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HOUSE BILL 10-1284

BY REPRESENTATIVE(S) Massey and Summers, McCann, Rice,
Labuda, Kagan, Pommer;
also SENATOR(S) Romer and Spence.

CONCERNING REGULATION OF MEDICAL MARIJUANA, AND MAKING AN
APPROPRIATION THEREFOR.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Title 12, Colorado Revised Statutes, is amended BY
THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 43.3
Medical Marijuana

PART 1
COLORADO MEDICAL MARIJUANA CODE

12-43.3-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY
BE CITED AS THE "COLORADO MEDICAL MARIJUANA CODE".

12-43.3-102. Legislative declaration. (1) THE GENERAL ASSEMBLY
HEREBY DECLARES THAT THIS ARTICLE SHALL BE DEEMED AN EXERCISE OF

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

THE POLICE POWERS OF THE STATE FOR THE PROTECTION OF THE ECONOMIC AND SOCIAL WELFARE AND THE HEALTH, PEACE, AND MORALS OF THE PEOPLE OF THIS STATE.

(2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT IT IS UNLAWFUL UNDER STATE LAW TO CULTIVATE, MANUFACTURE, DISTRIBUTE, OR SELL MEDICAL MARIJUANA, EXCEPT IN COMPLIANCE WITH THE TERMS, CONDITIONS, LIMITATIONS, AND RESTRICTIONS IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION AND THIS ARTICLE OR WHEN ACTING AS A PRIMARY CAREGIVER IN COMPLIANCE WITH THE TERMS, CONDITIONS, LIMITATIONS, AND RESTRICTIONS OF SECTION 25-1.5-106, C.R.S.

12-43.3-103. Applicability. (1) (a) ON JULY 1, 2010, A PERSON WHO IS OPERATING AN ESTABLISHED, LOCALLY APPROVED BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS OR A PERSON WHO HAS APPLIED TO A LOCAL GOVERNMENT TO OPERATE A LOCALLY APPROVED BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS WHICH IS SUBSEQUENTLY GRANTED MAY CONTINUE TO OPERATE THAT BUSINESS IN ACCORDANCE WITH ANY APPLICABLE STATE OR LOCAL LAWS. "ESTABLISHED", AS USED IN THIS PARAGRAPH (a), SHALL MEAN OWNING OR LEASING A SPACE WITH A STOREFRONT AND REMITTING SALES TAXES IN A TIMELY MANNER ON RETAIL SALES OF THE BUSINESS AS REQUIRED PURSUANT TO 39-26-105, C.R.S., AS WELL AS ANY APPLICABLE LOCAL SALES TAXES.

(b) TO CONTINUE OPERATING A BUSINESS OR OPERATION AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1), THE OWNER SHALL, ON OR BEFORE AUGUST 1, 2010, COMPLETE FORMS AS PROVIDED BY THE DEPARTMENT OF REVENUE AND SHALL PAY A FEE, WHICH SHALL BE CREDITED TO THE MEDICAL MARIJUANA LICENSE CASH FUND ESTABLISHED PURSUANT TO SECTION 12-43.3-501. THE PURPOSE OF THE FEE SHALL BE TO PAY FOR THE DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY AND THE DEVELOPMENT OF APPLICATION PROCEDURES AND RULES NECESSARY TO IMPLEMENT THIS ARTICLE. PAYMENT OF THE FEE AND COMPLETION OF THE FORM SHALL NOT CREATE A LOCAL OR STATE LICENSE OR A PRESENT OR FUTURE ENTITLEMENT TO RECEIVE A LICENSE. AN OWNER ISSUED A LOCAL LICENSE AFTER AUGUST 1, 2010, SHALL COMPLETE THE FORMS AND PAY THE FEE PURSUANT TO THIS PARAGRAPH (b) WITHIN THIRTY DAYS OF ISSUANCE OF THE LOCAL LICENSE. IN ADDITION TO ANY CRIMINAL PENALTIES FOR

SELLING WITHOUT A LICENSE, IT SHALL BE UNLAWFUL TO CONTINUE OPERATING A BUSINESS OR OPERATION WITHOUT FILING THE FORMS AND PAYING THE FEE AS DESCRIBED IN THIS SUBSECTION (b), AND ANY VIOLATION OF THIS SECTION SHALL BE PRIMA-FACIE EVIDENCE OF UNSATISFACTORY CHARACTER, RECORD, AND REPUTATION FOR ANY FUTURE APPLICATION FOR LICENSE UNDER THIS ARTICLE.

(c) A COUNTY, CITY AND COUNTY, OR MUNICIPALITY SHALL PROVIDE TO THE STATE LICENSING AUTHORITY, UPON REQUEST, A LIST THAT INCLUDES THE NAME AND LOCATION OF EACH LOCAL CENTER OR OPERATION LICENSED IN SAID COUNTY, CITY AND COUNTY, OR MUNICIPALITY SO THAT THE STATE LICENSING AUTHORITY CAN IDENTIFY ANY CENTER OR OPERATION OPERATING UNLAWFULLY.

(2) (a) PRIOR TO JULY 1, 2011, A COUNTY, CITY AND COUNTY, OR MUNICIPALITY MAY ADOPT AND ENFORCE A RESOLUTION OR ORDINANCE LICENSING, REGULATING, OR PROHIBITING THE CULTIVATION OR SALE OF MEDICAL MARIJUANA. IN A COUNTY, CITY AND COUNTY, OR MUNICIPALITY WHERE SUCH AN ORDINANCE OR RESOLUTION HAS BEEN ADOPTED, A PERSON WHO IS NOT REGISTERED AS A PATIENT OR PRIMARY CAREGIVER PURSUANT TO SECTION 25-1.5-106, C.R.S., AND WHO IS CULTIVATING OR SELLING MEDICAL MARIJUANA SHALL NOT BE ENTITLED TO AN AFFIRMATIVE DEFENSE TO A CRIMINAL PROSECUTION AS PROVIDED FOR IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION UNLESS THE PERSON IS IN COMPLIANCE WITH THE APPLICABLE COUNTY OR MUNICIPAL LAW.

(b) ON OR BEFORE SEPTEMBER 1, 2010, A BUSINESS OR OPERATION SHALL CERTIFY THAT IT IS CULTIVATING AT LEAST SEVENTY PERCENT OF THE MEDICAL MARIJUANA NECESSARY FOR ITS OPERATION.

(c) ON AND AFTER JULY 1, 2011, ALL BUSINESSES FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS, AS DEFINED IN THIS ARTICLE, SHALL BE SUBJECT TO THE TERMS AND CONDITIONS OF THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE.

12-43.3-104. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "GOOD CAUSE", FOR PURPOSES OF REFUSING OR DENYING A

LICENSE RENEWAL, REINSTATEMENT, OR INITIAL LICENSE ISSUANCE, MEANS:

(a) THE LICENSEE OR APPLICANT HAS VIOLATED, DOES NOT MEET, OR HAS FAILED TO COMPLY WITH ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THIS ARTICLE, ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE, OR ANY SUPPLEMENTAL LOCAL LAW, RULES, OR REGULATIONS;

(b) THE LICENSEE OR APPLICANT HAS FAILED TO COMPLY WITH ANY SPECIAL TERMS OR CONDITIONS THAT WERE PLACED ON ITS LICENSE PURSUANT TO AN ORDER OF THE STATE OR LOCAL LICENSING AUTHORITY;

(c) THE LICENSED PREMISES HAVE BEEN OPERATED IN A MANNER THAT ADVERSELY AFFECTS THE PUBLIC HEALTH OR WELFARE OR THE SAFETY OF THE IMMEDIATE NEIGHBORHOOD IN WHICH THE ESTABLISHMENT IS LOCATED.

(2) "LICENSE" MEANS TO GRANT A LICENSE OR REGISTRATION PURSUANT TO THIS ARTICLE.

(3) "LICENSED PREMISES" MEANS THE PREMISES SPECIFIED IN AN APPLICATION FOR A LICENSE UNDER THIS ARTICLE, WHICH ARE OWNED OR IN POSSESSION OF THE LICENSEE AND WITHIN WHICH THE LICENSEE IS AUTHORIZED TO CULTIVATE, MANUFACTURE, DISTRIBUTE, OR SELL MEDICAL MARIJUANA IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(4) "LICENSEE" MEANS A PERSON LICENSED OR REGISTERED PURSUANT TO THIS ARTICLE.

(5) "LOCAL LICENSING AUTHORITY" MEANS AN AUTHORITY DESIGNATED BY MUNICIPAL OR COUNTY CHARTER, MUNICIPAL ORDINANCE, OR COUNTY RESOLUTION.

(6) "LOCATION" MEANS A PARTICULAR PARCEL OF LAND THAT MAY BE IDENTIFIED BY AN ADDRESS OR OTHER DESCRIPTIVE MEANS.

(7) "MEDICAL MARIJUANA" MEANS MARIJUANA THAT IS GROWN AND SOLD PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND FOR A PURPOSE AUTHORIZED BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(8) "MEDICAL MARIJUANA CENTER" MEANS A PERSON LICENSED

PURSUANT TO THIS ARTICLE TO OPERATE A BUSINESS AS DESCRIBED IN SECTION 12-43.3-402 THAT SELLS MEDICAL MARIJUANA TO REGISTERED PATIENTS OR PRIMARY CAREGIVERS AS DEFINED IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, BUT IS NOT A PRIMARY CAREGIVER.

(9) "MEDICAL MARIJUANA-INFUSED PRODUCT" MEANS A PRODUCT INFUSED WITH MEDICAL MARIJUANA THAT IS INTENDED FOR USE OR CONSUMPTION OTHER THAN BY SMOKING, INCLUDING BUT NOT LIMITED TO EDIBLE PRODUCTS, OINTMENTS, AND TINCTURES. THESE PRODUCTS, WHEN MANUFACTURED OR SOLD BY A LICENSED MEDICAL MARIJUANA CENTER OR A MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER, SHALL NOT BE CONSIDERED A FOOD OR DRUG FOR THE PURPOSES OF THE "COLORADO FOOD AND DRUG ACT", PART 4 OF ARTICLE 5 OF TITLE 25, C.R.S.

(10) "MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER" MEANS A PERSON LICENSED PURSUANT TO THIS ARTICLE TO OPERATE A BUSINESS AS DESCRIBED IN SECTION 12-43.3-404.

(11) "OPTIONAL PREMISES" MEANS THE PREMISES SPECIFIED IN AN APPLICATION FOR A MEDICAL MARIJUANA CENTER LICENSE WITH RELATED GROWING FACILITIES IN COLORADO FOR WHICH THE LICENSEE IS AUTHORIZED TO GROW AND CULTIVATE MARIJUANA FOR A PURPOSE AUTHORIZED BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(12) "OPTIONAL PREMISES CULTIVATION OPERATION" MEANS A PERSON LICENSED PURSUANT TO THIS ARTICLE TO OPERATE A BUSINESS AS DESCRIBED IN SECTION 12-43.3-403.

(13) "PERSON" MEANS A NATURAL PERSON, PARTNERSHIP, ASSOCIATION, COMPANY, CORPORATION, LIMITED LIABILITY COMPANY, OR ORGANIZATION, OR A MANAGER, AGENT, OWNER, DIRECTOR, SERVANT, OFFICER, OR EMPLOYEE THEREOF.

(14) "PREMISES" MEANS A DISTINCT AND DEFINITE LOCATION, WHICH MAY INCLUDE A BUILDING, A PART OF A BUILDING, A ROOM, OR ANY OTHER DEFINITE CONTIGUOUS AREA.

(15) "SCHOOL" MEANS A PUBLIC OR PRIVATE PRESCHOOL OR A PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, JUNIOR HIGH, OR HIGH SCHOOL.

(16) "STATE LICENSING AUTHORITY" MEANS THE AUTHORITY CREATED FOR THE PURPOSE OF REGULATING AND CONTROLLING THE LICENSING OF THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA IN THIS STATE, PURSUANT TO SECTION 12-43.3-201.

12-43.3-105. Limited access areas. SUBJECT TO THE PROVISIONS OF 12-43.3-701, A LIMITED ACCESS AREA SHALL BE A BUILDING, ROOM, OR OTHER CONTIGUOUS AREA UPON THE LICENSED PREMISES WHERE MEDICAL MARIJUANA IS GROWN, CULTIVATED, STORED, WEIGHED, DISPLAYED, PACKAGED, SOLD, OR POSSESSED FOR SALE, UNDER CONTROL OF THE LICENSEE, WITH LIMITED ACCESS TO ONLY THOSE PERSONS LICENSED BY THE STATE LICENSING AUTHORITY. ALL AREAS OF INGRESS OR EGRESS TO LIMITED ACCESS AREAS SHALL BE CLEARLY IDENTIFIED AS SUCH BY A SIGN AS DESIGNATED BY THE STATE LICENSING AUTHORITY.

12-43.3-106. Local option. THE OPERATION OF THIS ARTICLE SHALL BE STATEWIDE UNLESS A MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY, BY EITHER A MAJORITY OF THE REGISTERED ELECTORS OF THE MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY VOTING AT A REGULAR ELECTION OR SPECIAL ELECTION CALLED IN ACCORDANCE WITH THE "COLORADO MUNICIPAL ELECTION CODE OF 1965", ARTICLE 10 OF TITLE 31, C.R.S., OR THE "UNIFORM ELECTION CODE OF 1992", ARTICLES 1 TO 13 OF TITLE 1, C.R.S., AS APPLICABLE, OR A MAJORITY OF THE MEMBERS OF THE GOVERNING BOARD FOR THE MUNICIPALITY, COUNTY, CITY, OR CITY AND COUNTY, VOTE TO PROHIBIT THE OPERATION OF MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES.

