

Children, Families, Health, and Human Services Interim Committee
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MEDICAL MARIJUANA ACT: OVERVIEW OF SB 265 CHANGES AND EFFECTIVE DATES

Background

Montana's Medical Marijuana Act – first passed by voters in 2004 and substantially altered through subsequent measures enacted by both the Legislature and the voters – will continue to evolve following passage of Senate Bill 265 in the 2019 legislative session.

Perhaps most significantly, the current system that requires cardholders to buy marijuana products from only one, specified provider will change to an open market within a year. Other changes will also occur in:

- the manner in which the amount of cultivation space is determined for providers;
- the licensing fees for cultivating and manufacturing marijuana and for operating dispensaries;
- the manner in which physicians may certify debilitating medical conditions;
- the tax paid by providers on gross sales;
- the use of money raised through taxes, fees, and fines; and
- administrative procedures for the Department of Public Health and Human Services (DPHHS), which is charged with operating the program.

What Happens When

SB 265 contained five different effective dates for the various changes being made to the law. Some provisions went into effect on May 3, the day the bill was signed by the governor. The final change – when cardholders will be able to buy marijuana from any provider – will occur no later than July 1, 2020, and may happen sooner if DPHHS has the appropriate sales tracking system in place.

This briefing paper uses a series of graphics on the following pages to illustrate the changes that SB 265 makes to the current law for cardholders, providers, testing laboratories, physicians, DPHHS, and the money raised and spent by the program.

The graphics color code the different changes according to their effective dates.

