitation of adult felons.

29 (4) "Debilitating medical condition" means:

30 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency

- 1 syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's
2 health status;
- 3 (b) cachexia or wasting syndrome;
- 4 (c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily
5 activities as documented by the patient's treating physician;
- 6 (d) intractable nausea or vomiting;
- 7 (e) epilepsy or an intractable seizure disorder;
- 8 (f) multiple sclerosis;
- 9 (g) Crohn's disease;
- 10 (h) painful peripheral neuropathy;
- 11 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;
- 12 (j) admittance into hospice care in accordance with rules adopted by the department; ~~or~~
- 13 (k) posttraumatic stress disorder; or
- 14 (l) anxiety disorders as diagnosed in accordance with criteria in the fifth edition of the Diagnostic and
15 Statistical Manual of Mental Disorders.
- 16 (5) "Department" means the department of public health and human services provided for in 2-15-2201.
- 17 (6) "Dispensary" means a registered premises from which a provider or marijuana-infused products
18 provider is approved by the department to dispense marijuana or marijuana-infused products to a registered
19 cardholder.
- 20 (7) (a) "Employee" means an individual employed to do something for the benefit of an employer or a
21 third person.
- 22 (b) The term includes a manager, agent, or director of a partnership, association, company, corporation,
23 limited liability company, or organization.
- 24 (8) "Local government" means a county, a consolidated government, or an incorporated city or town.
- 25 (9) "Marijuana" has the meaning provided in 50-32-101.
- 26 (10) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin
27 extracted from any part of the marijuana plant.
- 28 (11) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and
29 byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused
30 products.

1 (12) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use by
2 a registered cardholder by a means other than smoking.

3 (b) The term includes but is not limited to edible products, ointments, and tinctures.

4 (13) (a) "Marijuana-infused products provider" means a person licensed by the department to
5 manufacture and provide marijuana-infused products for a registered cardholder.

6 (b) The term does not include the cardholder's treating or referral physician.

7 (14) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

8 (15) "Paraphernalia" has the meaning provided in 45-10-101.

9 (16) "Person" means an individual, partnership, association, company, corporation, limited liability
10 company, or organization.

11 (17) (a) "Provider" means a person licensed by the department to assist a registered cardholder as
12 allowed under this part.

13 (b) The term does not include a cardholder's treating physician or referral physician.

14 (18) "Referral physician" means an individual who:

15 (a) is licensed under Title 37, chapter 3;

16 (b) has an established office in Montana; and

17 (c) is the physician to whom a patient's treating physician has referred the patient for physical
18 examination and medical assessment.

19 (19) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
20 condition who has received and maintains a valid registry identification card.

21 (20) "Registered premises" means the location at which a provider or marijuana-infused products
22 provider:

23 (a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or
24 marijuana-infused products will be manufactured for a registered cardholder; or

25 (b) has established a dispensary for sale of marijuana or marijuana-infused products to a registered
26 cardholder.

27 (21) "Registry identification card" means a document issued by the department pursuant to 50-46-303
28 that identifies an individual as a registered cardholder.

29 (22) (a) "Resident" means an individual who meets the requirements of 1-1-215.

30 (b) An individual is not considered a resident for the purposes of this part if the individual:

1 (i) claims residence in another state or country for any purpose; or

2 (ii) is an absentee property owner paying property tax on property in Montana.

3 (23) "Second degree of kinship by blood or marriage" means a mother, father, brother, sister, son,
4 daughter, spouse, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law,
5 daughter-in-law, grandparent-in-law, grandchild-in-law, stepfather, stepmother, stepbrother, stepsister, stepson,
6 stepdaughter, stepgrandparent, or stepgrandchild.

7 (24) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12
8 inches in diameter.

9 (25) "Standard of care" means, at a minimum, the following activities when undertaken by a patient's
10 treating physician or referral physician if the treating physician or referral physician is providing written certification
11 for a patient with a debilitating medical condition:

12 (a) obtaining the patient's medical history;

13 (b) performing a relevant and necessary physical examination;

14 (c) reviewing prior treatment and treatment response for the debilitating medical condition;

15 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating
16 medical condition;

17 (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages,
18 alternatives, potential adverse effects, and expected response to the recommended treatment;

19 (f) monitoring the response to treatment and possible adverse effects; and

20 (g) creating and maintaining patient records that remain with the physician.