PART 2 STATE LICENSING AUTHORITY

12-43.3-201. State licensing authority - creation - repeal.

(1) FOR THE PURPOSE OF REGULATING AND CONTROLLING THE LICENSING OF THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA IN THIS STATE, THERE IS HEREBY CREATED THE STATE LICENSING AUTHORITY, WHICH SHALL BE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE OR THE DEPUTY DIRECTOR OF THE DEPARTMENT OF REVENUE IF THE EXECUTIVE DIRECTOR SO DESIGNATES.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE

SHALL BE THE CHIEF ADMINISTRATIVE OFFICER OF THE STATE LICENSING AUTHORITY AND MAY EMPLOY, PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION, SUCH OFFICERS AND EMPLOYEES AS MAY BE DETERMINED TO BE NECESSARY, WHICH OFFICERS AND EMPLOYEES SHALL BE PART OF THE DEPARTMENT OF REVENUE. THE STATE LICENSING AUTHORITY SHALL, AT ITS DISCRETION, BASED UPON WORKLOAD, EMPLOY NO MORE THAN ONE FULL TIME EQUIVALENT EMPLOYEE FOR EACH TEN MEDICAL MARIJUANA CENTERS LICENSED BY OR MAKING APPLICATION WITH THE AUTHORITY. NO MONEYS SHALL BE APPROPRIATED TO THE STATE LICENSING AUTHORITY FROM THE GENERAL FUND FOR THE OPERATION OF THIS ARTICLE, NOR SHALL THE STATE LICENSING AUTHORITY EXPEND ANY GENERAL FUND MONEYS FOR THE OPERATION OF THIS ARTICLE.

(3) (a) DURING FISCAL YEAR 2010-2011, THE STATE LICENSING AUTHORITY SHALL CONSIDER EMPLOYMENT OF TEMPORARY OR CONTRACT STAFF TO CONDUCT BACKGROUND INVESTIGATIONS. THE ADDITIONAL COST OF THE BACKGROUND INVESTIGATIONS SHALL NOT EXCEED FIVE HUNDRED THOUSAND DOLLARS.

(b) ON JULY 1, 2010, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT SHALL LOAN TO THE STATE LICENSING AUTHORITY, CREATED IN 12-43.3-201, A SUM NOT TO EXCEED ONE MILLION DOLLARS FROM THE MEDICAL MARIJUANA CASH FUND CREATED IN 25-1.5-106. THE STATE LICENSING AUTHORITY SHALL PAY BACK THE ONE MILLION DOLLAR LOAN TO THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT NO LATER THAN DECEMBER 31, 2010.

(c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2011.

12-43.3-202. Powers and duties of state licensing authority - repeal. (1) THE STATE LICENSING AUTHORITY SHALL:

(a) GRANT OR REFUSE STATE LICENSES FOR THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA AS PROVIDED BY LAW; SUSPEND, FINE, RESTRICT, OR REVOKE SUCH LICENSES UPON A VIOLATION OF THIS ARTICLE, OR A RULE PROMULGATED PURSUANT TO THIS ARTICLE; AND IMPOSE ANY PENALTY AUTHORIZED BY THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT TO THIS ARTICLE. THE STATE LICENSING AUTHORITY MAY TAKE ANY ACTION WITH RESPECT TO A REGISTRATION PURSUANT TO THIS ARTICLE AS IT MAY WITH RESPECT TO A

LICENSE PURSUANT TO THIS ARTICLE, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS ARTICLE.

(b) (I) PROMULGATE SUCH RULES AND SUCH SPECIAL RULINGS AND FINDINGS AS NECESSARY FOR THE PROPER REGULATION AND CONTROL OF THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA AND FOR THE ENFORCEMENT OF THIS ARTICLE. A COUNTY, MUNICIPALITY, OR CITY AND COUNTY THAT HAS ADOPTED A TEMPORARY MORATORIUM REGARDING THE SUBJECT MATTER OF THIS ARTICLE SHALL BE SPECIFICALLY AUTHORIZED TO EXTEND THE MORATORIUM UNTIL THE EFFECTIVE DATE OF THE RULES ADOPTED BY THE DEPARTMENT OF REVENUE IN ACCORDANCE WITH THIS ARTICLE.

(II) (A) THE STATE LICENSING AUTHORITY SHALL CONDUCT A PUBLIC REVIEW HEARING WITH THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT BY SEPTEMBER 1, 2010, TO RECEIVE PUBLIC INPUT ON ANY EMERGENCY RULES ADOPTED BY THE STATE LICENSING AUTHORITY AND BE PROVIDED WITH AN UPDATE FROM THE INDUSTRY, CAREGIVERS, PATIENTS, AND OTHER STAKEHOLDERS REGARDING THE INDUSTRY'S CURRENT STATUS. THE STATE LICENSING AUTHORITY SHALL PROVIDE AT LEAST FIVE BUSINESS DAYS' NOTICE PRIOR TO THE HEARING.

(B) THIS SUBPARAGRAPH (II) IS REPEALED, EFFECTIVE JULY 1, 2011.

(c) HEAR AND DETERMINE AT A PUBLIC HEARING ANY APPEALS OF A STATE LICENSE DENIAL AND ANY COMPLAINTS AGAINST A LICENSEE AND ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF ANY HEARING SO HELD, ALL IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S. THE STATE LICENSING AUTHORITY MAY, AT ITS DISCRETION, DELEGATE TO THE DEPARTMENT OF REVENUE HEARING OFFICERS THE AUTHORITY TO CONDUCT LICENSING, DISCIPLINARY, AND RULEMAKING HEARINGS UNDER SECTION 24-4-105, C.R.S. WHEN CONDUCTING SUCH HEARINGS, THE HEARING OFFICERS SHALL BE EMPLOYEES OF THE STATE LICENSING AUTHORITY UNDER THE DIRECTION AND SUPERVISION OF THE EXECUTIVE DIRECTOR AND THE STATE LICENSING AUTHORITY.

(d) MAINTAIN THE CONFIDENTIALITY OF REPORTS OBTAINED FROM A LICENSEE SHOWING THE SALES VOLUME OR QUANTITY OF MEDICAL

MARIJUANA SOLD OR ANY OTHER RECORDS THAT ARE EXEMPT FROM PUBLIC INSPECTION PURSUANT TO STATE LAW;

(e) DEVELOP SUCH FORMS, LICENSES, IDENTIFICATION CARDS, AND APPLICATIONS AS ARE NECESSARY OR CONVENIENT IN THE DISCRETION OF THE STATE LICENSING AUTHORITY FOR THE ADMINISTRATION OF THIS ARTICLE OR ANY OF THE RULES PROMULGATED UNDER THIS ARTICLE;

(f) PREPARE AND TRANSMIT ANNUALLY, IN THE FORM AND MANNER PRESCRIBED BY THE HEADS OF THE PRINCIPAL DEPARTMENTS PURSUANT TO SECTION 24-1-136, C.R.S., A REPORT ACCOUNTING TO THE GOVERNOR FOR THE EFFICIENT DISCHARGE OF ALL RESPONSIBILITIES ASSIGNED BY LAW OR DIRECTIVE TO THE STATE LICENSING AUTHORITY; AND

(g) IN RECOGNITION OF THE POTENTIAL MEDICINAL VALUE OF MEDICAL MARIJUANA, MAKE A REQUEST BY JANUARY 1, 2012, TO THE FEDERAL DRUG ENFORCEMENT ADMINISTRATION TO CONSIDER RESCHEDULING, FOR PHARMACEUTICAL PURPOSES, MEDICAL MARIJUANA FROM A SCHEDULE I CONTROLLED SUBSTANCE TO A SCHEDULE II CONTROLLED SUBSTANCE.

(2) (a) RULES PROMULGATED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION MAY INCLUDE, BUT NEED NOT BE LIMITED TO, THE FOLLOWING SUBJECTS:

(I) COMPLIANCE WITH, ENFORCEMENT OF, OR VIOLATION OF ANY PROVISION OF THIS ARTICLE, OR ANY RULE ISSUED PURSUANT TO THIS ARTICLE, INCLUDING PROCEDURES AND GROUNDS FOR DENYING, SUSPENDING, FINING, RESTRICTING, OR REVOKING A STATE LICENSE ISSUED PURSUANT TO THIS ARTICLE;

(II) SPECIFICATIONS OF DUTIES OF OFFICERS AND EMPLOYEES OF THE STATE LICENSING AUTHORITY;

(III) INSTRUCTIONS FOR LOCAL LICENSING AUTHORITIES AND LAW ENFORCEMENT OFFICERS;

(IV) REQUIREMENTS FOR INSPECTIONS, INVESTIGATIONS, SEARCHES, SEIZURES, AND SUCH ADDITIONAL ACTIVITIES AS MAY BECOME NECESSARY FROM TIME TO TIME;

(V) CREATION OF A RANGE OF PENALTIES FOR USE BY THE STATE LICENSING AUTHORITY;

(VI) PROHIBITION OF MISREPRESENTATION AND UNFAIR PRACTICES;

(VII) CONTROL OF INFORMATIONAL AND PRODUCT DISPLAYS ON LICENSED PREMISES;

(VIII) DEVELOPMENT OF INDIVIDUAL IDENTIFICATION CARDS FOR OWNERS, OFFICERS, MANAGERS, CONTRACTORS, EMPLOYEES, AND OTHER SUPPORT STAFF OF ENTITIES LICENSED PURSUANT TO THIS ARTICLE, INCLUDING A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS MAY BE REQUIRED BY THE STATE LICENSING AUTHORITY PRIOR TO ISSUING A CARD;

(IX) IDENTIFICATION OF STATE LICENSEES AND THEIR OWNERS, OFFICERS, MANAGERS, AND EMPLOYEES;

(X) SECURITY REQUIREMENTS FOR ANY PREMISES LICENSED PURSUANT TO THIS ARTICLE, INCLUDING, AT A MINIMUM, LIGHTING, PHYSICAL SECURITY, VIDEO, ALARM REQUIREMENTS, AND OTHER MINIMUM PROCEDURES FOR INTERNAL CONTROL AS DEEMED NECESSARY BY THE STATE LICENSING AUTHORITY TO PROPERLY ADMINISTER AND ENFORCE THE PROVISIONS OF THIS ARTICLE, INCLUDING REPORTING REQUIREMENTS FOR CHANGES, ALTERATIONS, OR MODIFICATIONS TO THE PREMISES;

(XI) REGULATION OF THE STORAGE OF, WAREHOUSES FOR, AND TRANSPORTATION OF MEDICAL MARIJUANA;

(XII) SANITARY REQUIREMENTS FOR MEDICAL MARIJUANA CENTERS, INCLUDING BUT NOT LIMITED TO SANITARY REQUIREMENTS FOR THE PREPARATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS;

(XIII) THE SPECIFICATION OF ACCEPTABLE FORMS OF PICTURE IDENTIFICATION THAT A MEDICAL MARIJUANA CENTER MAY ACCEPT WHEN VERIFYING A SALE;

(XIV) LABELING STANDARDS;

(XV) RECORDS TO BE KEPT BY LICENSEES AND THE REQUIRED

AVAILABILITY OF THE RECORDS;

(XVI) STATE LICENSING PROCEDURES, INCLUDING PROCEDURES FOR RENEWALS, REINSTATEMENTS, INITIAL LICENSES, AND THE PAYMENT OF LICENSING FEES;

(XVII) THE REPORTING AND TRANSMITTAL OF MONTHLY SALES TAX PAYMENTS BY MEDICAL MARIJUANA CENTERS;

(XVIII) AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO HAVE ACCESS TO LICENSING INFORMATION TO ENSURE SALES AND INCOME TAX PAYMENT AND THE EFFECTIVE ADMINISTRATION OF THIS ARTICLE;

(XIX) AUTHORIZATION FOR THE DEPARTMENT OF REVENUE TO ISSUE ADMINISTRATIVE CITATIONS AND PROCEDURES FOR ISSUING, APPEALING AND CREATING A CITATION VIOLATION LIST AND SCHEDULE OF PENALTIES; AND

(XX) SUCH OTHER MATTERS AS ARE NECESSARY FOR THE FAIR, IMPARTIAL, STRINGENT, AND COMPREHENSIVE ADMINISTRATION OF THIS ARTICLE.

(b) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS DELEGATING TO THE STATE LICENSING AUTHORITY THE POWER TO FIX PRICES FOR MEDICAL MARIJUANA.

(c) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO LIMIT A LAW ENFORCEMENT AGENCY'S ABILITY TO INVESTIGATE UNLAWFUL ACTIVITY IN RELATION TO A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER. A LAW ENFORCEMENT AGENCY SHALL HAVE THE AUTHORITY TO RUN A COLORADO CRIME INFORMATION CENTER CRIMINAL HISTORY RECORD CHECK OF A PRIMARY CAREGIVER, LICENSEE, OR EMPLOYEE OF A LICENSEE DURING AN INVESTIGATION OF UNLAWFUL ACTIVITY RELATED TO MEDICAL MARIJUANA.

PART 3 STATE AND LOCAL LICENSING

12-43.3-301. Local licensing authority - applications - licenses.

(1) A LOCAL LICENSING AUTHORITY MAY ISSUE ONLY THE FOLLOWING

MEDICAL MARIJUANA LICENSES UPON PAYMENT OF THE FEE AND COMPLIANCE WITH ALL LOCAL LICENSING REQUIREMENTS TO BE DETERMINED BY THE LOCAL LICENSING AUTHORITY:

- (a) A MEDICAL MARIJUANA CENTER LICENSE;
- (b) AN OPTIONAL PREMISES CULTIVATION LICENSE;
- (c) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE.