Key to Effective Dates

Gray = Pre-SB 265 Law

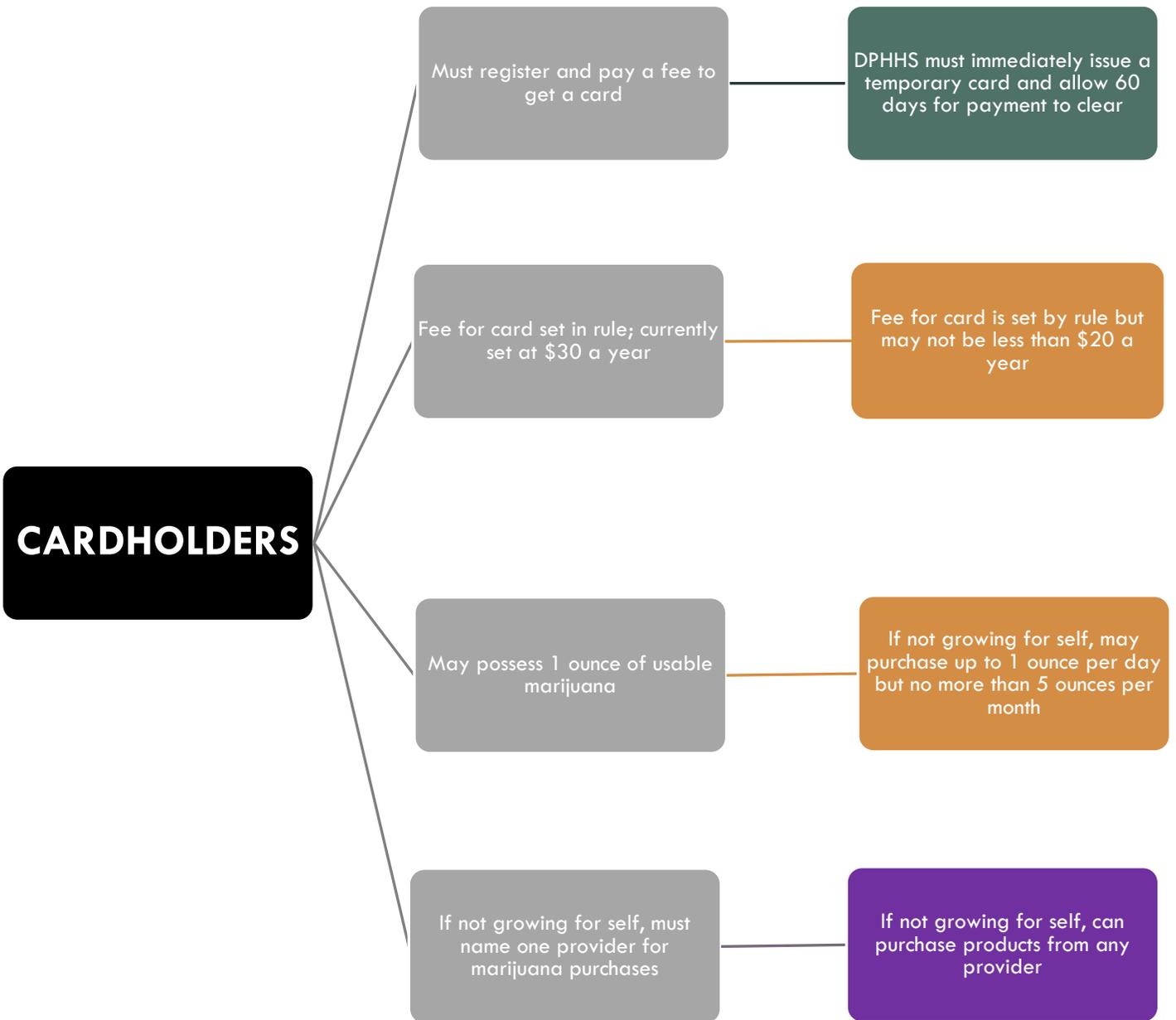
Green = Immediate

Red = Jan. 1, 2020

Blue = July 1, 2019

Orange = October 1, 2019

Purple = July 1, 2020 or earlier



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PROVIDERS

DPHHS issues and renews licenses based on applications

Moratorium on licenses for new providers until all existing providers comply with seed-to-sale tracking system

Can have employees

Third-party contractors are not employees

Must specify location at which marijuana is grown or manufactured

May not share property or equipment with another provider or lab or contract for manufacturing services

Must submit fingerprints annually for licensure

Must submit fingerprints every 3 years and undergo a name-based background check in other years

May not advertise marijuana products

May have websites and be listed in business directories: DPHHS must adopt rules identifying prohibited advertising activities

Size of growing areas based on number of cardholders

Growing areas allocated by DPHHS based on tiers with specified square footage and cultivation requirements; new providers must be licensed at one of the two lowest licensure tiers

Must be named by a cardholder to sell to the cardholder

Can sell products to any cardholder

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TESTING LABS

DPHHS must license testing labs and adopt testing rules

DPHHS environmental lab must license testing labs and adopt testing rules

No prohibition on issuance of temporary licenses

Temporary licenses prohibited; inspection must be completed before license is issued

Labs are subject to DPHHS inspections

Labs must keep specific records and make them available during inspections

Must submit fingerprints annually for licensure

Must submit fingerprints every 3 years and undergo a name-based background check in other years