21 (26) "Testing laboratory" means a qualified person, licensed by the department, who meets the
22 requirements of 50-46-311 and:

23 (a) provides testing of small samples of marijuana and marijuana-infused products; and

24 (b) provides information regarding the chemical composition, the potency of a sample, and the presence
25 of molds or pesticides in a sample.

26 (27) "Treating physician" means an individual who:

27 (a) is licensed under Title 37, chapter 3;

28 (b) has an established office in Montana; and

29 (c) has a bona fide professional relationship with the individual applying to be a registered cardholder.

30 (28) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any marijuana

1 derivatives that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

2 (b) The term does not include the seeds, stalks, and roots of the plant.

3 (29) "Written certification" means a statement signed by a treating physician or referral physician that
4 meets the requirements of 50-46-310 and is provided in a manner that meets the standard of care."

5

6 **Section 4.** Section 50-46-303, MCA, is amended to read:

7 **"50-46-303. Department responsibilities -- issuance of cards and licenses -- confidentiality --**
8 **inspections -- reports.** (1) The department shall establish and maintain a program for:

9 (a) the issuance of registry identification cards to Montana residents who have debilitating medical
10 conditions and who submit applications meeting the requirements of this part;

11 (b) the issuance of licenses:

12 (i) to persons who apply to operate as providers, marijuana-infused products providers, or testing
13 laboratories and who submit applications meeting the requirements of this part; and

14 (ii) for dispensaries established by providers or marijuana-infused products providers;

15 (c) the issuance of endorsements for chemical manufacturing to a provider or a marijuana-infused
16 products provider who applies for a chemical manufacturing endorsement and meets requirements established
17 by the department by rule; and

18 (d) the tracking of marijuana and marijuana-infused products from either the seed or the immature plant
19 stage until the marijuana or marijuana-infused product is sold to a registered cardholder to ensure that the
20 marijuana or marijuana-infused product cultivated, manufactured, possessed, and sold under this part is not sold
21 or otherwise provided to an individual who is not authorized under this part to possess the item. The tracking
22 system must be provided to providers, marijuana-infused products providers, dispensaries, and testing
23 laboratories at no additional cost.

24 (2) (a) An individual who obtains a registry identification card and does not name a provider or
25 marijuana-infused products provider is authorized to cultivate, manufacture, possess, and transport marijuana
26 as allowed by this part.

27 (b) An individual who obtains a registry identification card and names a provider or marijuana-infused
28 products provider is authorized to possess marijuana as allowed by this part.

29 (c) A person who obtains a provider, marijuana-infused products provider, or dispensary license or an
30 employee of a licensee is authorized to cultivate, manufacture, possess, sell, and transport marijuana as allowed

1 by this part.

2 (d) A person who obtains a testing laboratory license or an employee of a licensee is authorized to
3 possess, test, and transport marijuana as allowed by this part.

4 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
5 50-46-308 before issuing a license to a person named as a provider or marijuana-infused products provider.

6 (4) (a) Registry identification cards and licenses issued pursuant to this part must:

7 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
8 which the card or license is valid;

9 (ii) state the name, address, and date of birth of the registered cardholder and of the cardholder's provider
10 or marijuana-infused products provider, if any;

11 (iii) indicate whether a provider or marijuana-infused products provider has an endorsement for chemical
12 manufacturing;

13 (iv) state the date of issuance and the expiration date of the registry identification card or license;

14 (v) contain a unique identification number; and

15 (vi) contain other information that the department may specify by rule.

16 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry
17 identification cards issued pursuant to this part must:

18 (i) include a picture of the registered cardholder; and

19 (ii) be capable of being used to track registered cardholder purchases.

20 (c) The department may issue temporary identification cards valid for 60 days that do not meet the
21 requirements of subsection (4)(b).

22 (5) (a) The department shall review the information contained in an application or renewal submitted
23 pursuant to this part and shall approve or deny an application or renewal within:

24 (i) 30 days of receiving ~~the~~ a license application or renewal and all related application materials; and

25 (ii) 10 days of receiving a registry identification card application or renewal and all related application
26 materials.

27 (b) The department shall issue a registry identification card, license, or endorsement within 5 days of
28 approving an application or renewal.

29 (c) The department shall send renewal notices to registered cardholders by regular mail or electronic
30 mail.