(2) (a) A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A LOCAL LICENSE WITHIN A MUNICIPALITY, CITY AND COUNTY, OR THE UNINCORPORATED PORTION OF A COUNTY UNLESS THE GOVERNING BODY OF THE MUNICIPALITY OR CITY AND COUNTY HAS ADOPTED AN ORDINANCE, OR THE GOVERNING BODY OF THE COUNTY HAS ADOPTED A RESOLUTION, CONTAINING SPECIFIC STANDARDS FOR LICENSE ISSUANCE, OR IF NO SUCH ORDINANCE OR RESOLUTION IS ADOPTED PRIOR TO JULY 1, 2011, THEN A LOCAL LICENSING AUTHORITY SHALL CONSIDER THE MINIMUM LICENSING REQUIREMENTS OF THIS PART 3 WHEN ISSUING A LICENSE.

(b) IN ADDITION TO ALL OTHER STANDARDS APPLICABLE TO THE ISSUANCE OF LICENSES UNDER THIS ARTICLE, THE LOCAL GOVERNING BODY MAY ADOPT ADDITIONAL STANDARDS FOR THE ISSUANCE OF MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSES CONSISTENT WITH THE INTENT OF THIS ARTICLE THAT MAY INCLUDE, BUT NEED NOT BE LIMITED TO:

(I) DISTANCE RESTRICTIONS BETWEEN PREMISES FOR WHICH LOCAL LICENSES ARE ISSUED;

(II) REASONABLE RESTRICTIONS ON THE SIZE OF AN APPLICANT'S LICENSED PREMISES; AND

(III) ANY OTHER REQUIREMENTS NECESSARY TO ENSURE THE CONTROL OF THE PREMISES AND THE EASE OF ENFORCEMENT OF THE TERMS AND CONDITIONS OF THE LICENSE.

(3) AN APPLICATION FOR A LICENSE SPECIFIED IN SUBSECTION (1) OF

THIS SECTION SHALL BE FILED WITH THE APPROPRIATE LOCAL LICENSING AUTHORITY ON FORMS PROVIDED BY THE STATE LICENSING AUTHORITY AND SHALL CONTAIN SUCH INFORMATION AS THE STATE LICENSING AUTHORITY MAY REQUIRE AND ANY FORMS AS THE LOCAL LICENSING AUTHORITY MAY REQUIRE. EACH APPLICATION SHALL BE VERIFIED BY THE OATH OR AFFIRMATION OF THE PERSONS PRESCRIBED BY THE STATE LICENSING AUTHORITY.

(4) AN APPLICANT SHALL FILE AT THE TIME OF APPLICATION FOR A LOCAL LICENSE PLANS AND SPECIFICATIONS FOR THE INTERIOR OF THE BUILDING IF THE BUILDING TO BE OCCUPIED IS IN EXISTENCE AT THE TIME. IF THE BUILDING IS NOT IN EXISTENCE, THE APPLICANT SHALL FILE A PLOT PLAN AND A DETAILED SKETCH FOR THE INTERIOR AND SUBMIT AN ARCHITECT'S DRAWING OF THE BUILDING TO BE CONSTRUCTED. IN ITS DISCRETION, THE LOCAL OR STATE LICENSING AUTHORITY MAY IMPOSE ADDITIONAL REQUIREMENTS NECESSARY FOR THE APPROVAL OF THE APPLICATION.

12-43.3-302. Public hearing notice - posting and publication.

(1) UPON RECEIPT OF AN APPLICATION FOR A LOCAL LICENSE, EXCEPT AN APPLICATION FOR RENEWAL OR FOR TRANSFER OF OWNERSHIP, A LOCAL LICENSING AUTHORITY MAY SCHEDULE A PUBLIC HEARING UPON THE APPLICATION TO BE HELD NOT LESS THAN THIRTY DAYS AFTER THE DATE OF THE APPLICATION. IF THE LOCAL LICENSING AUTHORITY SCHEDULES A HEARING FOR A MEDICAL MARIJUANA CENTER APPLICATION, IT SHALL POST AND PUBLISH PUBLIC NOTICE THEREOF NOT LESS THAN TEN DAYS PRIOR TO THE HEARING. THE LOCAL LICENSING AUTHORITY SHALL GIVE PUBLIC NOTICE BY THE POSTING OF A SIGN IN A CONSPICUOUS PLACE ON THE MEDICAL MARIJUANA CENTER PREMISES FOR WHICH APPLICATION HAS BEEN MADE AND BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY IN WHICH THE MEDICAL MARIJUANA CENTER PREMISES ARE LOCATED.

(2) PUBLIC NOTICE GIVEN BY POSTING SHALL INCLUDE A SIGN OF SUITABLE MATERIAL, NOT LESS THAN TWENTY-TWO INCHES WIDE AND TWENTY-SIX INCHES HIGH, COMPOSED OF LETTERS NOT LESS THAN ONE INCH IN HEIGHT AND STATING THE TYPE OF LICENSE APPLIED FOR, THE DATE OF THE APPLICATION, THE DATE OF THE HEARING, THE NAME AND ADDRESS OF THE APPLICANT, AND SUCH OTHER INFORMATION AS MAY BE REQUIRED TO FULLY APPRISE THE PUBLIC OF THE NATURE OF THE APPLICATION. THE SIGN

SHALL CONTAIN THE NAMES AND ADDRESSES OF THE OFFICERS, DIRECTORS, OR MANAGER OF THE FACILITY TO BE LICENSED.

(3) PUBLIC NOTICE GIVEN BY PUBLICATION SHALL CONTAIN THE SAME INFORMATION AS THAT REQUIRED FOR SIGNS.

(4) IF THE BUILDING IN WHICH MEDICAL MARIJUANA IS TO BE SOLD IS IN EXISTENCE AT THE TIME OF THE APPLICATION, A SIGN POSTED AS REQUIRED IN SUBSECTIONS (1) AND (2) OF THIS SECTION SHALL BE PLACED SO AS TO BE CONSPICUOUS AND PLAINLY VISIBLE TO THE GENERAL PUBLIC. IF THE BUILDING IS NOT CONSTRUCTED AT THE TIME OF THE APPLICATION, THE APPLICANT SHALL POST A SIGN AT THE PREMISES UPON WHICH THE BUILDING IS TO BE CONSTRUCTED IN SUCH A MANNER THAT THE NOTICE SHALL BE CONSPICUOUS AND PLAINLY VISIBLE TO THE GENERAL PUBLIC.

(5) (a) A LOCAL LICENSING AUTHORITY, OR A LICENSE APPLICANT WITH LOCAL LICENSING AUTHORITY APPROVAL, MAY REQUEST THAT THE STATE LICENSING AUTHORITY CONDUCT A CONCURRENT REVIEW OF A NEW LICENSE APPLICATION PRIOR TO THE LOCAL LICENSING AUTHORITY'S FINAL APPROVAL OF THE LICENSE APPLICATION. LOCAL LICENSING AUTHORITIES WHO PERMIT A CONCURRENT REVIEW WILL CONTINUE TO INDEPENDENTLY REVIEW THE APPLICANT'S LICENSE APPLICATION.

(b) WHEN CONDUCTING A CONCURRENT APPLICATION REVIEW, THE STATE LICENSING AUTHORITY MAY ADVISE THE LOCAL LICENSING AUTHORITY OF ANY ITEMS THAT IT FINDS THAT COULD RESULT IN THE DENIAL OF THE LICENSE APPLICATION. UPON CORRECTION OF THE NOTED DISCREPANCIES IF THE CORRECTION IS PERMITTED BY THE STATE LICENSING AUTHORITY, THE STATE LICENSING AUTHORITY SHALL NOTIFY THE LOCAL LICENSING AUTHORITY OF ITS CONDITIONAL APPROVAL OF THE LICENSE APPLICATION SUBJECT TO THE FINAL APPROVAL BY THE LOCAL LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL THEN ISSUE THE APPLICANT'S STATE LICENSE UPON RECEIVING EVIDENCE OF FINAL APPROVAL BY THE LOCAL LICENSING AUTHORITY.

(c) ALL APPLICATIONS SUBMITTED FOR CONCURRENT REVIEW SHALL BE ACCOMPANIED BY ALL APPLICABLE STATE LICENSE AND APPLICATION FEES. ANY APPLICATIONS THAT ARE LATER DENIED OR WITHDRAWN MAY ALLOW FOR A REFUND OF LICENSE FEES ONLY. ALL APPLICATION FEES PROVIDED BY AN APPLICANT SHALL BE RETAINED BY THE RESPECTIVE

LICENSING AUTHORITY.

12-43.3-303. Results of investigation - decision of authorities.

(1) NOT LESS THAN FIVE DAYS PRIOR TO THE DATE OF THE PUBLIC HEARING AUTHORIZED IN SECTION 12-43.3-302, THE LOCAL LICENSING AUTHORITY SHALL MAKE KNOWN ITS FINDINGS, BASED ON ITS INVESTIGATION, IN WRITING TO THE APPLICANT AND OTHER PARTIES OF INTEREST. THE LOCAL LICENSING AUTHORITY HAS AUTHORITY TO REFUSE TO ISSUE A LICENSE PROVIDED FOR IN THIS SECTION FOR GOOD CAUSE, SUBJECT TO JUDICIAL REVIEW.

(2) BEFORE ENTERING A DECISION APPROVING OR DENYING THE APPLICATION FOR A LOCAL LICENSE, THE LOCAL LICENSING AUTHORITY MAY CONSIDER, EXCEPT WHERE THIS ARTICLE SPECIFICALLY PROVIDES OTHERWISE, THE FACTS AND EVIDENCE ADDUCED AS A RESULT OF ITS INVESTIGATION, AS WELL AS ANY OTHER FACTS PERTINENT TO THE TYPE OF LICENSE FOR WHICH APPLICATION HAS BEEN MADE, INCLUDING THE NUMBER, TYPE, AND AVAILABILITY OF MEDICAL MARIJUANA OUTLETS LOCATED IN OR NEAR THE PREMISES UNDER CONSIDERATION, AND ANY OTHER PERTINENT MATTERS AFFECTING THE QUALIFICATIONS OF THE APPLICANT FOR THE CONDUCT OF THE TYPE OF BUSINESS PROPOSED.

(3) WITHIN THIRTY DAYS AFTER THE PUBLIC HEARING OR COMPLETION OF THE APPLICATION INVESTIGATION, A LOCAL LICENSING AUTHORITY SHALL ISSUE ITS DECISION APPROVING OR DENYING AN APPLICATION FOR LOCAL LICENSURE. THE DECISION SHALL BE IN WRITING AND SHALL STATE THE REASONS FOR THE DECISION. THE LOCAL LICENSING AUTHORITY SHALL SEND A COPY OF THE DECISION BY CERTIFIED MAIL TO THE APPLICANT AT THE ADDRESS SHOWN IN THE APPLICATION.

(4) AFTER APPROVAL OF AN APPLICATION, A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A LOCAL LICENSE UNTIL THE BUILDING IN WHICH THE BUSINESS TO BE CONDUCTED IS READY FOR OCCUPANCY WITH SUCH FURNITURE, FIXTURES, AND EQUIPMENT IN PLACE AS ARE NECESSARY TO COMPLY WITH THE APPLICABLE PROVISIONS OF THIS ARTICLE, AND THEN ONLY AFTER THE LOCAL LICENSING AUTHORITY HAS INSPECTED THE PREMISES TO DETERMINE THAT THE APPLICANT HAS COMPLIED WITH THE ARCHITECT'S DRAWING AND THE PLOT PLAN AND DETAILED SKETCH FOR THE INTERIOR OF THE BUILDING SUBMITTED WITH THE APPLICATION.

(5) AFTER APPROVAL OF AN APPLICATION FOR LOCAL LICENSURE, THE LOCAL LICENSING AUTHORITY SHALL NOTIFY THE STATE LICENSING AUTHORITY OF SUCH APPROVAL, WHO SHALL INVESTIGATE AND EITHER APPROVE OR DISAPPROVE THE APPLICATION FOR STATE LICENSURE.

12-43.3-304. Medical marijuana license bond. (1) BEFORE THE STATE LICENSING AUTHORITY ISSUES A STATE LICENSE TO AN APPLICANT, THE APPLICANT SHALL PROCURE AND FILE WITH THE STATE LICENSING AUTHORITY EVIDENCE OF A GOOD AND SUFFICIENT BOND IN THE AMOUNT OF FIVE THOUSAND DOLLARS WITH CORPORATE SURETY THEREON DULY LICENSED TO DO BUSINESS WITH THE STATE, APPROVED AS TO FORM BY THE ATTORNEY GENERAL OF THE STATE, AND CONDITIONED THAT THE APPLICANT SHALL REPORT AND PAY ALL SALES AND USE TAXES DUE TO THE STATE, OR FOR WHICH THE STATE IS THE COLLECTOR OR COLLECTING AGENT, IN A TIMELY MANNER, AS PROVIDED IN LAW.

(2) A CORPORATE SURETY SHALL NOT BE REQUIRED TO MAKE PAYMENTS TO THE STATE CLAIMING UNDER SUCH BOND UNTIL A FINAL DETERMINATION OF FAILURE TO PAY TAXES DUE TO THE STATE HAS BEEN MADE BY THE STATE LICENSING AUTHORITY OR A COURT OF COMPETENT JURISDICTION.

(3) ALL BONDS REQUIRED PURSUANT TO THIS SECTION SHALL BE RENEWED AT SUCH TIME AS THE BONDHOLDER'S LICENSE IS RENEWED. THE RENEWAL MAY BE ACCOMPLISHED THROUGH A CONTINUATION CERTIFICATE ISSUED BY THE SURETY.

