

Minnesota Senate

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S.F. No. 97, 5th Engrossment - 86th Legislative Session (2009-2010) Posted on May 20, 2009

1.1 A bill for an act

1.2 relating to health; providing for the medical use of marijuana; providing civil

1.3 and criminal penalties; providing an expiration date for medical use of marijuana

1.4 provisions; appropriating money;amending Minnesota Statutes 2008, section

1.5 13.3806, by adding a subdivision; proposing coding for new law in Minnesota

1.6 Statutes, chapter 152.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2008, section 13.3806, is amended by adding a

1.9 subdivision to read:

1.10 Subd. 21. **Medical use of marijuana data.** Data collected by the commissioner of

1.11 health relating to registrations for the medical use of marijuana are classified in section

1.12 152.25, subdivision 5.

1.13 Sec. 2. [152.22] DEFINITIONS.

1.14 Subdivision 1. **Applicability.** For purposes of sections 152.22 to 152.31, the terms

1.15 defined in this section have the meanings given them.

1.16 Subd. 2. **Allowable amount of marijuana.** (a) With respect to a qualifying patient,

1.17 the "allowable amount of marijuana" means 2.5 ounces of usable marijuana.

1.18 (b) With respect to a primary caregiver, the "allowable amount of marijuana" for

1.19 each patient means 2.5 ounces of usable marijuana.

1.20 (c) With respect to a registered organization, the "allowable amount of marijuana"

1.21 for each patient means:

1.22 (1) ten marijuana plants; and

1.23 (2) any amount of other parts of the marijuana plant.

1.24 Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

2.1 Subd. 4. **Debilitating medical condition.** "Debilitating medical condition" means

2.2 a terminal illness accompanied by: one or more of the following: cachexia or wasting

2.3 syndrome; intractable pain, as defined in section 152.125, subdivision 1; severe nausea;

2.4 seizures, including, but not limited to, those characteristic of epilepsy; severe and

2.5 persistent muscle spasms, including, but not limited to, those characteristic of multiple

2.6 sclerosis and Crohn's disease; or agitation of Alzheimer's disease.

2.7 Subd. 5. **Department.** "Department" means the Minnesota Department of Health.

2.8 Subd. 6. **Medical use of marijuana.** "Medical use of marijuana" means the

2.9 acquisition, possession, use, cultivation, manufacture, delivery, transfer, or transportation

2.10 of marijuana or paraphernalia, as defined in section 152.01, subdivision 18, relating to the

2.11 consumption of marijuana to alleviate a registered qualifying patient's debilitating medical

2.12 condition or symptoms associated with the medical condition.

2.13 Subd. 7. **Practitioner.** "Practitioner" means a Minnesota licensed doctor of

2.14 medicine, a Minnesota licensed doctor of osteopathy licensed to practice medicine, a
2.15 Minnesota licensed physician assistant acting within the scope of authorized practice, or
2.16 a Minnesota licensed advance practice registered nurse.

2.17 Subd. 8. **Primary caregiver.** "Primary caregiver" means a person who is at least
2.18 21 years old and who has agreed to assist with a qualifying patient's medical use of
2.19 marijuana. A primary caregiver may assist no more than five qualifying patients with
2.20 their medical use of marijuana.

2.21 Subd. 9. **Qualifying patient.** "Qualifying patient" means a person who has been
2.22 diagnosed by a practitioner as having a debilitating medical condition.

2.23 Subd. 10. **Registry identification card.** "Registry identification card" means a
2.24 document issued by the commissioner that identifies a person as a qualifying patient or
2.25 primary caregiver.

2.26 Subd. 11. **Usable marijuana.** "Usable marijuana" means the dried leaves and
2.27 flowers of the marijuana plant, and any mixture or preparation of it, but does not include
2.28 the seeds, stalks, and roots of the plant.