May not have a financial interest in a provider

Financial interest is specifically, and more narrowly, defined

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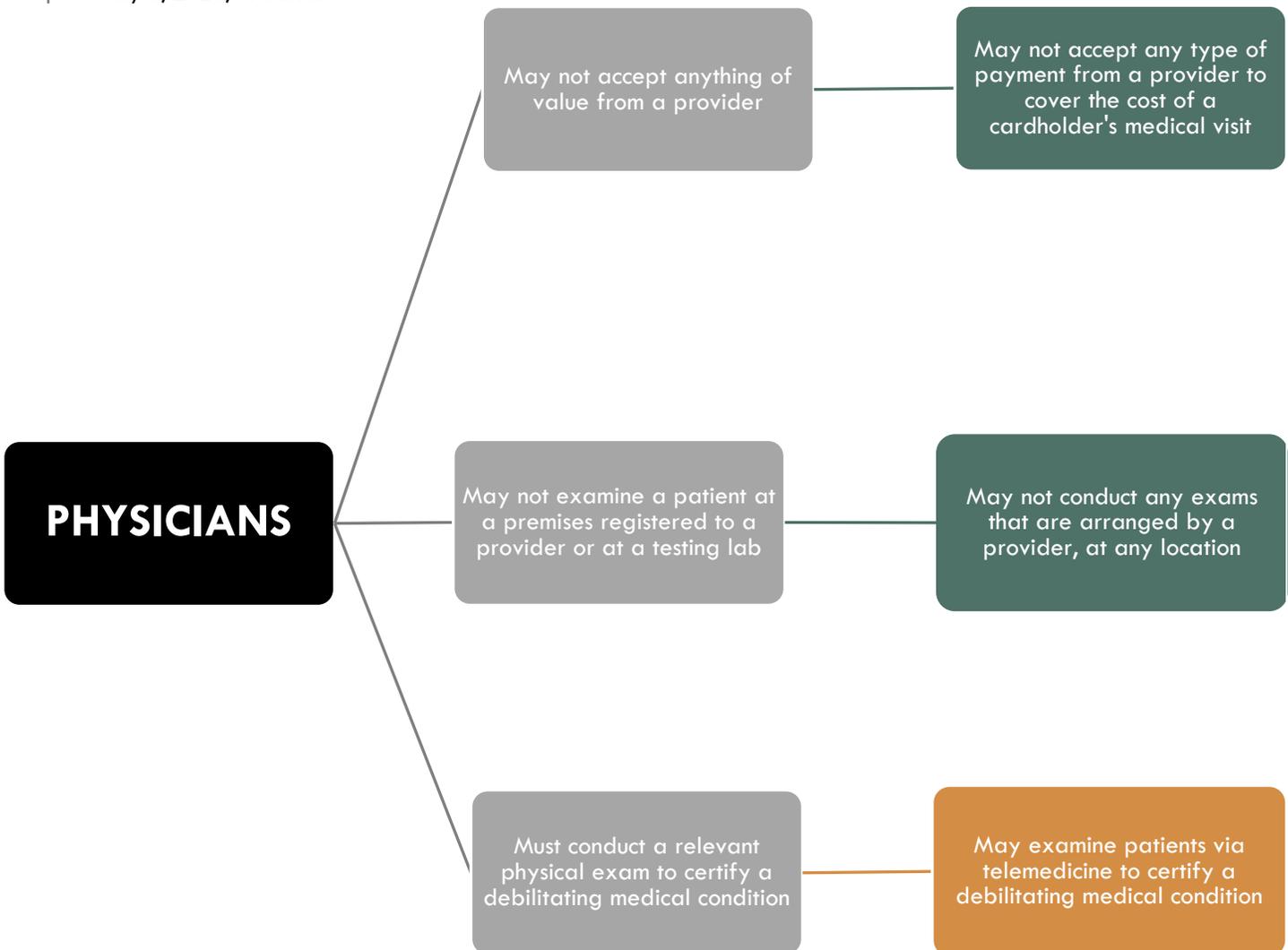
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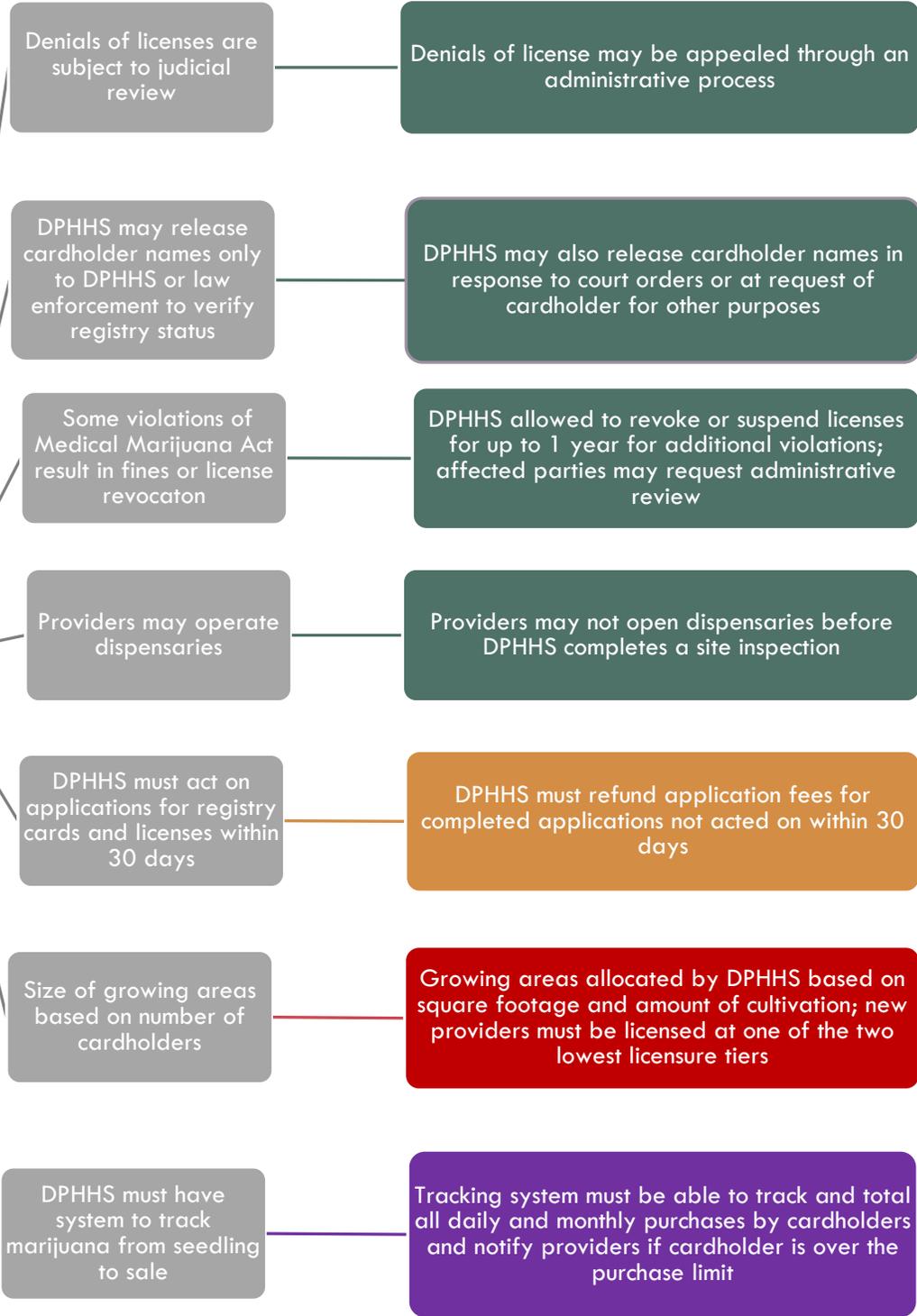
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OTHER REGULATORY CHANGES



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Law

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FUNDING

Medical marijuana taxes, fees, and fines must be used to pay operating costs of the program

Taxes, fees, and fines in excess of operating and reserve costs must be used for pain management education and treatment

Providers pay a 2% tax on gross sales of marijuana products

Tax on gross sales increases to 4% through Sept. 30, 2021

Unlawful conduct results in license or card revocation and possible \$500 fine/6 months in jail

Some specific unlawful acts will result in license or card revocations and other acts will be subject to new, tiered fines

Dispensary fees set by rule; currently at \$500 per dispensary

Dispensary fees set in law, ranging from \$500 to \$100,000 depending on number of dispensaries a provider operates

Provider license fees set in law and rule and based on number of cardholders served, ranging from \$1,000 to \$5,000

Provider license fees set in law and based on licensure tier, ranging from \$500 to \$20,000