12-43.3-305. State licensing authority - application and issuance procedures. (1) APPLICATIONS FOR A STATE LICENSE UNDER THE PROVISIONS OF THIS ARTICLE SHALL BE MADE TO THE STATE LICENSING AUTHORITY ON FORMS PREPARED AND FURNISHED BY THE STATE LICENSING AUTHORITY AND SHALL SET FORTH SUCH INFORMATION AS THE STATE LICENSING AUTHORITY MAY REQUIRE TO ENABLE THE STATE LICENSING AUTHORITY TO DETERMINE WHETHER A STATE LICENSE SHOULD BE GRANTED. THE INFORMATION SHALL INCLUDE THE NAME AND ADDRESS OF THE APPLICANT, THE NAMES AND ADDRESSES OF THE OFFICERS, DIRECTORS, OR MANAGERS, AND ALL OTHER INFORMATION DEEMED NECESSARY BY THE STATE LICENSING AUTHORITY. EACH APPLICATION SHALL BE VERIFIED BY THE OATH OR AFFIRMATION OF SUCH PERSON OR PERSONS AS THE STATE LICENSING AUTHORITY MAY PRESCRIBE.

(2) THE STATE LICENSING AUTHORITY SHALL NOT ISSUE A STATE LICENSE PURSUANT TO THIS SECTION UNTIL THE LOCAL LICENSING AUTHORITY HAS APPROVED THE APPLICATION FOR A LOCAL LICENSE AND ISSUED A LOCAL LICENSE AS PROVIDED FOR IN SECTIONS 12-43.3-301 TO 12-43.3-303.

(3) NOTHING IN THIS ARTICLE SHALL PREEMPT OR OTHERWISE IMPAIR THE POWER OF A LOCAL GOVERNMENT TO ENACT ORDINANCES OR RESOLUTIONS CONCERNING MATTERS AUTHORIZED TO LOCAL GOVERNMENTS.

12-43.3-306. Denial of application. (1) THE STATE LICENSING AUTHORITY SHALL DENY A STATE LICENSE IF THE PREMISES ON WHICH THE APPLICANT PROPOSES TO CONDUCT ITS BUSINESS DO NOT MEET THE REQUIREMENTS OF THIS ARTICLE OR FOR REASONS SET FORTH IN SECTION 12-43.3-104 (1) (c) OR 12-43.3-305.

(2) IF THE STATE LICENSING AUTHORITY DENIES A STATE LICENSE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE APPLICANT SHALL BE ENTITLED TO A HEARING PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. THE STATE LICENSING AUTHORITY SHALL PROVIDE WRITTEN NOTICE OF THE GROUNDS FOR DENIAL OF THE STATE LICENSE TO THE APPLICANT AND TO THE LOCAL LICENSING AUTHORITY AT LEAST FIFTEEN DAYS PRIOR TO THE HEARING.

12-43.3-307. Persons prohibited as licensees. (1) (a) A LICENSE PROVIDED BY THIS ARTICLE SHALL NOT BE ISSUED TO OR HELD BY:

(I) A PERSON UNTIL THE ANNUAL FEE THEREFORE HAS BEEN PAID;

(II) A PERSON WHOSE CRIMINAL HISTORY INDICATES THAT HE OR SHE IS NOT OF GOOD MORAL CHARACTER;

(III) A CORPORATION, IF THE CRIMINAL HISTORY OF ANY OF ITS OFFICERS, DIRECTORS, OR STOCKHOLDERS INDICATES THAT THE OFFICER, DIRECTOR, OR STOCKHOLDER IS NOT OF GOOD MORAL CHARACTER;

(IV) A LICENSED PHYSICIAN MAKING PATIENT RECOMMENDATIONS;

(V) A PERSON EMPLOYING, ASSISTED BY, OR FINANCED IN WHOLE OR

IN PART BY ANY OTHER PERSON WHOSE CRIMINAL HISTORY INDICATES HE OR SHE IS NOT OF GOOD CHARACTER AND REPUTATION SATISFACTORY TO THE RESPECTIVE LICENSING AUTHORITY;

(VI) A PERSON UNDER TWENTY-ONE YEARS OF AGE;

(VII) A PERSON LICENSED PURSUANT TO THIS ARTICLE WHO, DURING A PERIOD OF LICENSURE, OR WHO, AT THE TIME OF APPLICATION, HAS FAILED TO:

(A) PROVIDE A SURETY BOND OR FILE ANY TAX RETURN WITH A TAXING AGENCY;

(B) PAY ANY TAXES, INTEREST, OR PENALTIES DUE;

(C) PAY ANY JUDGMENTS DUE TO A GOVERNMENT AGENCY;

(D) STAY OUT OF DEFAULT ON A GOVERNMENT-ISSUED STUDENT LOAN.

(E) PAY CHILD SUPPORT; OR

(F) REMEDY AN OUTSTANDING DELINQUENCY FOR TAXES OWED, AN OUTSTANDING DELINQUENCY FOR JUDGMENTS OWED TO A GOVERNMENT AGENCY, OR AN OUTSTANDING DELINQUENCY FOR CHILD SUPPORT.

(VIII) A PERSON WHO HAS DISCHARGED A SENTENCE IN THE FIVE YEARS IMMEDIATELY PRECEDING THE APPLICATION DATE FOR A CONVICTION OF A FELONY OR A PERSON WHO AT ANY TIME HAS BEEN CONVICTED OF A FELONY PURSUANT TO ANY STATE OR FEDERAL LAW REGARDING THE POSSESSION, DISTRIBUTION, OR USE OF A CONTROLLED SUBSTANCE.

(IX) A PERSON WHO EMPLOYS ANOTHER PERSON AT A MEDICAL MARIJUANA FACILITY WHO HAS NOT PASSED A CRIMINAL HISTORY RECORD CHECK;

(X) A SHERIFF, DEPUTY SHERIFF, POLICE OFFICER, OR PROSECUTING OFFICER, OR AN OFFICER OR EMPLOYEE OF THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY;

(XI) A PERSON WHOSE AUTHORITY TO BE A PRIMARY CAREGIVER AS DEFINED IN SECTION 25-1.5-106 (2) HAS BEEN REVOKED BY THE STATE HEALTH AGENCY;

(XII) A PERSON FOR A LICENSE FOR A LOCATION THAT IS CURRENTLY LICENSED AS A RETAIL FOOD ESTABLISHMENT OR WHOLESALE FOOD REGISTRANT; OR

(XIII) A PERSON WHO HAS NOT BEEN A RESIDENT OF COLORADO FOR AT LEAST TWO YEARS PRIOR TO THE DATE OF THE PERSON'S APPLICATION; EXCEPT THAT FOR A PERSON WHO SUBMITS AN APPLICATION FOR LICENSURE PURSUANT TO THIS ARTICLE BY DECEMBER 15, 2010, THIS REQUIREMENT SHALL NOT APPLY TO THAT PERSON IF THE PERSON WAS A RESIDENT OF THE STATE OF COLORADO ON DECEMBER 15, 2009.

(2) (a) IN INVESTIGATING THE QUALIFICATIONS OF AN APPLICANT OR A LICENSEE, THE STATE LICENSING AUTHORITY MAY HAVE ACCESS TO CRIMINAL HISTORY RECORD INFORMATION FURNISHED BY A CRIMINAL JUSTICE AGENCY SUBJECT TO ANY RESTRICTIONS IMPOSED BY SUCH AGENCY. IN THE EVENT THE STATE LICENSING AUTHORITY CONSIDERS THE APPLICANT'S CRIMINAL HISTORY RECORD, THE STATE LICENSING AUTHORITY SHALL ALSO CONSIDER ANY INFORMATION PROVIDED BY THE APPLICANT REGARDING SUCH CRIMINAL HISTORY RECORD, INCLUDING BUT NOT LIMITED TO EVIDENCE OF REHABILITATION, CHARACTER REFERENCES, AND EDUCATIONAL ACHIEVEMENTS, ESPECIALLY THOSE ITEMS PERTAINING TO THE PERIOD OF TIME BETWEEN THE APPLICANT'S LAST CRIMINAL CONVICTION AND THE CONSIDERATION OF THE APPLICATION FOR A STATE LICENSE.

(b) AS USED IN PARAGRAPH (a) OF THIS SUBSECTION (2), "CRIMINAL JUSTICE AGENCY" MEANS ANY FEDERAL, STATE, OR MUNICIPAL COURT OR ANY GOVERNMENTAL AGENCY OR SUBUNIT OF SUCH AGENCY THAT ADMINISTERS CRIMINAL JUSTICE PURSUANT TO A STATUTE OR EXECUTIVE ORDER AND THAT ALLOCATES A SUBSTANTIAL PART OF ITS ANNUAL BUDGET TO THE ADMINISTRATION OF CRIMINAL JUSTICE.

(c) AT THE TIME OF FILING AN APPLICATION FOR ISSUANCE OR RENEWAL OF A STATE MEDICAL MARIJUANA CENTER LICENSE, MEDICAL MARIJUANA-INFUSED PRODUCT MANUFACTURER LICENSE, OR OPTIONAL PREMISES CULTIVATION LICENSE, AN APPLICANT SHALL SUBMIT A SET OF HIS OR HER FINGERPRINTS AND FILE PERSONAL HISTORY INFORMATION

CONCERNING THE APPLICANT'S QUALIFICATIONS FOR A STATE LICENSE ON FORMS PREPARED BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL SUBMIT THE FINGERPRINTS TO THE COLORADO BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE COLORADO BUREAU OF INVESTIGATION SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECKS. THE STATE LICENSING AUTHORITY MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY RECORD CHECK FOR AN APPLICANT OR A LICENSE HOLDER WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. AN APPLICANT WHO HAS PREVIOUSLY SUBMITTED FINGERPRINTS FOR STATE LICENSING PURPOSES MAY REQUEST THAT THE FINGERPRINTS ON FILE BE USED. THE STATE LICENSING AUTHORITY SHALL USE THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO HOLD A STATE LICENSE PURSUANT TO THIS ARTICLE. THE STATE LICENSING AUTHORITY MAY VERIFY ANY OF THE INFORMATION AN APPLICANT IS REQUIRED TO SUBMIT.

12-43.3-308. Restrictions for applications for new licenses.

(1) THE STATE OR A LOCAL LICENSING AUTHORITY SHALL NOT RECEIVE OR ACT UPON AN APPLICATION FOR THE ISSUANCE OF A STATE OR LOCAL LICENSE PURSUANT TO THIS ARTICLE:

(a) IF THE APPLICATION FOR A STATE OR LOCAL LICENSE CONCERNS A PARTICULAR LOCATION THAT IS THE SAME AS OR WITHIN ONE THOUSAND FEET OF A LOCATION FOR WHICH, WITHIN THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE APPLICATION, THE STATE OR A LOCAL LICENSING AUTHORITY DENIED AN APPLICATION FOR THE SAME CLASS OF LICENSE DUE TO THE NATURE OF THE USE OR OTHER CONCERN RELATED TO THE LOCATION;

(b) UNTIL IT IS ESTABLISHED THAT THE APPLICANT IS, OR WILL BE, ENTITLED TO POSSESSION OF THE PREMISES FOR WHICH APPLICATION IS MADE UNDER A LEASE, RENTAL AGREEMENT, OR OTHER ARRANGEMENT FOR POSSESSION OF THE PREMISES OR BY VIRTUE OF OWNERSHIP OF THE PREMISES;

(c) FOR A LOCATION IN AN AREA WHERE THE CULTIVATION, MANUFACTURE, AND SALE OF MEDICAL MARIJUANA AS CONTEMPLATED IS NOT PERMITTED UNDER THE APPLICABLE ZONING LAWS OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY;

(d) (I) IF THE BUILDING IN WHICH MEDICAL MARIJUANA IS TO BE SOLD IS LOCATED WITHIN ONE THOUSAND FEET OF A SCHOOL, AN ALCOHOL OR DRUG TREATMENT FACILITY, OR THE PRINCIPAL CAMPUS OF A COLLEGE, UNIVERSITY, OR SEMINARY, OR A RESIDENTIAL CHILD CARE FACILITY. THE PROVISIONS OF THIS SECTION SHALL NOT AFFECT THE RENEWAL OR RE-ISSUANCE OF A LICENSE ONCE GRANTED OR APPLY TO LICENSED PREMISES LOCATED OR TO BE LOCATED ON LAND OWNED BY A MUNICIPALITY, NOR SHALL THE PROVISIONS OF THIS SECTION APPLY TO AN EXISTING LICENSED PREMISES ON LAND OWNED BY THE STATE, OR APPLY TO A LICENSE IN EFFECT AND ACTIVELY DOING BUSINESS BEFORE SAID PRINCIPAL CAMPUS WAS CONSTRUCTED. THE LOCAL LICENSING AUTHORITY OF A CITY AND COUNTY, BY RULE OR REGULATION, THE GOVERNING BODY OF A MUNICIPALITY, BY ORDINANCE, AND THE GOVERNING BODY OF A COUNTY, BY RESOLUTION, MAY VARY THE DISTANCE RESTRICTIONS IMPOSED BY THIS SUBPARAGRAPH (I) FOR A LICENSE OR MAY ELIMINATE ONE OR MORE TYPES OF SCHOOLS, CAMPUSES, OR FACILITIES FROM THE APPLICATION OF A DISTANCE RESTRICTION ESTABLISHED BY OR PURSUANT TO THIS SUBPARAGRAPH (I).