2.29 Subd. 12. **Written certification.** "Written certification" means a statement signed
2.30 and dated by a practitioner, stating that in the practitioner's professional opinion the
2.31 potential benefits of the medical use of marijuana would likely outweigh the health risks
2.32 for the qualifying patient. A written certification must be reviewed by the practitioner
2.33 annually and shall only be made in the course of a bona fide practitioner-patient
2.34 relationship after the practitioner has completed a physical examination of the patient and
2.35 a full assessment of the qualifying patient's medical history. The written certification
2.36 shall specify the qualifying patient's debilitating medical condition or conditions and
3.1 recommend the medical use of marijuana to alleviate the condition or symptoms associated
3.2 with the condition.

3.3 Sec. 3. **[152.23] PROTECTIONS FOR MEDICAL USE OF MARIJUANA.**

3.4 Subdivision 1. **Qualifying patient.** A qualifying patient who possesses a registry
3.5 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or
3.6 denied any right or privilege, including, but not limited to, civil penalty or disciplinary
3.7 action by a business or occupational or professional licensing board or entity, for the
3.8 medical use of marijuana, provided that the qualifying patient possesses an amount of
3.9 marijuana that does not exceed the allowable amount.

3.10 Subd. 2. **Primary caregiver.** A primary caregiver who possesses a registry
3.11 identification card shall not be subject to arrest, prosecution, or penalty in any manner, or
3.12 denied any right or privilege, including, but not limited to, civil penalty or disciplinary
3.13 action by a business or occupational or professional licensing board or entity, for
3.14 assisting a qualifying patient to whom the primary caregiver is connected through the
3.15 commissioner's registration process with the medical use of marijuana, provided that the
3.16 primary caregiver possesses an amount of marijuana that does not exceed the allowable
3.17 amount of marijuana for each qualifying patient to whom the primary caregiver is
3.18 connected through the registration process.

3.19 Subd. 3. **Dismissal of charges.** If a qualifying patient or a primary caregiver who is
3.20 not in possession of a registry identification card is arrested for possession of an amount of
3.21 marijuana that does not exceed the allowable amount or is charged with this, the patient or
3.22 caregiver shall be released from custody and the charges dismissed upon production of a
3.23 valid registry identification card issued in the person's name.

3.24 Subd. 4. **Discrimination prohibited.** (a) No school or landlord may refuse to enroll
3.25 or lease to, or otherwise penalize, a person solely for the person's status as a registered
3.26 qualifying patient or a registered primary caregiver, unless failing to do so would place the

school or landlord in violation of federal law.

(b) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana according to sections 152.22 to 152.31 is considered the equivalent of the authorized medication used at the discretion of a physician, and does not constitute the use of an illicit substance.

(c) Unless a failure to do so would put an employer in violation of federal law or federal regulations, an employer may not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(1) the person's status as a registered qualifying patient or a registered primary caregiver; or

(2) a registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

(d) A person shall not be denied custody of or visitation rights or parenting time with a minor solely for the person's status as a registered qualifying patient or a registered primary caregiver, and there shall be no presumption of neglect or child endangerment for conduct allowed under sections 152.22 to 152.31, unless the person's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

Subd. 5. **Presumption.** (a) There is a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marijuana if the qualifying patient or primary caregiver:

(1) is in possession of a registry identification card; and

(2) is in possession of an amount of marijuana that does not exceed the amount permitted under sections 152.22 to 152.31.

(b) The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the medical condition.

Subd. 6. **Caregiver's reimbursement.** A primary caregiver who is not a registered organization may receive reimbursement from a registered qualifying patient for costs associated with assisting with a registered qualifying patient's medical use of marijuana. To be reimbursable under this subdivision, a cost must have been actually incurred by the caregiver. Examples of reimbursable costs include mileage, travel expenses, price paid to obtain supplies, and the price paid to a registered organization for marijuana. A primary caregiver may not be paid any extra fee or compensation for serving as a caregiver. Reimbursement does not constitute sale of controlled substances.