1 (6) Rejection of an application or renewal is considered a final department action, subject to judicial
2 review.

3 (7) (a) Registry identification cards expire 1 year after the date of issuance unless:

4 (i) a physician has provided a written certification stating that a card is valid for a shorter period of time;
5 or

6 (ii) a registered cardholder changes providers or marijuana-infused products providers.

7 (b) Licenses and endorsements issued to providers, marijuana-infused products providers, and testing
8 laboratories must be renewed annually.

9 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
10 address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's
11 debilitating medical condition within 10 days of the change. The department may not charge a fee for processing
12 a change in a cardholder's provider or medical status.

13 (b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify
14 the department of the location of the plants and seedlings or any change of location of plants or seedlings. The
15 department shall provide the names and locations of cardholders who possess mature plants or seedlings to the
16 local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located. The law
17 enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

18 (c) If a change occurs and is not reported to the department, the registry identification card is void.

19 (9) The department shall maintain a confidential list of individuals to whom the department has issued
20 registry identification cards. Except as provided in subsections (8)(b) and (10), individual names and other
21 identifying information on the list must be confidential and are not subject to disclosure, except to:

22 (a) authorized employees of the department as necessary to perform the official duties of the department;
23 and

24 (b) authorized employees of state or local government agencies, including law enforcement agencies,
25 only as necessary to verify that an individual is a lawful possessor of a registry identification card.

26 (10) The department shall provide the names and phone numbers of providers and marijuana-infused
27 products providers and the city, town, or county where registered premises and testing laboratories are located
28 to the public on the department's website. The department may not disclose the physical location or address of
29 a provider, marijuana-infused products provider, dispensary, or testing laboratory.

30 (11) The department may share only information about providers, marijuana-infused products providers,

1 dispensaries, and testing laboratories with the department of revenue for the purpose of investigation and
2 prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The department
3 of revenue and its employees are subject to the confidentiality requirements of 15-64-111(1).

4 (12) The department shall report biannually to the legislature the number of applications for registry
5 identification cards, the number of registered cardholders approved, the nature of the debilitating medical
6 conditions of the cardholders, the number of providers and marijuana-infused products providers licensed, the
7 number of endorsements approved for chemical manufacturing, the number of testing laboratories licensed, the
8 number of dispensaries licensed, the number of registry identification cards and licenses revoked, the number
9 of physicians providing written certification for registered cardholders, and the number of written certifications
10 each physician has provided. The report may not provide any identifying information of cardholders, physicians,
11 providers, marijuana-infused products providers, dispensaries, or testing laboratories.

12 (13) The board of medical examiners shall report annually to the legislature on the number and types of
13 complaints the board has received involving physician practices in providing written certification for the use of
14 marijuana, pursuant to 37-3-203."

15

16 **Section 5.** Section 50-46-307, MCA, is amended to read:

17 **"50-46-307. Individuals with debilitating medical conditions -- requirements -- minors --**
18 **limitations.** (1) Except as provided in subsections (2) through (4), the department shall issue a registry
19 identification card to an individual with a debilitating medical condition who submits the following, in accordance
20 with department rules:

21 (a) an application on a form prescribed by the department;

22 (b) ~~an~~ the application fee or ~~a~~ renewal fee established in 50-46-344;

23 (c) the individual's name, street address, and date of birth;

24 (d) proof of Montana residency;

25 (e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused
26 products for the individual's use or will be obtaining marijuana from a provider or a marijuana-infused products
27 provider;

28 (f) a statement, on a form prescribed by the department, that the individual will not divert to any other
29 individual the marijuana or marijuana-infused products that the individual cultivates, manufactures, or obtains for
30 the individual's debilitating medical condition;

1 (g) the name of the individual's treating physician or referral physician and the street address and
2 telephone number of the physician's office;

3 (h) the street address where the individual is cultivating marijuana or manufacturing marijuana-infused
4 products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the individual's
5 own use;

6 (i) the name, date of birth, and street address of the person the individual has selected as a provider or
7 marijuana-infused products provider, if any; and

8 (j) the written certification and accompanying statements from the individual's treating physician or
9 referral physician as required pursuant to 50-46-310.