(II) THE DISTANCES REFERRED TO IN THIS PARAGRAPH (d) ARE TO BE COMPUTED BY DIRECT MEASUREMENT FROM THE NEAREST PROPERTY LINE OF THE LAND USED FOR A SCHOOL OR CAMPUS TO THE NEAREST PORTION OF THE BUILDING IN WHICH MEDICAL MARIJUANA IS TO BE SOLD, USING A ROUTE OF DIRECT PEDESTRIAN ACCESS.

(III) IN ADDITION TO THE REQUIREMENTS OF SECTION 12-43.3-303 (2), THE LOCAL LICENSING AUTHORITY SHALL CONSIDER THE EVIDENCE AND MAKE A SPECIFIC FINDING OF FACT AS TO WHETHER THE BUILDING IN WHICH THE MEDICAL MARIJUANA IS TO BE SOLD IS LOCATED WITHIN ANY DISTANCE RESTRICTIONS ESTABLISHED BY OR PURSUANT TO THIS PARAGRAPH (d).

12-43.3-309. Transfer of ownership. (1) A STATE OR LOCAL LICENSE GRANTED UNDER THE PROVISIONS OF THIS ARTICLE SHALL NOT BE TRANSFERABLE EXCEPT AS PROVIDED IN THIS SECTION, BUT THIS SECTION SHALL NOT PREVENT A CHANGE OF LOCATION AS PROVIDED IN SECTION 12-43.3-310 (13).

(2) FOR A TRANSFER OF OWNERSHIP, A LICENSE HOLDER SHALL APPLY TO THE STATE AND LOCAL LICENSING AUTHORITIES ON FORMS PREPARED AND FURNISHED BY THE STATE LICENSING AUTHORITY. IN DETERMINING WHETHER TO PERMIT A TRANSFER OF OWNERSHIP, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL CONSIDER ONLY THE REQUIREMENTS OF THIS ARTICLE, ANY RULES PROMULGATED BY THE STATE LICENSING AUTHORITY, AND ANY OTHER LOCAL RESTRICTIONS. THE LOCAL LICENSING AUTHORITY MAY HOLD A HEARING ON THE APPLICATION FOR TRANSFER OF OWNERSHIP. THE LOCAL LICENSING AUTHORITY SHALL NOT HOLD A HEARING PURSUANT TO THIS SUBSECTION (2) UNTIL THE LOCAL LICENSING AUTHORITY HAS POSTED A NOTICE OF HEARING IN THE MANNER DESCRIBED IN SECTION 12-43.3-302 (2) ON THE LICENSED MEDICAL MARIJUANA CENTER PREMISES FOR A PERIOD OF TEN DAYS AND HAS PROVIDED NOTICE OF THE HEARING TO THE APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING. ANY TRANSFER OF OWNERSHIP HEARING BY THE STATE LICENSING AUTHORITY SHALL BE HELD IN COMPLIANCE WITH THE REQUIREMENTS SPECIFIED IN SECTION 12-43.3-302.

12-43.3-310. Licensing in general. (1) THIS ARTICLE AUTHORIZES A COUNTY, MUNICIPALITY, OR CITY AND COUNTY TO PROHIBIT THE OPERATION OF MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION OPERATIONS, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES AND TO ENACT REASONABLE REGULATIONS OR OTHER RESTRICTIONS APPLICABLE TO MEDICAL MARIJUANA CENTERS, OPTIONAL PREMISES CULTIVATION LICENSES, AND MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURERS' LICENSES BASED ON LOCAL GOVERNMENT ZONING, HEALTH, SAFETY, AND PUBLIC WELFARE LAWS FOR THE DISTRIBUTION OF MEDICAL MARIJUANA THAT ARE MORE RESTRICTIVE THAN THIS ARTICLE.

(2) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER MAY NOT OPERATE UNTIL IT HAS BEEN LICENSED BY THE LOCAL LICENSING AUTHORITY AND THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE. IN CONNECTION WITH A LICENSE, THE APPLICANT SHALL PROVIDE A COMPLETE AND ACCURATE LIST OF ALL OWNERS, OFFICERS, AND EMPLOYEES WHO WORK AT, MANAGE, OWN, OR ARE OTHERWISE ASSOCIATED WITH THE OPERATION AND SHALL PROVIDE A COMPLETE AND ACCURATE APPLICATION AS REQUIRED BY THE STATE LICENSING AUTHORITY.

(3) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOTIFY THE STATE LICENSING AUTHORITY IN WRITING WITHIN TEN DAYS AFTER AN OWNER, OFFICER, OR EMPLOYEE CEASES TO WORK AT, MANAGE, OWN, OR OTHERWISE BE ASSOCIATED WITH THE OPERATION. THE OWNER, OFFICER, OR EMPLOYEE SHALL SURRENDER HIS OR HER IDENTIFICATION CARD TO THE STATE LICENSING AUTHORITY ON OR BEFORE THE DATE OF THE NOTIFICATION.

(4) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOTIFY THE STATE LICENSING AUTHORITY IN WRITING OF THE NAME, ADDRESS, AND DATE OF BIRTH OF AN OWNER, OFFICER, MANAGER, OR EMPLOYEE BEFORE THE NEW OWNER, OFFICER, OR EMPLOYEE BEGINS WORKING AT, MANAGING, OWNING, OR BEING ASSOCIATED WITH THE OPERATION. THE OWNER, OFFICER, MANAGER, OR EMPLOYEE SHALL PASS A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS REQUIRED BY THE STATE LICENSING AUTHORITY AND OBTAIN THE REQUIRED IDENTIFICATION PRIOR TO BEING ASSOCIATED WITH, MANAGING, OWNING, OR WORKING AT THE OPERATION.

(5) A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL NOT ACQUIRE, POSSESS, CULTIVATE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, OR DISPENSE MARIJUANA FOR ANY PURPOSE EXCEPT TO ASSIST PATIENTS, AS DEFINED BY SECTION 14(1) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(6) ALL OWNERS, OFFICERS, MANAGERS, AND EMPLOYEES OF A MEDICAL MARIJUANA CENTER, OPTIONAL PREMISES CULTIVATION OPERATION, OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURER SHALL BE RESIDENTS OF COLORADO. A LOCAL LICENSING AUTHORITY SHALL NOT ISSUE A LICENSE PROVIDED FOR IN THIS ARTICLE UNTIL THAT SHARE OF THE LICENSE APPLICATION FEE DUE TO THE STATE HAS BEEN RECEIVED BY THE DEPARTMENT OF REVENUE. ALL LICENSES GRANTED PURSUANT TO THIS ARTICLE SHALL BE VALID FOR A PERIOD NOT TO EXCEED TWO YEARS FROM THE DATE OF ISSUANCE UNLESS REVOKED OR SUSPENDED PURSUANT TO THIS ARTICLE OR THE RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(7) BEFORE GRANTING A LOCAL OR STATE LICENSE, THE RESPECTIVE LICENSING AUTHORITY MAY CONSIDER, EXCEPT WHERE THIS ARTICLE SPECIFICALLY PROVIDES OTHERWISE, THE REQUIREMENTS OF THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE, AND ALL OTHER REASONABLE RESTRICTIONS THAT ARE OR MAY BE PLACED UPON THE LICENSEE BY THE LICENSING AUTHORITY. WITH RESPECT TO A SECOND OR ADDITIONAL LICENSE FOR THE SAME LICENSEE OR THE SAME OWNER OF ANOTHER LICENSED BUSINESS PURSUANT TO THIS ARTICLE, EACH LICENSING AUTHORITY SHALL CONSIDER THE EFFECT ON COMPETITION OF GRANTING OR DENYING THE ADDITIONAL LICENSES TO SUCH LICENSEE AND SHALL NOT APPROVE AN APPLICATION FOR A SECOND OR ADDITIONAL LICENSE THAT WOULD HAVE THE EFFECT OF RESTRAINING COMPETITION.

(8) (a) EACH LICENSE ISSUED UNDER THIS ARTICLE IS SEPARATE AND DISTINCT. IT IS UNLAWFUL FOR A PERSON TO EXERCISE ANY OF THE PRIVILEGES GRANTED UNDER A LICENSE OTHER THAN THE LICENSE THAT THE PERSON HOLDS OR FOR A LICENSEE TO ALLOW ANY OTHER PERSON TO EXERCISE THE PRIVILEGES GRANTED UNDER THE LICENSEE'S LICENSE. A SEPARATE LICENSE SHALL BE REQUIRED FOR EACH SPECIFIC BUSINESS OR BUSINESS ENTITY AND EACH GEOGRAPHICAL LOCATION.

(b) AT ALL TIMES, A LICENSEE SHALL POSSESS AND MAINTAIN POSSESSION OF THE PREMISES OR OPTIONAL PREMISES FOR WHICH THE LICENSE IS ISSUED BY OWNERSHIP, LEASE, RENTAL, OR OTHER ARRANGEMENT FOR POSSESSION OF THE PREMISES.

(9) (a) THE LICENSES PROVIDED PURSUANT TO THIS ARTICLE SHALL SPECIFY THE DATE OF ISSUANCE, THE PERIOD OF LICENSURE, THE NAME OF THE LICENSEE, AND THE PREMISES OR OPTIONAL PREMISES LICENSED. THE LICENSEE SHALL CONSPICUOUSLY PLACE THE LICENSE AT ALL TIMES ON THE LICENSED PREMISES OR OPTIONAL PREMISES.

(b) A LOCAL LICENSING AUTHORITY SHALL NOT TRANSFER LOCATION OF OR RENEW A LICENSE TO SELL MEDICAL MARIJUANA UNTIL THE APPLICANT FOR THE LICENSE PRODUCES A LICENSE ISSUED AND GRANTED BY THE STATE LICENSING AUTHORITY COVERING THE WHOLE PERIOD FOR WHICH A LICENSE OR LICENSE RENEWAL IS SOUGHT.

(10) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS ARTICLE, THE DAY OF THE ACT, EVENT, OR DEFAULT FROM WHICH THE

DESIGNATED PERIOD OF TIME BEGINS TO RUN SHALL NOT BE INCLUDED. SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS SHALL BE COUNTED AS ANY OTHER DAY.

(11) A LICENSEE SHALL REPORT EACH TRANSFER OR CHANGE OF FINANCIAL INTEREST IN THE LICENSE TO THE STATE AND LOCAL LICENSING AUTHORITIES, THIRTY DAYS PRIOR TO ANY TRANSFER OR CHANGE PURSUANT TO SECTION 12-43.3-309. A REPORT SHALL BE REQUIRED FOR TRANSFERS OF CAPITAL STOCK OF ANY CORPORATION REGARDLESS OF SIZE.

(12) EACH LICENSEE SHALL MANAGE THE LICENSED PREMISES HIMSELF OR HERSELF OR EMPLOY A SEPARATE AND DISTINCT MANAGER ON THE PREMISES AND SHALL REPORT THE NAME OF THE MANAGER TO THE STATE AND LOCAL LICENSING AUTHORITIES. THE LICENSEE SHALL REPORT ANY CHANGE IN MANAGER TO THE STATE AND LOCAL LICENSING AUTHORITIES THIRTY DAYS PRIOR TO THE CHANGE PURSUANT TO SECTION 12-43.3-309.

(13) (a) A LICENSEE MAY MOVE HIS OR HER PERMANENT LOCATION TO ANY OTHER PLACE IN THE SAME MUNICIPALITY OR CITY AND COUNTY FOR WHICH THE LICENSE WAS ORIGINALLY GRANTED, OR IN THE SAME COUNTY IF THE LICENSE WAS GRANTED FOR A PLACE OUTSIDE THE CORPORATE LIMITS OF A MUNICIPALITY OR CITY AND COUNTY, BUT IT SHALL BE UNLAWFUL TO CULTIVATE, MANUFACTURE, DISTRIBUTE OR SELL MEDICAL MARIJUANA AT ANY SUCH PLACE UNTIL PERMISSION TO DO SO IS GRANTED BY THE STATE AND LOCAL LICENSING AUTHORITIES PROVIDED FOR IN THIS ARTICLE.

(b) IN PERMITTING A CHANGE OF LOCATION, THE STATE AND LOCAL LICENSING AUTHORITIES SHALL CONSIDER ALL REASONABLE RESTRICTIONS THAT ARE OR MAY BE PLACED UPON THE NEW LOCATION BY THE GOVERNING BOARD OR LOCAL LICENSING AUTHORITY OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY AND ANY SUCH CHANGE IN LOCATION SHALL BE IN ACCORDANCE WITH ALL REQUIREMENTS OF THIS ARTICLE AND RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(14) THE LOCATION OF AN OPTIONAL PREMISES CULTIVATION OPERATION AS DESCRIBED IN SECTION 12-43.3-403 SHALL BE A CONFIDENTIAL RECORD AND SHALL BE EXEMPT FROM THE COLORADO OPEN RECORDS ACT. STATE AND LOCAL LICENSING AUTHORITIES SHALL KEEP THE LOCATION OF AN OPTIONAL PREMISES CULTIVATION OPERATION

CONFIDENTIAL AND SHALL REDACT THE LOCATION FROM ALL PUBLIC RECORDS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, A STATE OR LOCAL LICENSING AGENCY MAY SHARE INFORMATION REGARDING THE LOCATION OF AN OPTIONAL PREMISES CULTIVATION OPERATION WITH A PEACE OFFICER OR A LAW ENFORCEMENT AGENCY.