Subd. 7. **Practitioner.** A practitioner shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the Board of Medical Practice or by another business or occupational or professional licensing board or entity, solely for providing written certifications or otherwise stating that, in the practitioner's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for a patient, provided that nothing shall prevent a practitioner from being sanctioned for failure to properly evaluate a patient's medical condition or otherwise violate the standard of care for evaluating medical conditions.

Subd. 8. **Property rights.** Any interest in or right to property that is lawfully possessed, owned, or used in connection with the medical use of marijuana as authorized in sections 152.22 to 152.31, or acts incidental to such use, is not forfeited under sections 609.531 to 609.5318.

Subd. 9. **Arrest and prosecution prohibited.** No person is subject to arrest or

5.8 prosecution for any offense related to the possession of marijuana, including constructive
5.9 possession, conspiracy, aiding and abetting, or being an accessory, solely for being in the
5.10 presence or vicinity of the medical use of marijuana as permitted under sections 152.22 to
5.11 152.31 or, if the person is a primary caregiver acting in compliance with sections 152.22 to
5.12 152.31, for assisting a registered qualifying patient with using or administering marijuana.

5.13 Subd. 10. **Nursing facilities.** Nursing facilities licensed under chapter 144A or
5.14 boarding care homes licensed under section 144.50 may adopt reasonable restrictions on
5.15 the use of medical marijuana by their residents. The restrictions may include a provision
5.16 that the facility will not store or maintain the patient's supply of medical marijuana, that
5.17 caregivers or the hospice agencies serving their residents are not responsible for providing
5.18 the marijuana for qualifying patients, that marijuana be consumed in a method other than
5.19 smoking, and that medical marijuana be consumed only in a place specified by the facility.
5.20 Nothing contained herein, however, shall require the facilities to adopt such restrictions
5.21 and no facility shall unreasonably limit a qualifying patient's access to or use of marijuana.

5.22 **Sec. 4. [152.25] REGISTRY IDENTIFICATION CARDS; ISSUANCE.**

5.23 Subdivision 1. **Requirements; issuance.** (a) The commissioner shall issue registry
5.24 identification cards to qualifying patients who submit:

5.25 (1) a written certification issued within the 90 days immediately preceding the
5.26 date of application;

5.27 (2) the application or renewal fee of \$100;

5.28 (3) the name, address, and date of birth of the qualifying patient, except that if the
5.29 applicant is homeless, no address is required;

5.30 (4) the name, address, and telephone number of the qualifying patient's practitioner;

5.31 (5) the name, address, and date of birth of each primary caregiver of the qualifying
5.32 patient, if any, and a signed statement from the individual designated to be a primary
5.33 caregiver agreeing to be designated as such. A qualifying patient may designate only one
5.34 primary caregiver except that one additional caregiver may be designated if the qualifying
5.35 patient is under the age of 18, or the qualifying patient designates a registered organization
6.1 to cultivate marijuana for the patient's medical use and the patient requests the assistance
6.2 of the second caregiver that is not a registered organization to assist with the qualifying
6.3 patient's medical use. A qualifying patient may name a maximum of two primary
6.4 caregivers, one of whom must be a registered organization. For the registered organization
6.5 designated, the name and address of the registered organization must be submitted; and
6.6 (6) a designation as to who will be allowed to cultivate marijuana plants for the
6.7 qualifying patient's medical use. Only one entity will be permitted to cultivate marijuana
6.8 for a qualified patient.

6.9 (b) The commissioner shall not issue a registry identification card to a qualifying
6.10 patient under the age of 18 unless:

6.11 (1) the qualifying patient's practitioner has explained the potential risks and benefits
6.12 of the medical use of marijuana to the qualifying patient and to a parent, guardian, or
6.13 person having legal custody of the qualifying patient; and

6.14 (2) a parent, guardian, or person having legal custody consents in writing to:

6.15 (i) allow the qualifying patient's medical use of marijuana;

6.16 (ii) serve as one of the qualifying patient's primary caregivers; and

6.17 (iii) control the acquisition of marijuana, the dosage, and the frequency of the
6.18 medical use of marijuana by the qualifying patient.