10 (2) The department shall issue a registry identification card to a minor if the materials required under
11 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care
12 decisions:

13 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
14 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

15 (b) signs and submits a written statement that:

16 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
17 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
18 the use of marijuana; and

19 (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

20 (A) consents to the use of marijuana by the minor;

21 (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana
22 by the minor;

23 (C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

24 (c) if the parent or guardian will be serving as the minor's provider, submits fingerprints to facilitate a
25 fingerprint and background check by the department of justice and federal bureau of investigation. The parent
26 or legal guardian shall pay the costs of the background check and may not obtain a license as a
27 marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.

28 (d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
29 cultivated for the minor's use in a marijuana-infused product.

30 (3) An application for a registry identification card for a minor must be accompanied by the written

1 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
2 to the minor's treating physician or referral physician.

3 (4) (a) An individual may not be a registered cardholder if the individual is in the custody of ~~or under the~~
4 ~~supervision of~~ the department of corrections or a youth court.

5 (b) An individual may not be a registered cardholder if the individual is under the supervision of the
6 department of corrections or a youth court and:

7 (i) is placed in a correctional facility or program; or

8 (ii) a chemical dependency evaluation performed at the direction of the department of corrections or a
9 youth court recommends against use of marijuana as authorized under this part.

10 (c) The department shall revoke the registry identification card of a registered cardholder who is under
11 the supervision of the department of corrections or a youth court upon notification that the cardholder has been
12 placed in a correctional facility or program or that a chemical dependency evaluation has recommended against
13 use of marijuana as authorized under this part.

14 (5) A registered cardholder who elects to obtain marijuana from a provider or marijuana-infused products
15 provider may not cultivate marijuana or manufacture marijuana-infused products for the cardholder's use unless
16 the registered cardholder is the provider or marijuana-infused products provider.

17 ~~(6) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as~~
18 ~~allowed under 50-46-319 only:~~

19 ~~—— (a) at a property that is owned by the cardholder; or~~

20 ~~—— (b) with written permission of the landlord, at a property that is rented or leased by the cardholder.~~

21 ~~(7)~~(6) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused
22 products for use by the registered cardholder may be shared with or rented or leased to a provider, a
23 marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased
24 by cardholders who are related to each other by the second degree of kinship by blood or marriage."
25

26 **Section 6.** Section 50-46-320, MCA, is amended to read:

27 **"50-46-320. Limitations of act.** (1) This part does not permit:

28 (a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control
29 of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or

30 (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:

- 1 (i) in a health care facility as defined in 50-5-101;
- 2 (ii) in a school or a postsecondary school as defined in 20-5-402;
- 3 (iii) on or in any property owned by a school district or a postsecondary school;
- 4 (iv) on or in any property leased by a school district or a postsecondary school when the property is being
- 5 used for school-related purposes;
- 6 (v) in a school bus or other form of public transportation;
- 7 ~~(vi) when ordered by any court of competent jurisdiction into a correctional facility or program;~~
- 8 ~~(vii)(vi)~~ if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
- 9 (vii) if the cardholder is under the supervision of the department of corrections or a youth court and has
- 10 been placed into a correctional facility or program;
- 11 (viii) if a chemical dependency evaluation ordered by the department of corrections or a youth court
- 12 recommends against the cardholder's use of marijuana under this part;
- 13 ~~(viii)(ix)~~ at a public park, public beach, public recreation center, or youth center;
- 14 ~~(ix)(x)~~ in or on the property of any church, synagogue, or other place of worship;
- 15 ~~(x)(xi)~~ in plain view of or in a place open to the general public; or
- 16 ~~(xi)(xii)~~ where exposure to the marijuana smoke significantly adversely affects the health, safety, or
- 17 welfare of children.
- 18 (2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana
- 19 or manufacture marijuana concentrates or marijuana-infused products for use by a registered cardholder in a
- 20 manner that is visible from the street or other public area.
- 21 (3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows
- 22 use of marijuana by a registered cardholder.
- 23 (4) Nothing in this part may be construed to require:
- 24 (a) a government medical assistance program, a group benefit plan that is covered by the provisions of
- 25 Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to
- 26 reimburse an individual for costs associated with the use of marijuana by a registered cardholder;
- 27 ~~(b) an employer to accommodate the use of marijuana by a registered cardholder;~~
- 28 ~~(c)~~ (b) a school or postsecondary school to allow a registered cardholder to participate in extracurricular
- 29 activities; or
- 30 ~~(d)~~ (c) a landlord to allow a tenant who is a registered cardholder, provider, marijuana-infused products

1 provider, dispensary, or testing laboratory to cultivate, manufacture, dispense, sell, or test marijuana, marijuana
 2 concentrates, or marijuana-infused products or to allow a registered cardholder to use marijuana.