12-43.3-311. License renewal. (1) NINETY DAYS PRIOR TO THE EXPIRATION DATE OF AN EXISTING LICENSE, THE STATE LICENSING AUTHORITY SHALL NOTIFY THE LICENSEE OF THE EXPIRATION DATE BY FIRST CLASS MAIL AT THE LICENSEE'S ADDRESS OF RECORD WITH THE STATE LICENSING AUTHORITY. A LICENSEE SHALL APPLY FOR THE RENEWAL OF AN EXISTING LICENSE TO THE LOCAL LICENSING AUTHORITY NOT LESS THAN FORTY-FIVE DAYS AND TO THE STATE LICENSING AUTHORITY NOT LESS THAN THIRTY DAYS PRIOR TO THE DATE OF EXPIRATION. A LOCAL LICENSING AUTHORITY SHALL NOT ACCEPT AN APPLICATION FOR RENEWAL OF A LICENSE AFTER THE DATE OF EXPIRATION, EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION. THE STATE LICENSING AUTHORITY MAY EXTEND THE EXPIRATION DATE OF THE LICENSE AND ACCEPT A LATE APPLICATION FOR RENEWAL OF A LICENSE PROVIDED THAT THE APPLICANT HAS FILED A TIMELY RENEWAL APPLICATION WITH THE LOCAL LICENSING AUTHORITY. ALL RENEWALS FILED WITH THE LOCAL LICENSING AUTHORITY AND SUBSEQUENTLY APPROVED BY THE LOCAL LICENSING AUTHORITY SHALL NEXT BE PROCESSED BY THE STATE LICENSING AUTHORITY. THE STATE OR THE LOCAL LICENSING AUTHORITY, IN ITS DISCRETION, SUBJECT TO THE REQUIREMENTS OF THIS SUBSECTION (1) AND SUBSECTION (2) OF THIS SECTION AND BASED UPON REASONABLE GROUNDS, MAY WAIVE THE FORTY-FIVE-DAY OR THIRTY-DAY TIME REQUIREMENTS SET FORTH IN THIS SUBSECTION (1). THE LOCAL LICENSING AUTHORITY MAY HOLD A HEARING ON THE APPLICATION FOR RENEWAL ONLY IF THE LICENSEE HAS HAD COMPLAINTS FILED AGAINST IT, HAS A HISTORY OF VIOLATIONS, OR THERE ARE ALLEGATIONS AGAINST THE LICENSEE THAT WOULD CONSTITUTE GOOD CAUSE. THE LOCAL LICENSING AUTHORITY SHALL NOT HOLD A RENEWAL HEARING PROVIDED FOR BY THIS SUBSECTION (1) FOR A MEDICAL MARIJUANA CENTER UNTIL IT HAS POSTED A NOTICE OF HEARING ON THE LICENSED MEDICAL MARIJUANA CENTER PREMISES IN THE MANNER DESCRIBED IN SECTION 12-43.3-302 (2) FOR A PERIOD OF TEN DAYS AND PROVIDED NOTICE TO THE APPLICANT AT LEAST TEN DAYS PRIOR TO THE HEARING. THE LOCAL LICENSING AUTHORITY MAY REFUSE TO RENEW ANY LICENSE FOR GOOD CAUSE, SUBJECT TO JUDICIAL REVIEW.

(2) (a) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, A LICENSEE WHOSE LICENSE HAS BEEN EXPIRED FOR NOT MORE THAN NINETY DAYS MAY FILE A LATE RENEWAL APPLICATION UPON THE PAYMENT OF A NONREFUNDABLE LATE APPLICATION FEE OF FIVE HUNDRED DOLLARS TO THE LOCAL LICENSING AUTHORITY. A LICENSEE WHO FILES A LATE RENEWAL APPLICATION AND PAYS THE REQUISITE FEES MAY CONTINUE TO OPERATE UNTIL BOTH THE STATE AND LOCAL LICENSING AUTHORITIES HAVE TAKEN FINAL ACTION TO APPROVE OR DENY THE LICENSEE'S LATE RENEWAL APPLICATION UNLESS THE STATE OR LOCAL LICENSING AUTHORITY SUMMARILY SUSPENDS THE LICENSE PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., THIS ARTICLE, AND RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(b) THE STATE AND LOCAL LICENSING AUTHORITIES MAY NOT ACCEPT A LATE RENEWAL APPLICATION MORE THAN NINETY DAYS AFTER THE EXPIRATION OF A LICENSEE'S PERMANENT ANNUAL LICENSE. A LICENSEE WHOSE PERMANENT ANNUAL LICENSE HAS BEEN EXPIRED FOR MORE THAN NINETY DAYS SHALL NOT CULTIVATE, MANUFACTURE, DISTRIBUTE, OR SELL ANY MEDICAL MARIJUANA UNTIL ALL REQUIRED LICENSES HAVE BEEN OBTAINED.

(c) NOTWITHSTANDING THE AMOUNT SPECIFIED FOR THE LATE APPLICATION FEE IN PARAGRAPH (a) OF THIS SUBSECTION (2), THE STATE LICENSING AUTHORITY BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY REDUCE THE AMOUNT OF THE FEE IF NECESSARY PURSUANT TO SECTION 24-75-402 (3), C.R.S., BY REDUCING THE UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF THE FEE IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND ARE SUFFICIENTLY REDUCED, THE STATE LICENSING AUTHORITY BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY INCREASE THE AMOUNT OF THE FEE AS PROVIDED IN SECTION 24-75-402 (4), C.R.S.

12-43.3-312. Inactive licenses. THE STATE OR LOCAL LICENSING AUTHORITY, IN ITS DISCRETION, MAY REVOKE OR ELECT NOT TO RENEW ANY LICENSE IF IT DETERMINES THAT THE LICENSED PREMISES HAVE BEEN INACTIVE, WITHOUT GOOD CAUSE, FOR AT LEAST ONE YEAR.

12-43.3-313. Unlawful financial assistance. (1) THE STATE LICENSING AUTHORITY, BY RULE AND REGULATION, SHALL REQUIRE A COMPLETE DISCLOSURE OF ALL PERSONS HAVING A DIRECT OR INDIRECT

FINANCIAL INTEREST, AND THE EXTENT OF SUCH INTEREST, IN EACH LICENSE ISSUED UNDER THIS ARTICLE.

(2) A PERSON SHALL NOT HAVE AN UNREPORTED FINANCIAL INTEREST IN A LICENSE PURSUANT TO THIS ARTICLE UNLESS THAT PERSON HAS UNDERGONE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK AS PROVIDED FOR BY THE STATE LICENSING AUTHORITY IN ITS RULES; EXCEPT THAT THIS SUBSECTION (2) SHALL NOT APPLY TO BANKS, SAVINGS AND LOAN ASSOCIATIONS, OR INDUSTRIAL BANKS SUPERVISED AND REGULATED BY AN AGENCY OF THE STATE OR FEDERAL GOVERNMENT, OR TO FHA-APPROVED MORTGAGEES, OR TO STOCKHOLDERS, DIRECTORS, OR OFFICERS THEREOF.

(3) THIS SECTION IS INTENDED TO PROHIBIT AND PREVENT THE CONTROL OF THE OUTLETS FOR THE SALE OF MEDICAL MARIJUANA BY A PERSON OR PARTY OTHER THAN THE PERSONS LICENSED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

PART 4 LICENSE TYPES

12-43.3-401. Classes of licenses. (1) FOR THE PURPOSE OF REGULATING THE CULTIVATION, MANUFACTURE, DISTRIBUTION, AND SALE OF MEDICAL MARIJUANA, THE STATE LICENSING AUTHORITY IN ITS DISCRETION, UPON APPLICATION IN THE PRESCRIBED FORM MADE TO IT, MAY ISSUE AND GRANT TO THE APPLICANT A LICENSE FROM ANY OF THE FOLLOWING CLASSES, SUBJECT TO THE PROVISIONS AND RESTRICTIONS PROVIDED BY THIS ARTICLE:

- (a) MEDICAL MARIJUANA CENTER LICENSE;
- (b) OPTIONAL PREMISES CULTIVATION LICENSE;
- (c) MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE; AND
- (d) OCCUPATIONAL LICENSES AND REGISTRATIONS FOR OWNERS, MANAGERS, OPERATORS, EMPLOYEES, CONTRACTORS, AND OTHER SUPPORT STAFF EMPLOYED BY, WORKING IN, OR HAVING ACCESS TO RESTRICTED AREAS OF THE LICENSED PREMISES, AS DETERMINED BY THE STATE

LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY MAY TAKE ANY ACTION WITH RESPECT TO A REGISTRATION PURSUANT TO THIS ARTICLE AS IT MAY WITH RESPECT TO A LICENSE PURSUANT TO THIS ARTICLE, IN ACCORDANCE WITH THE PROCEDURES ESTABLISHED PURSUANT TO THIS ARTICLE.

(2) ALL PERSONS LICENSED PURSUANT TO THIS ARTICLE SHALL COLLECT SALES TAX ON ALL SALES MADE PURSUANT TO THE LICENSING ACTIVITIES.

(3) A STATE CHARTERED BANK OR A CREDIT UNION MAY LOAN MONEY TO ANY PERSON LICENSED PURSUANT TO THIS ARTICLE FOR THE OPERATION OF A LICENSED BUSINESS.

12-43.3-402. Medical marijuana center license. (1) A MEDICAL MARIJUANA CENTER LICENSE SHALL BE ISSUED ONLY TO A PERSON SELLING MEDICAL MARIJUANA PURSUANT TO THE TERMS AND CONDITIONS OF THIS ARTICLE.

(2) (a) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, A MEDICAL MARIJUANA CENTER LICENSEE MAY ALSO SELL MEDICAL MARIJUANA-INFUSED PRODUCTS THAT ARE PREPACKAGED AND LABELED SO AS TO CLEARLY INDICATE ALL OF THE FOLLOWING:

(I) THAT THE PRODUCT CONTAINS MEDICAL MARIJUANA;

(II) THAT THE PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR EFFICACY; AND

(III) THAT THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OR USE OF THE PRODUCT.

(b) A MEDICAL MARIJUANA LICENSEE MAY CONTRACT WITH A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSEE FOR THE MANUFACTURE OF MEDICAL MARIJUANA-INFUSED PRODUCTS UPON A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSEE'S LICENSED PREMISES.

(3) EVERY PERSON SELLING MEDICAL MARIJUANA AS PROVIDED FOR IN THIS ARTICLE SHALL SELL ONLY MEDICAL MARIJUANA GROWN IN ITS

MEDICAL MARIJUANA OPTIONAL PREMISES LICENSED PURSUANT TO THIS ARTICLE. THE PROVISIONS OF THIS SUBSECTION (3) SHALL NOT APPLY TO MEDICAL MARIJUANA-INFUSED PRODUCTS.

(4) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION TO THE CONTRARY, A MEDICAL MARIJUANA LICENSEE MAY PURCHASE NOT MORE THAN THIRTY PERCENT OF ITS TOTAL ON-HAND INVENTORY OF MEDICAL MARIJUANA FROM ANOTHER LICENSED MEDICAL MARIJUANA CENTER IN COLORADO. A MEDICAL MARIJUANA CENTER MAY SELL NO MORE THAN THIRTY PERCENT OF ITS TOTAL ON-HAND INVENTORY TO ANOTHER COLORADO LICENSED MEDICAL MARIJUANA LICENSEE.

(5) PRIOR TO INITIATING A SALE, THE EMPLOYEE OF THE MEDICAL MARIJUANA CENTER MAKING THE SALE SHALL VERIFY THAT THE PURCHASER HAS A VALID REGISTRATION CARD ISSUED PURSUANT TO SECTION 25-1.5-106, C.R.S., AND A VALID PICTURE IDENTIFICATION CARD THAT MATCHES THE NAME ON THE REGISTRATION CARD.

(6) A LICENSED MEDICAL MARIJUANA CENTER MAY PROVIDE A SMALL AMOUNT OF ITS MEDICAL MARIJUANA FOR TESTING TO A LABORATORY THAT IS LICENSED PURSUANT TO THE OCCUPATIONAL LICENSING RULES PROMULGATED PURSUANT TO SECTION 12-43.3-202 (2) (a) (IV).

(7) ALL MEDICAL MARIJUANA SOLD AT A LICENSED MEDICAL MARIJUANA CENTER SHALL BE LABELED WITH A LIST OF ALL CHEMICAL ADDITIVES, INCLUDING BUT NOT LIMITED TO NONORGANIC PESTICIDES, HERBICIDES, AND FERTILIZERS, THAT WERE USED IN THE CULTIVATION AND THE PRODUCTION OF THE MEDICAL MARIJUANA.

(8) A LICENSED MEDICAL MARIJUANA CENTER SHALL COMPLY WITH ALL PROVISIONS OF ARTICLE 34 OF TITLE 24, C.R.S., AS THE PROVISIONS RELATE TO PERSONS WITH DISABILITIES.

12-43.3-403. Optional premises cultivation license. AN OPTIONAL PREMISES CULTIVATION LICENSE MAY BE ISSUED ONLY TO A PERSON LICENSED PURSUANT TO SECTION 12-43.3-402 (1) OR 12-43.3-404 (1) WHO GROWS AND CULTIVATES MEDICAL MARIJUANA AT AN ADDITIONAL COLORADO LICENSED PREMISES CONTIGUOUS OR NOT CONTIGUOUS WITH THE LICENSED PREMISES OF THE PERSON'S MEDICAL MARIJUANA CENTER LICENSE OR THE PERSON'S MEDICAL MARIJUANA-INFUSED PRODUCTS

MANUFACTURING LICENSE.

12-43.3-404. Medical marijuana-infused products manufacturing license. (1) A MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE MAY BE ISSUED TO A PERSON WHO MANUFACTURES MEDICAL MARIJUANA-INFUSED PRODUCTS, PURSUANT TO THE TERMS AND CONDITIONS OF THIS ARTICLE.