6.19 (c) The commissioner shall verify the information contained in an application or
6.20 renewal submitted under this section and shall approve or deny an application or renewal
6.21 within 15 days of receiving it. The commissioner may deny an application or renewal

6.22 only if the applicant did not provide the information required under this section or if the
6.23 commissioner determines that the information provided was falsified. Rejection of an
6.24 application or renewal is a final agency action, subject to judicial review. Jurisdiction and
6.25 venue for judicial review are vested in the district court.

6.26 (d) The commissioner shall issue a registry identification card to each primary
6.27 caregiver, if any, who is named in a qualifying patient's approved application, up to a
6.28 maximum of two primary caregivers per qualifying patient. If a primary caregiver named
6.29 by the qualifying patient is a registered organization, a registry identification card shall be
6.30 provided under section 152.31, subdivision 2.

6.31 (e) The commissioner shall issue a registry identification card under paragraphs (a)
6.32 and (d) within five days of approving an application or renewal. The card expires one year
6.33 after the date of issuance. A registry identification card shall contain:

6.34 (1) a photograph of the cardholder;

6.35 (2) the name, address, and date of birth of the qualifying patient;

7.1 (3) the name, address, and date of birth of each primary caregiver of the qualifying
7.2 patient, if any, if the primary caregiver is not a registered organization;

7.3 (4) the date of issuance and expiration date of the registry identification card; and

7.4 (5) a random registry identification number.

7.5 Subd. 2. **Notification of changes; penalties.** (a) A qualifying patient who has been
7.6 issued a registry identification card shall notify the commissioner within ten days of any
7.7 change in the qualifying patient's name, address, or primary caregiver, or if the qualifying
7.8 patient ceases to have a debilitating medical condition.

7.9 (b) Failure to notify the commissioner of a change as required under paragraph (a) is
7.10 a civil violation, punishable by a fine of no more than \$150. If the person has ceased to
7.11 have a debilitating medical condition, the card is null and void and the person is liable for
7.12 any other penalties that may apply to the person's nonmedical use of marijuana.

7.13 (c) A qualifying patient must notify the commissioner of a change in the qualifying
7.14 patient's designation as to who will be allowed to cultivate marijuana plants for the
7.15 qualifying patient's medical use.

7.16 (d) When a qualifying patient or primary caregiver notifies the commissioner of any
7.17 changes under this subdivision, the commissioner shall issue the qualifying patient and
7.18 each primary caregiver a new registry identification card within ten days of receiving the
7.19 updated information and a \$10 fee.

7.20 (e) When a registered qualifying patient ceases to use the assistance of a registered
7.21 primary caregiver, the commissioner shall notify the primary caregiver within ten days.
7.22 The primary caregiver's protections as provided under section 152.23 expire ten days after
7.23 notification by the commissioner.

7.24 Subd. 3. **Lost cards.** If a registered qualifying patient or a registered primary
7.25 caregiver loses a registry identification card, the patient or caregiver shall notify the
7.26 commissioner and submit a \$15 fee within ten days of losing the card. Within five days of
7.27 receiving notification and the required fee, the commissioner shall issue a new registry
7.28 identification card with a new random identification number.

7.29 Subd. 4. **Card as probable cause.** Possession of, or application for, a registry
7.30 identification card does not constitute probable cause or reasonable suspicion, nor shall it
7.31 be used to support a search of the person or property of the person possessing or applying
7.32 for the registry identification card, or otherwise subject the person or property of the
7.33 person to inspection by any governmental agency.

7.34 Subd. 5. **Data practices.** (a) Data in registration applications and supporting
7.35 data submitted by qualifying patients or primary caregivers, including data on primary
8.1 caregivers and practitioners, are private data on individuals or nonpublic data as defined in
8.2 section 13.02.