3 ~~(5)~~ Nothing in this part may be construed to:

4 ~~—— (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for~~
 5 ~~a debilitating medical condition; or~~

6 ~~—— (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or~~
 7 ~~discrimination pursuant to 49-1-102.~~

8 ~~(6)~~(5) Nothing in this part may be construed to allow a provider, marijuana-infused products provider,
 9 or employee of a licensee to use marijuana or to prevent criminal prosecution of a provider, marijuana-infused
 10 products provider, or employee of a licensee who uses marijuana or paraphernalia for personal use.

11 ~~(7)~~(6) (a) A law enforcement officer who has reasonable cause to believe that an individual with a valid
 12 registry identification card is driving under the influence of marijuana may apply for a search warrant to require
 13 the individual to provide a sample of the individual's blood for testing pursuant to the provisions of 61-8-405. An
 14 individual with a delta-9-tetrahydrocannabinol level of 5 ng/ml may be charged with a violation of 61-8-401 or
 15 61-8-411.

16 (b) A registered cardholder, provider, or marijuana-infused products provider who violates subsection
 17 (1)(a) is subject to revocation of the individual's registry identification card or license if the individual is convicted
 18 of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense
 19 with which the individual was charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411. A revocation
 20 under this section must be for the period of suspension or revocation set forth:

21 (i) in 61-5-208 for a violation of 61-8-401, 61-8-406, or 61-8-411; or

22 (ii) in 61-8-410 for a violation of 61-8-410.

23 (c) If an individual's registry identification card or license is subject to renewal during the revocation
 24 period, the individual may not renew the card until the full revocation period has elapsed. The card or license may
 25 be renewed only if the individual submits all materials required for renewal.

26 ~~(8)~~(7) A provider or marijuana-infused products provider who violates 15-64-103 or 15-64-104 is subject
 27 to revocation of the person's license from the date of the violation until a period of up to 1 year after the
 28 department of revenue certifies compliance with 15-64-103 or 15-64-104."

29

30 **Section 7.** Section 50-46-327, MCA, is amended to read:

1 **"50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products**

2 **providers -- sanctions.** (1) (a) A physician who provides written certifications may not:

3 (i) accept or solicit anything of value, including monetary remuneration, from a provider or
4 marijuana-infused products provider;

5 (ii) offer a discount or any other thing of value to a patient who uses or agrees to use a particular provider
6 or marijuana-infused products provider; or

7 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a registered
8 premises or a testing laboratory.

9 (b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to
10 a provider or marijuana-infused products provider if the physician charges the individual the same fee that the
11 physician charges other patients for providing a similar level of medical care.

12 (2) A provider or marijuana-infused products provider may not:

13 (a) arrange for a physician to conduct a physical examination or review of medical records required
14 under this part, either in the physician's office or at another location; or

15 (b) pay all or a portion of the costs for an individual to be seen by a physician for the purposes of
16 obtaining a written certification.

17 ~~(2)~~(3) If the department has cause to believe that a physician has violated this section, has violated a
18 provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the
19 department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant
20 to 37-1-308.

21 ~~(3)~~(4) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of
22 medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority
23 to provide written certification for the use of marijuana. The board of medical examiners shall notify the
24 department of the sanction.

25 ~~(4)~~(5) If the board of medical examiners believes a physician's practices may harm the public health,
26 safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the
27 use of marijuana for a debilitating medical condition.

28 (6) (a) If the department has reason to believe a provider or marijuana-infused products provider has
29 violated this section, the department shall refer the matter to the law enforcement entity and county attorney
30 having jurisdiction where the provider or marijuana-infused products provider is doing business.

1 (b) If a provider or marijuana-infused products provider is found to have violated the provisions of this
 2 section, the department shall revoke the provider's or marijuana infused products provider's license. A person
 3 whose license has been revoked for a violation of this section is prohibited from reapplying for licensure under
 4 this part.

5 (7) A law enforcement entity or county attorney who investigates a suspected violation of this section
 6 shall report the results of the investigation to the department."