(2) MEDICAL MARIJUANA-INFUSED PRODUCTS SHALL BE PREPARED ON A LICENSED PREMISES THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS AND USING EQUIPMENT THAT IS USED EXCLUSIVELY FOR THE MANUFACTURE AND PREPARATION OF MEDICAL MARIJUANA-INFUSED PRODUCTS.

(3) A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE SHALL HAVE A WRITTEN AGREEMENT OR CONTRACT WITH A MEDICAL MARIJUANA CENTER LICENSEE, WHICH CONTRACT SHALL AT A MINIMUM SET FORTH THE TOTAL AMOUNT OF MEDICAL MARIJUANA OBTAINED FROM A MEDICAL MARIJUANA CENTER LICENSEE TO BE USED IN THE MANUFACTURING PROCESS, AND THE TOTAL AMOUNT OF MEDICAL MARIJUANA-INFUSED PRODUCTS TO BE MANUFACTURED FROM THE MEDICAL MARIJUANA OBTAINED FROM THE MEDICAL MARIJUANA CENTER. A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE SHALL NOT USE MEDICAL MARIJUANA FROM MORE THAN FIVE DIFFERENT MEDICAL MARIJUANA CENTERS IN THE PRODUCTION OF ONE MEDICAL MARIJUANA-INFUSED PRODUCT. THE MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSEE MAY SELL ITS PRODUCTS TO ANY LICENSED MEDICAL MARIJUANA CENTER.

(4) ALL LICENSED PREMISES ON WHICH MEDICAL MARIJUANA-INFUSED PRODUCTS ARE MANUFACTURED SHALL MEET THE SANITARY STANDARDS FOR MEDICAL MARIJUANA-INFUSED PRODUCT PREPARATION PROMULGATED PURSUANT TO SECTION 12-43.3-202 (2) (a) (XII).

(5) THE MEDICAL MARIJUANA-INFUSED PRODUCT SHALL BE SEALED AND CONSPICUOUSLY LABELED IN COMPLIANCE WITH THIS ARTICLE AND ANY RULES PROMULGATED PURSUANT TO THIS ARTICLE.

(6) MEDICAL MARIJUANA-INFUSED PRODUCTS MAY NOT BE

CONSUMED ON A PREMISES LICENSED PURSUANT TO THIS ARTICLE.

(7) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, SALES OF MEDICAL MARIJUANA-INFUSED PRODUCTS SHALL NOT BE EXEMPT FROM STATE OR LOCAL SALES TAX.

(8) A MEDICAL MARIJUANA-INFUSED PRODUCTS LICENSEE THAT HAS AN OPTIONAL PREMISES CULTIVATION LICENSE SHALL NOT SELL ANY OF THE MEDICAL MARIJUANA THAT IT CULTIVATES.

PART 5 FEES

12-43.3-501. Medical marijuana license cash fund. (1) ALL MONEYS COLLECTED BY THE STATE LICENSING AUTHORITY PURSUANT TO THIS ARTICLE SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE MEDICAL MARIJUANA LICENSE CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE DEPARTMENT OF REVENUE FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS ARTICLE. ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS ARTICLE MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

(2) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY REDUCE THE AMOUNT OF ONE OR MORE OF THE FEES IF NECESSARY PURSUANT TO SECTION 24-75-402 (3), C.R.S., TO REDUCE THE UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF ONE OR MORE OF THE FEES IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND ARE SUFFICIENTLY REDUCED, THE EXECUTIVE DIRECTOR BY RULE OR AS OTHERWISE PROVIDED BY LAW MAY INCREASE THE AMOUNT OF ONE OR MORE OF THE FEES AS PROVIDED IN SECTION 24-75-402 (4), C.R.S.

(3)(a) THE STATE LICENSING AUTHORITY SHALL ESTABLISH FEES FOR PROCESSING THE FOLLOWING TYPES OF APPLICATIONS, LICENSES, NOTICES, OR REPORTS REQUIRED TO BE SUBMITTED TO THE STATE LICENSING AUTHORITY:

(I) APPLICATIONS FOR LICENSES LISTED IN SECTION 12-43.3-401 AND RULES PROMULGATED PURSUANT TO THAT SECTION;

(II) APPLICATIONS TO CHANGE LOCATION PURSUANT TO SECTION 12-43.3-310 AND RULES PROMULGATED PURSUANT TO THAT SECTION;

(III) APPLICATIONS FOR TRANSFER OF OWNERSHIP PURSUANT TO SECTION 12-43.3-310 AND RULES PROMULGATED PURSUANT TO THAT SECTION;

(IV) LICENSE RENEWAL AND EXPIRED LICENSE RENEWAL APPLICATIONS PURSUANT TO SECTION 12-43.3-311; AND

(V) LICENSES AS LISTED IN SECTION 12-43.3-401.

(b) THE AMOUNTS OF SUCH FEES, WHEN ADDED TO THE OTHER FEES TRANSFERRED TO THE FUND PURSUANT TO THIS SECTION SHALL REFLECT THE ACTUAL DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE SO THAT THE FEES AVOID EXCEEDING THE STATUTORY LIMIT ON UNCOMMITTED RESERVES IN ADMINISTRATIVE AGENCY CASH FUNDS AS SET FORTH IN SECTION 24-75-402 (3), C.R.S.

(c) THE STATE LICENSING AUTHORITY MAY CHARGE APPLICANTS LICENSED UNDER THIS ARTICLE A FEE FOR THE COST OF EACH FINGERPRINT ANALYSIS AND BACKGROUND INVESTIGATION UNDERTAKEN TO QUALIFY NEW OFFICERS, DIRECTORS, MANAGERS, OR EMPLOYEES.

(d) AT LEAST ANNUALLY, THE STATE LICENSING AUTHORITY SHALL REVIEW THE AMOUNTS OF THE FEES AND, IF NECESSARY, ADJUST THE AMOUNTS TO REFLECT THE DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY.

(3) EXCEPT AS PROVIDED IN SUBSECTION (4) OF THIS SECTION, THE STATE LICENSING AUTHORITY SHALL ESTABLISH A BASIC FEE THAT SHALL BE

PAID AT THE TIME OF SERVICE OF ANY SUBPOENA UPON THE STATE LICENSING AUTHORITY, PLUS A FEE FOR MEALS AND A FEE FOR MILEAGE AT THE RATE PRESCRIBED FOR STATE OFFICERS AND EMPLOYEES IN SECTION 24-9-104, C.R.S., FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING TO AND RETURNING FROM THE PLACE NAMED IN THE SUBPOENA. IF THE PERSON NAMED IN THE SUBPOENA IS REQUIRED TO ATTEND THE PLACE NAMED IN THE SUBPOENA FOR MORE THAN ONE DAY, THERE SHALL BE PAID, IN ADVANCE, A SUM TO BE ESTABLISHED BY THE STATE LICENSING AUTHORITY FOR EACH DAY OF ATTENDANCE TO COVER THE EXPENSES OF THE PERSON NAMED IN THE SUBPOENA.

(4) THE SUBPOENA FEE ESTABLISHED PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL NOT BE APPLICABLE TO ANY FEDERAL, STATE OR LOCAL GOVERNMENTAL AGENCY.

12-43.3-502. Fees - allocation. (1) EXCEPT AS OTHERWISE PROVIDED, ALL FEES AND FINES PROVIDED FOR BY THIS ARTICLE SHALL BE PAID TO THE DEPARTMENT OF REVENUE, WHICH SHALL TRANSMIT THE FEES TO THE STATE TREASURER. THE STATE TREASURER SHALL CREDIT THE FEES TO THE MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501.

(2) THE EXPENDITURES OF THE STATE LICENSING AUTHORITY SHALL BE PAID OUT OF APPROPRIATIONS FROM MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501.

12-43.3-503. Local license fees. (1) EACH APPLICATION FOR A LOCAL LICENSE PROVIDED FOR IN THIS ARTICLE FILED WITH A LOCAL LICENSING AUTHORITY SHALL BE ACCOMPANIED BY AN APPLICATION FEE IN AN AMOUNT DETERMINED BY THE LOCAL LICENSING AUTHORITY.

(2) LICENSE FEES AS DETERMINED BY THE LOCAL LICENSING AUTHORITY SHALL BE PAID TO THE TREASURER OF THE MUNICIPALITY, CITY AND COUNTY, OR COUNTY WHERE THE LICENSED PREMISES IS LOCATED IN ADVANCE OF THE APPROVAL, DENIAL, OR RENEWAL OF THE LICENSE.

PART 6 DISCIPLINARY ACTIONS

12-43.3-601. Suspension - revocation - fines. (1) IN ADDITION TO

ANY OTHER SANCTIONS PRESCRIBED BY THIS ARTICLE OR RULES PROMULGATED PURSUANT TO THIS ARTICLE, THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY HAS THE POWER, ON ITS OWN MOTION OR ON COMPLAINT, AFTER INVESTIGATION AND OPPORTUNITY FOR A PUBLIC HEARING AT WHICH THE LICENSEE SHALL BE AFFORDED AN OPPORTUNITY TO BE HEARD, TO SUSPEND OR REVOKE A LICENSE ISSUED BY THE RESPECTIVE AUTHORITY FOR A VIOLATION BY THE LICENSEE OR BY ANY OF THE AGENTS OR EMPLOYEES OF THE LICENSEE OF THE PROVISIONS OF THIS ARTICLE, OR ANY OF THE RULES PROMULGATED PURSUANT TO THIS ARTICLE, OR OF ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THE LICENSE ISSUED BY THE STATE OR LOCAL LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY HAS THE POWER TO ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF A HEARING THAT THE STATE OR LOCAL LICENSING AUTHORITY IS AUTHORIZED TO CONDUCT.

(2) THE STATE OR LOCAL LICENSING AUTHORITY SHALL PROVIDE NOTICE OF SUSPENSION, REVOCATION, FINE, OR OTHER SANCTION, AS WELL AS THE REQUIRED NOTICE OF THE HEARING PURSUANT TO SUBSECTION (1) OF THIS SECTION, BY MAILING THE SAME IN WRITING TO THE LICENSEE AT THE ADDRESS CONTAINED IN THE LICENSE. EXCEPT IN THE CASE OF A SUMMARY SUSPENSION, A SUSPENSION SHALL NOT BE FOR A LONGER PERIOD THAN SIX MONTHS. IF A LICENSE IS SUSPENDED OR REVOKED, A PART OF THE FEES PAID THEREFORE SHALL NOT BE RETURNED TO THE LICENSEE. ANY LICENSE OR PERMIT MAY BE SUMMARILY SUSPENDED BY THE ISSUING LICENSING AUTHORITY WITHOUT NOTICE PENDING ANY PROSECUTION, INVESTIGATION, OR PUBLIC HEARING PURSUANT TO THE TERMS OF SECTION 24-4-104 (4), C.R.S. NOTHING IN THIS SECTION SHALL PREVENT THE SUMMARY SUSPENSION OF A LICENSE PURSUANT TO SECTION 24-4-104 (4), C.R.S. EACH PATIENT REGISTERED WITH A MEDICAL MARIJUANA CENTER THAT HAS HAD ITS LICENSE SUMMARILY SUSPENDED MAY IMMEDIATELY TRANSFER HIS OR HER PRIMARY CENTER TO ANOTHER LICENSED MEDICAL MARIJUANA CENTER.

(3) (a) WHENEVER A DECISION OF THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY SUSPENDING A LICENSE FOR FOURTEEN DAYS OR LESS BECOMES FINAL, THE LICENSEE MAY, BEFORE THE OPERATIVE DATE OF THE SUSPENSION, PETITION FOR PERMISSION TO PAY A FINE IN LIEU OF HAVING THE LICENSE SUSPENDED FOR ALL OR PART OF THE SUSPENSION PERIOD. UPON THE RECEIPT OF THE PETITION, THE STATE OR LOCAL

LICENSING AUTHORITY MAY, IN ITS SOLE DISCRETION, STAY THE PROPOSED SUSPENSION AND CAUSE ANY INVESTIGATION TO BE MADE WHICH IT DEEMS DESIRABLE AND MAY, IN ITS SOLE DISCRETION, GRANT THE PETITION IF THE STATE OR LOCAL LICENSING AUTHORITY IS SATISFIED THAT:

(I) THE PUBLIC WELFARE AND MORALS WOULD NOT BE IMPAIRED BY PERMITTING THE LICENSEE TO OPERATE DURING THE PERIOD SET FOR SUSPENSION AND THAT THE PAYMENT OF THE FINE WILL ACHIEVE THE DESIRED DISCIPLINARY PURPOSES;

(II) THE BOOKS AND RECORDS OF THE LICENSEE ARE KEPT IN SUCH A MANNER THAT THE LOSS OF SALES THAT THE LICENSEE WOULD HAVE SUFFERED HAD THE SUSPENSION GONE INTO EFFECT CAN BE DETERMINED WITH REASONABLE ACCURACY; AND

(III) THE LICENSEE HAS NOT HAD HIS OR HER LICENSE SUSPENDED OR REVOKED, NOR HAD ANY SUSPENSION STAYED BY PAYMENT OF A FINE, DURING THE TWO YEARS IMMEDIATELY PRECEDING THE DATE OF THE MOTION OR COMPLAINT THAT RESULTED IN A FINAL DECISION TO SUSPEND THE LICENSE OR PERMIT.

(b) THE FINE ACCEPTED SHALL BE NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE HUNDRED THOUSAND DOLLARS.