8.3 (b) The commissioner shall maintain a list of persons to whom the commissioner
8.4 has issued registry identification cards. Data in the list are private data on individuals or
8.5 nonpublic data except that:

8.6 (1) upon request of a law enforcement agency, the commissioner shall verify whether
8.7 a registry identification card is valid solely by confirming the registry identification
8.8 number; and

8.9 (2) the commissioner may notify law enforcement of falsified or fraudulent
8.10 information submitted for purposes of obtaining or renewing a registration card.

8.11 Subd. 6. **Report.** The commissioner shall report annually to the legislature on the
8.12 number of applications for registry identification cards, the number of qualifying patients
8.13 and primary caregivers approved, the nature of the debilitating medical conditions of the
8.14 qualifying patients, the number of registry identification cards revoked, and the number of
8.15 practitioners providing written certification for qualifying patients. The commissioner
8.16 must not include identifying information on qualifying patients, primary caregivers, or
8.17 practitioners in the report.

8.18 Subd. 7. **Submission of false records; criminal penalty.** A person who knowingly
8.19 submits false records or documentation required by the commissioner of health to certify
8.20 an organization under sections 152.22 to 152.31 is guilty of a felony and may be sentenced
8.21 to imprisonment for not more than five years or to payment of a fine of not more than
8.22 \$10,000, or both.

8.23 Subd. 8. **Criminal background check for primary caregivers.** Before issuing a
8.24 registry identification card to a primary caregiver under this section, the commissioner
8.25 shall request a criminal history background check on the caregiver from the superintendent
8.26 of the Bureau of Criminal Apprehension. The provisions of section 152.31, subdivision
8.27 7, apply to the background check. A person may not serve as a primary caregiver
8.28 and a registry identification card may not be issued to the person if the person has
8.29 been convicted of a drug felony as defined in section 152.31, subdivision 7, paragraph
8.30 (a). Notwithstanding this provision, if the commissioner determines that the person's
8.31 conviction was for the medical use of marijuana or assisting with the medical use of
8.32 marijuana, the commissioner may issue the person a registry identification card and allow
8.33 the person to serve as a primary caregiver.

8.34 Sec. 5. **[152.26] CONSTRUCTION.**

8.35 (a) Sections 152.22 to 152.31 do not permit:

9.1 (1) a person to undertake a task under the influence of marijuana, when doing
9.2 so would constitute negligence, professional malpractice, or failure to practice with
9.3 reasonable skill and safety;

9.4 (2) smoking of marijuana:

9.5 (i) in a school bus or other form of public transportation;

9.6 (ii) on school grounds;

9.7 (iii) in a correctional facility;

9.8 (iv) in any public place; or

9.9 (v) where the smoke may be inhaled by a minor child;

9.10 (3) a person to operate, navigate, or be in actual physical control of any motor
9.11 vehicle, aircraft, train, or motorboat, or work on transportation property, equipment, or
9.12 facilities while under the influence of marijuana. However, a registered qualifying patient
9.13 shall not be considered to be under the influence solely for having marijuana metabolites
9.14 in the patient's system;

9.15 (4) possession of marijuana on school grounds; or

9.16 (5) possession of marijuana on correctional facility property.

9.17 (b) Nothing in sections 152.22 to 152.31 shall be construed to require:

9.18 (1) a government medical assistance program or private health insurer to reimburse a
9.19 person for costs associated with the medical use of marijuana; or

9.20 (2) an employer to accommodate the medical use of marijuana in any workplace.

9.21 **Sec. 6. [152.27] PENALTIES.**

9.22 (a) Fraudulent representation to a law enforcement official of any fact or
9.23 circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a
9.24 gross misdemeanor, which shall be in addition to any other penalties that may apply for
9.25 making a false statement and for the nonmedical use of marijuana. If a person convicted
9.26 of violating this section is a qualifying patient or a primary caregiver, the person is
9.27 disqualified from further participation under sections 152.22 to 152.31 and the person's
9.28 registry card is void.