7
 8 **Section 8.** Section 50-46-330, MCA, is amended to read:

9 **"50-46-330. Unlawful conduct by cardholders or licensees -- penalties.** (1) The Except as provided
 10 in subsection (2), the department shall revoke and may not reissue the registry identification card, license, or
 11 endorsement of an individual who:

- 12 (a) is convicted of a drug offense;
 13 (b) allows another individual to be in possession of the individual's:
 14 (i) registry identification card or license; or
 15 (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or
 16 (c) fails to cooperate with the department concerning an investigation or inspection if the individual is
 17 registered or licensed and cultivating marijuana, engaging in chemical manufacturing, or manufacturing
 18 marijuana-infused products.

19 (2) The department may reissue a registry identification card to an individual who was convicted of a drug
 20 offense if, at or after the time the card would be up for renewal, the individual:

- 21 (a) is not in a correctional facility or program; and
 22 (b) applies for a new registry identification card.

23 ~~(2)~~(3) A registered cardholder, provider, or marijuana-infused products provider who violates this part
 24 is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months,
 25 or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An
 26 offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45."

27
 28 **Section 9.** Section 50-46-344, MCA, is amended to read:

29 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the
 30 implementation and administration of this part. The rules must include but are not limited to:

- 1 (a) the manner in which the department will consider applications for licenses and endorsements and
2 applications for registry identification cards for individuals with debilitating medical conditions and renewal of
3 licenses, endorsements, and registry identification cards;
- 4 (b) the acceptable forms of proof of Montana residency;
- 5 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
6 50-46-307 and 50-46-308;
- 7 (d) the security and operating requirements for dispensaries;
- 8 (e) the security and operating requirements for chemical manufacturing, including but not limited to
9 requirements for:
- 10 (i) safety equipment;
- 11 (ii) extraction methods, including solvent-based and solvent-free extraction; and
- 12 (iii) postprocessing procedures;
- 13 (f) the amount of usable marijuana that a registered cardholder who has not named a provider or
14 marijuana-infused products provider may possess;
- 15 (g) the canopy for which a provider or marijuana-infused products provider is licensed;
- 16 (h) implementation of a system to allow the tracking of marijuana and marijuana-infused products as
17 required by 50-46-303;
- 18 (i) requirements and standards for the testing and retesting of marijuana and marijuana-infused products,
19 including testing of samples collected during the department's inspections of registered premises; and
- 20 (j) other rules necessary to implement the purposes of this part.
- 21 (2) In establishing the canopy for a provider or marijuana-infused products provider, the department shall
22 take into consideration:
- 23 (a) safety and security issues;
- 24 (b) the provision of adequate access to usable marijuana to accommodate the needs of registered
25 cardholders; and
- 26 (c) economies of scale and their effect on the ability of licensees to comply with regulatory requirements
27 and undercut illegal market prices.
- 28 (3) (a) Except as provided in subsection (3)(b), license fees for providers and marijuana-infused products
29 providers are \$1,000 for 10 or fewer registered cardholders and \$5,000 for more than 10 registered cardholders.
- 30 (b) The department may revise the fee provided for in subsection (3)(a) as needed to adequately fund

1 the administration of the Montana Medical Marijuana Act and the seed-to-sale tracking system, including
2 operating reserve funds of \$250,000. The department shall establish revised fees by rule.

3 (c) A provider of both marijuana and marijuana-infused products is required to have only one license.

4 (4) The fee for applying for or renewing a registry identification card is \$20 a year.

5 ~~(4)~~(5) The department shall establish by rule the fees for dispensaries, endorsements for chemical
6 manufacturing, and testing laboratories.

7 ~~(5)~~(6) All fees and civil penalties collected under this part must be deposited in the medical marijuana
8 state special revenue account established in 50-46-345.

9 ~~(6)~~(7) The department's rules must establish application and renewal fees that generate revenue
10 sufficient to offset all expenses of implementing and administering this part."
11

12 NEW SECTION. Section 10. Codification instruction. [Sections 1 and 2] are intended to be codified
13 as an integral part of Title 50, chapter 46, part 3, and the provisions of Title 50, chapter 46, part 3, apply to
14 [sections 1 and 2].
15

16 NEW SECTION. Section 11. Effective date. [This act] is effective July 1, 2019.

17 - END -