9.29 (b) In addition to any other penalty applicable in law, a qualifying patient is guilty of
9.30 a felony and may be sentenced to imprisonment for not more than two years or to payment
9.31 of a fine of not more than \$3,000, or both, if the patient:

9.32 (1) sells, transfers, loans, or otherwise gives another person the patient's registry
9.33 identification card; or

9.34 (2) sells, transfers, loans, or otherwise gives another person marijuana obtained
9.35 under sections 152.22 to 152.31.

10.1 In addition, the person is disqualified from further participation under sections 152.22 to
10.2 152.31 and the person's registry card is void.

10.3 **Sec. 7. [152.29] AFFIRMATIVE DEFENSE AND DISMISSAL FOR MEDICAL**
10.4 **MARIJUANA.**

10.5 (a) Except as provided in section 152.26, a person and a person's primary caregiver,
10.6 if any, may assert the medical purpose for using marijuana as a defense to any prosecution
10.7 involving marijuana, and such defense shall be presumed valid where the evidence shows
10.8 that:

10.9 (1) a practitioner has stated that, in the practitioner's professional opinion, after
10.10 having completed a full assessment of the person's medical history and current medical
10.11 condition made in the course of a bona fide practitioner-patient relationship, the potential
10.12 benefits of using marijuana for medical purposes would likely outweigh the health risks
10.13 for the person; and

10.14 (2) the person and the person's primary caregiver, if any, were collectively in
10.15 possession of a quantity of marijuana that was not more than was reasonably necessary
10.16 to ensure the uninterrupted availability of marijuana for the purpose of alleviating the
10.17 person's medical condition or symptoms associated with the medical condition.

10.18 (b) A person may assert the medical purpose for using marijuana in a motion to
10.19 dismiss, and the charges shall be dismissed following an evidentiary hearing where the
10.20 defendant shows the elements listed in paragraph (a).

10.21 (c) Any interest in or right to property that was possessed, owned, or used in
10.22 connection with a person's use of marijuana for medical purposes shall not be forfeited if
10.23 the person or the person's primary caregiver demonstrates the person's medical purpose for
10.24 using marijuana under this section.

10.25 **Sec. 8. [152.30] SEVERABILITY.**

10.26 Any provision of sections 152.22 to 152.31 being held invalid as to any person or
10.27 circumstances shall not affect the application of any other provision of sections 152.22 to
10.28 152.31 that can be given full effect without the invalid section or application.

10.29 Sec. 9. **[152.31] REGISTERED ORGANIZATION.**

10.30 Subdivision 1. **Definition.** For purposes of this section, "registered organization"

10.31 means a nonprofit entity registered with the commissioner under this section that acquires,
10.32 possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses
10.33 marijuana, or related supplies and educational materials to registered qualifying patients
11.1 and the qualifying patients' registered primary caregivers. A registered organization
11.2 is a primary caregiver, although it may supply marijuana to any number of registered
11.3 qualifying patients who have designated it as one of the qualifying patient's primary
11.4 caregivers. A registered organization may not possess more than the allowable amount
11.5 of marijuana.

11.6 Subd. 2. **Registration requirements.** (a) The commissioner shall issue a registered
11.7 organization license within 20 days to any person who provides:

11.8 (1) a fee in an amount established by the commissioner notwithstanding section
11.9 16A.1283, which shall not exceed \$2,000;

11.10 (2) the name of the registered organization;

11.11 (3) the physical addresses of the registered organization and any other real property
11.12 where marijuana is to be possessed, cultivated, manufactured, supplied, or dispensed
11.13 relating to the operations of the registered organization; and

11.14 (4) the name, address, and date of birth of any person who is an agent of or employed
11.15 by the registered organization.

11.16 (b) The commissioner shall issue each agent and employee of a registered
11.17 organization a registry identification card for a cost of \$15 each within ten days of receipt
11.18 of the person's identifying information and the fee. Each card shall specify that the
11.19 cardholder is an employee or agent of a registered organization.

11.20 Subd. 3. **Expiration.** A license for a registered organization and each employee or
11.21 agent registry identification card expires one year after the date of issuance.

11.22 Subd. 4. **Inspection.** Registered organizations are subject to reasonable inspection
11.23 by the commissioner.

11.24 Subd. 5. **Organization requirements.** (a) Registered organizations must be
11.25 established as nonprofit entities. Registered organizations are subject to all applicable
11.26 state laws governing nonprofit entities, but need not qualify for federal tax exemption
11.27 under the Internal Revenue Code.

11.28 (b) Registered organizations may not be located within 500 feet of the property line
11.29 of a public school, private school, or structure used primarily for religious services or
11.30 worship.

11.31 (c) The operating documents of a registered organization shall include procedures
11.32 for the oversight of the registered organization and procedures to ensure adequate record
11.33 keeping.

11.34 (d) A registered organization shall notify the commissioner within ten days of when
11.35 an employee or agent ceases to work at the registered organization.

12.1 (e) The registered organization shall notify the commissioner before a new agent or
12.2 employee begins working at the registered organization, in writing, and the organization
12.3 shall submit a \$10 fee for the person's registry identification card.

12.4 (f) No registered organization shall be subject to prosecution, search, seizure, or
12.5 penalty in any manner or denied any right or privilege, including, but not limited to, civil
12.6 penalty or disciplinary action by a business or occupational or professional licensing board
12.7 or entity, for acting according to sections 152.22 to 152.31 to assist registered qualifying
12.8 patients to whom it is connected through the commissioner's registration process with the
12.9 medical use of marijuana, provided that the registered organization possesses an amount
12.10 of marijuana that does not exceed the allowable amount.

12.11 (g) No employees, agents, or board members of a registered organization shall
12.12 be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied
12.13 any right or privilege, including, but not limited to, civil penalty or disciplinary action
12.14 by a business, occupational, or professional licensing board or entity, for working for a
12.15 registered organization according to sections 152.22 to 152.31.

12.16 (h) The registered organization is prohibited from acquiring, possessing, cultivating,
12.17 manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana
12.18 for any purpose except to assist registered qualifying patients with the medical use of
12.19 marijuana directly or through the qualifying patients' other primary caregiver.

12.20 (i) The registered organization shall implement appropriate security measures to
12.21 deter and prevent the unauthorized entrance into areas containing marijuana or marijuana
12.22 plants and the theft of marijuana or marijuana plants. By December 1 of each year,
12.23 the organization shall submit a summary of the security measures implemented to the
12.24 commissioner. The commissioner shall review these measures and, if deemed advisable,
12.25 require reasonable upgrades to security to better protect the marijuana or marijuana plants.

12.26 (j) Registered organizations may cultivate marijuana only indoors.

12.27 **Subd. 6. Delivery; charging for services.** (a) A registered organization may deliver
12.28 up to 2.5 ounces of usable marijuana to a qualifying patient within the state to be used in
12.29 accordance with sections 152.22 to 152.31.

12.30 (b) A registered organization may charge a qualifying patient or a primary caregiver
12.31 for authorized services rendered under sections 152.22 to 152.31. Payment under this
12.32 paragraph does not constitute sale of controlled substances.

12.33 **Subd. 7. Background checks; felony drug convictions.** (a) As used in this
12.34 subdivision, "felony drug offense" means a violation of a state or federal controlled
12.35 substance law that is classified as a felony under Minnesota law or would be classified
13.1 as a felony under Minnesota law if committed in Minnesota, regardless of the sentence
13.2 imposed.

13.3 (b) The department shall request a criminal history background check from the
13.4 superintendent of the Bureau of Criminal Apprehension on all employees, agents, and
13.5 board members of a registered organization. An application for registry identification
13.6 cards for employees, agents, and board members must be accompanied by an executed
13.7 criminal history consent form, including fingerprints.

13.8 (c) The superintendent of the Bureau of Criminal Apprehension shall perform
13.9 the background check required under paragraph (b) by retrieving criminal history data
13.10 maintained in the Criminal Justice Information System computers and shall also conduct
13.11 a search of the national criminal records repository, including the criminal justice data
13.12 communications network. The superintendent is authorized to exchange fingerprints with
13.13 the Federal Bureau of Investigation for purposes of the criminal history check.

13.14 (d) The Bureau of Criminal Apprehension and its agents may not directly or
13.15 indirectly disclose to the Federal Bureau of Investigation or any other person that the
13.16 purpose of the background check is related to the medical use of marijuana or registered
13.17 organizations.

13.18 (e) The department shall refuse to issue a registry card to any agent, employee, or
13.19 board member of a registered organization who has been convicted of a drug felony. The
13.20 department, without disclosing the actual results of the national records check, shall notify
13.21 the registered organization in writing of the purpose for denying the registry identification
13.22 card. However, the department may grant the person a registry identification card if the
13.23 person's conviction was for the medical use of marijuana or assisting with the medical use
13.24 of marijuana.

13.25 (f) If a registered organization has employed an agent, board member, or employee
13.26 and is notified that the person failed the background check, it shall terminate the person's

13.27 status as an agent, board member, or employee within 24 hours of receiving written
13.28 notification. The result of the criminal background check is private information, and the
13.29 registered organization may not disclose it, except to defend itself of any charges related
13.30 to employment law.

13.31 (g) No person who has been convicted of a drug felony offense may be the agent,
13.32 board member, or employee of a registered organization. Notwithstanding this provision,
13.33 a person may apply to the department for a waiver if the person's conviction was for the
13.34 medical use of marijuana or assisting with the medical use of marijuana. A person who is
13.35 employed by, an agent of, or a board member of a registered organization in violation of
14.1 this section is guilty of a civil violation punishable by a fine of up to \$1,000. A subsequent
14.2 violation of this section is a gross misdemeanor.

14.3 (h) No registered organization may knowingly and willfully allow a person who has
14.4 been convicted of a drug felony to be its agent, board member, or employee unless the
14.5 department has granted the person a registry identification card because the person's
14.6 conviction was for the medical use of marijuana. A violation is punishable by a fine of
14.7 up to \$2,000.

14.8 Subd. 8. **Penalty.** (a) The registered organization may not possess an amount of
14.9 marijuana that exceeds the allowable amount of marijuana. The registered organization
14.10 may not dispense, deliver, or otherwise transfer marijuana to a person other than a
14.11 qualifying patient or the patient's primary caregiver. An intentional violation of this
14.12 subdivision is a felony punishable by imprisonment for not more than two years or by
14.13 payment of a fine of not more than \$3,000, or both. This penalty is in addition to any
14.14 other penalties applicable in law.

14.15 (b) A person convicted of violating paragraph (a) may not continue to be affiliated
14.16 with the registered organization and is disqualified from further participation under
14.17 sections 152.22 to 152.31.

14.18 Sec. 10. **[152.32] SUNSET.**
14.19 Sections 152.22 to 152.32 and 13.3806, subdivision 21, expire October 1, 2011.

14.20 Sec. 11. **IMPLEMENTATION.**
14.21 The commissioner of health must begin issuing registry identification cards and
14.22 registered organization licenses under Minnesota Statutes, sections 152.22 to 152.32,
14.23 by October 1, 2009.

14.24 Sec. 12. **FEES.**
14.25 Fees raised in Minnesota Statutes, sections 152.22 to 152.31, are appropriated and
14.26 deposited in the state government special revenue fund.

14.27 Sec. 13. **APPROPRIATIONS.**
14.28 \$436,000 for fiscal year 2010 and \$517,000 for fiscal year 2011 are appropriated
14.29 from the state government special revenue fund to the commissioner of health to
14.30 implement Minnesota Statutes, sections 152.22 to 152.31.

14.31 Sec. 14. **EFFECTIVE DATE.**
15.1 Sections 1 to 9 are effective August 1, 2009.

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