(c) PAYMENT OF A FINE PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (3) SHALL BE IN THE FORM OF CASH OR IN THE FORM OF A CERTIFIED CHECK OR CASHIER'S CHECK MADE PAYABLE TO THE STATE OR LOCAL LICENSING AUTHORITY, WHICHEVER IS APPROPRIATE.

(4) UPON PAYMENT OF THE FINE PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE STATE OR LOCAL LICENSING AUTHORITY SHALL ENTER ITS FURTHER ORDER PERMANENTLY STAYING THE IMPOSITION OF THE SUSPENSION. IF THE FINE IS PAID TO A LOCAL LICENSING AUTHORITY, THE GOVERNING BODY OF THE AUTHORITY SHALL CAUSE THE MONEYS TO BE PAID INTO THE GENERAL FUND OF THE LOCAL LICENSING AUTHORITY. FINES PAID TO THE STATE LICENSING AUTHORITY PURSUANT TO SUBSECTION (3) OF THIS SECTION SHALL BE TRANSMITTED TO THE STATE TREASURER WHO SHALL CREDIT THE SAME TO THE MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501.

(5) IN CONNECTION WITH A PETITION PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE AUTHORITY OF THE STATE OR LOCAL LICENSING AUTHORITY IS LIMITED TO THE GRANTING OF SUCH STAYS AS ARE NECESSARY FOR THE AUTHORITY TO COMPLETE ITS INVESTIGATION AND MAKE ITS FINDINGS AND, IF THE AUTHORITY MAKES SUCH FINDINGS, TO THE GRANTING OF AN ORDER PERMANENTLY STAYING THE IMPOSITION OF THE ENTIRE SUSPENSION OR THAT PORTION OF THE SUSPENSION NOT OTHERWISE CONDITIONALLY STAYED.

(6) IF THE STATE OR LOCAL LICENSING AUTHORITY DOES NOT MAKE THE FINDINGS REQUIRED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION AND DOES NOT ORDER THE SUSPENSION PERMANENTLY STAYED, THE SUSPENSION SHALL GO INTO EFFECT ON THE OPERATIVE DATE FINALLY SET BY THE STATE OR LOCAL LICENSING AUTHORITY.

(7) EACH LOCAL LICENSING AUTHORITY SHALL REPORT ALL ACTIONS TAKEN TO IMPOSE FINES, SUSPENSIONS, AND REVOCATIONS TO THE STATE LICENSING AUTHORITY IN A MANNER REQUIRED BY THE STATE LICENSING AUTHORITY. NO LATER THAN JANUARY 15 OF EACH YEAR, THE STATE LICENSING AUTHORITY SHALL COMPILE A REPORT OF THE PRECEDING YEAR'S ACTIONS IN WHICH FINES, SUSPENSIONS, OR REVOCATIONS WERE IMPOSED BY LOCAL LICENSING AUTHORITIES AND BY THE STATE LICENSING AUTHORITY. THE STATE LICENSING AUTHORITY SHALL FILE ONE COPY OF THE REPORT WITH THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES, ONE COPY WITH THE SECRETARY OF THE SENATE, AND SIX COPIES IN THE JOINT LEGISLATIVE LIBRARY.

PART 7 INSPECTION OF BOOKS AND RECORDS

12-43.3-701. Inspection procedures. (1) EACH LICENSEE SHALL KEEP A COMPLETE SET OF ALL RECORDS NECESSARY TO SHOW FULLY THE BUSINESS TRANSACTIONS OF THE LICENSEE, ALL OF WHICH SHALL BE OPEN AT ALL TIMES DURING BUSINESS HOURS FOR THE INSPECTION AND EXAMINATION OF THE STATE LICENSING AUTHORITY OR ITS DULY AUTHORIZED REPRESENTATIVES. THE STATE LICENSING AUTHORITY MAY REQUIRE ANY LICENSEE TO FURNISH SUCH INFORMATION AS IT CONSIDERS NECESSARY FOR THE PROPER ADMINISTRATION OF THIS ARTICLE AND MAY REQUIRE AN AUDIT TO BE MADE OF THE BOOKS OF ACCOUNT AND RECORDS ON SUCH OCCASIONS AS IT MAY CONSIDER NECESSARY BY AN AUDITOR TO BE

SELECTED BY THE STATE LICENSING AUTHORITY WHO SHALL LIKEWISE HAVE ACCESS TO ALL BOOKS AND RECORDS OF THE LICENSEE, AND THE EXPENSE THEREOF SHALL BE PAID BY THE LICENSEE.

(2) THE LICENSED PREMISES, INCLUDING ANY PLACES OF STORAGE WHERE MEDICAL MARIJUANA IS GROWN, STORED, CULTIVATED, SOLD, OR DISPENSED, SHALL BE SUBJECT TO INSPECTION BY THE STATE OR LOCAL LICENSING AUTHORITIES AND THEIR INVESTIGATORS, DURING ALL BUSINESS HOURS AND OTHER TIMES OF APPARENT ACTIVITY, FOR THE PURPOSE OF INSPECTION OR INVESTIGATION. FOR EXAMINATION OF ANY INVENTORY OR BOOKS AND RECORDS REQUIRED TO BE KEPT BY THE LICENSEES, ACCESS SHALL BE REQUIRED DURING BUSINESS HOURS. WHERE ANY PART OF THE LICENSED PREMISES CONSISTS OF A LOCKED AREA, UPON DEMAND TO THE LICENSEE, SUCH AREA SHALL BE MADE AVAILABLE FOR INSPECTION WITHOUT DELAY, AND, UPON REQUEST BY AUTHORIZED REPRESENTATIVES OF THE STATE OR LOCAL LICENSING AUTHORITY, THE LICENSEE SHALL OPEN THE AREA FOR INSPECTION.

(3) EACH LICENSEE SHALL RETAIN ALL BOOKS AND RECORDS NECESSARY TO SHOW FULLY THE BUSINESS TRANSACTIONS OF THE LICENSEE FOR A PERIOD OF THE CURRENT TAX YEAR AND THE THREE IMMEDIATELY PRIOR TAX YEARS.

PART 8 JUDICIAL REVIEW

12-43.3-801. Judicial review. DECISIONS BY THE STATE LICENSING AUTHORITY OR A LOCAL LICENSING AUTHORITY SHALL BE SUBJECT TO JUDICIAL REVIEW PURSUANT TO SECTION 24-4-106, C.R.S.

PART 9 UNLAWFUL ACTS - ENFORCEMENT

12-43.3-901. Unlawful acts - exceptions. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, IT IS UNLAWFUL FOR A PERSON:

(a) TO CONSUME MEDICAL MARIJUANA IN A LICENSED MEDICAL MARIJUANA CENTER, AND IT SHALL BE UNLAWFUL FOR A MEDICAL MARIJUANA LICENSEE TO ALLOW MEDICAL MARIJUANA TO BE CONSUMED UPON ITS LICENSED PREMISES;

(b) WITH KNOWLEDGE, TO PERMIT OR FAIL TO PREVENT THE USE OF HIS OR HER REGISTRY IDENTIFICATION BY ANY OTHER PERSON FOR THE UNLAWFUL PURCHASING OF MEDICAL MARIJUANA; OR

(c) TO CONTINUE OPERATING A BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS WITHOUT FILING THE FORMS AND PAYING THE FEE AS DESCRIBED IN SECTION 12-43.3-103 (1) (b).

(d) TO CONTINUE OPERATING A BUSINESS FOR THE PURPOSE OF CULTIVATION, MANUFACTURE, OR SALE OF MEDICAL MARIJUANA OR MEDICAL MARIJUANA-INFUSED PRODUCTS WITHOUT SATISFYING THE CONDITIONS OF SECTION 12-43.3-103 (2) (b).

(2) IT IS UNLAWFUL FOR A PERSON TO BUY, SELL, TRANSFER, GIVE AWAY, OR ACQUIRE MEDICAL MARIJUANA EXCEPT AS ALLOWED PURSUANT TO THIS ARTICLE.

(3) IT IS UNLAWFUL FOR A PERSON LICENSED PURSUANT TO THIS ARTICLE:

(a) TO BE WITHIN A LIMITED-ACCESS AREA UNLESS THE PERSON'S LICENSE BADGE IS DISPLAYED AS REQUIRED BY THIS ARTICLE, EXCEPT AS PROVIDED IN SECTION 12-43.3-701;

(b) TO FAIL TO DESIGNATE AREAS OF INGRESS AND EGRESS FOR LIMITED-ACCESS AREAS AND POST SIGNS IN CONSPICUOUS LOCATIONS AS REQUIRED BY THIS ARTICLE;

(c) TO FAIL TO REPORT A TRANSFER REQUIRED BY SECTION 12-43.3-310 (11); OR

(d) TO FAIL TO REPORT THE NAME OF OR A CHANGE IN MANAGERS AS REQUIRED BY SECTION 12-43.3-310 (12).

(4) IT IS UNLAWFUL FOR ANY PERSON LICENSED TO SELL MEDICAL MARIJUANA PURSUANT TO THIS ARTICLE:

(a) TO DISPLAY ANY SIGNS THAT ARE INCONSISTENT WITH LOCAL LAWS OR REGULATIONS;

(b) TO USE ADVERTISING MATERIAL THAT IS MISLEADING, DECEPTIVE, OR FALSE, OR THAT IS DESIGNED TO APPEAL TO MINORS;

(c) TO PROVIDE PUBLIC PREMISES, OR ANY PORTION THEREOF, FOR THE PURPOSE OF CONSUMPTION OF MEDICAL MARIJUANA IN ANY FORM;

(d) (I) TO SELL MEDICAL MARIJUANA TO A PERSON NOT LICENSED PURSUANT TO THIS ARTICLE OR TO A PERSON NOT ABLE TO PRODUCE A VALID PATIENT REGISTRY IDENTIFICATION CARD. NOTWITHSTANDING ANY PROVISION IN THIS SUBPARAGRAPH (I) TO THE CONTRARY, A PERSON UNDER TWENTY-ONE YEARS OF AGE SHALL NOT BE EMPLOYED TO SELL OR DISPENSE MEDICAL MARIJUANA AT A MEDICAL MARIJUANA CENTER OR GROW OR CULTIVATE MEDICAL MARIJUANA AT AN OPTIONAL PREMISES CULTIVATION OPERATION.

(II) IF A LICENSEE OR A LICENSEE'S EMPLOYEE HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON IS EXHIBITING A FRAUDULENT PATIENT REGISTRY IDENTIFICATION CARD IN AN ATTEMPT TO OBTAIN MEDICAL MARIJUANA, THE LICENSEE OR EMPLOYEE SHALL BE AUTHORIZED TO CONFISCATE THE FRAUDULENT PATIENT REGISTRY IDENTIFICATION CARD, IF POSSIBLE, AND SHALL, WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION, TURN IT OVER TO THE STATE HEALTH DEPARTMENT OR LOCAL LAW ENFORCEMENT AGENCY. THE FAILURE TO CONFISCATE THE FRAUDULENT PATIENT REGISTRY IDENTIFICATION CARD OR TO TURN IT OVER TO THE STATE HEALTH DEPARTMENT OR A STATE OR LOCAL LAW ENFORCEMENT AGENCY WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION SHALL NOT CONSTITUTE A CRIMINAL OFFENSE.

(e) TO POSSESS MORE THAN SIX MEDICAL MARIJUANA PLANTS AND TWO OUNCES OF MEDICAL MARIJUANA FOR EACH PATIENT WHO HAS REGISTERED THE CENTER AS HIS OR HER PRIMARY CENTER PURSUANT TO SECTION 25-1.5-106 (6) (f), C.R.S.; EXCEPT THAT A MEDICAL MARIJUANA CENTER MAY HAVE AN AMOUNT THAT EXCEEDS THE SIX-PLANT AND TWO-OUNCE PRODUCT PER PATIENT LIMIT IF THE CENTER SELLS TO PATIENTS THAT ARE AUTHORIZED TO HAVE MORE THAN SIX PLANTS AND TWO OUNCES OF PRODUCT. IN THE CASE OF A PATIENT AUTHORIZED TO EXCEED THE SIX-PLANT AND TWO-OUNCE LIMIT, THE CENTER SHALL OBTAIN DOCUMENTATION FROM THE PATIENT'S PHYSICIAN THAT THE PATIENT NEEDS MORE THAN SIX PLANTS AND TWO OUNCES OF PRODUCT.

(f) TO OFFER FOR SALE OR SOLICIT AN ORDER FOR MEDICAL MARIJUANA IN PERSON EXCEPT WITHIN THE LICENSED PREMISES;

(g) TO HAVE IN POSSESSION OR UPON THE LICENSED PREMISES ANY MEDICAL MARIJUANA, THE SALE OF WHICH IS NOT PERMITTED BY THE LICENSE;

(h) TO BUY MEDICAL MARIJUANA FROM A PERSON NOT LICENSED TO SELL AS PROVIDED BY THIS ARTICLE;

(i) TO SELL MEDICAL MARIJUANA EXCEPT IN THE PERMANENT LOCATION SPECIFICALLY DESIGNATED IN THE LICENSE FOR SALE;

(j) TO HAVE ON THE LICENSED PREMISES ANY MEDICAL MARIJUANA OR MARIJUANA PARAPHERNALIA THAT SHOWS EVIDENCE OF THE MEDICAL MARIJUANA HAVING BEEN CONSUMED OR PARTIALLY CONSUMED;

(k) TO REQUIRE A MEDICAL MARIJUANA CENTER OR MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE TO MAKE DELIVERY TO ANY PREMISES OTHER THAN THE SPECIFIC LICENSED PREMISES WHERE THE MEDICAL MARIJUANA IS TO BE SOLD; OR

(l) TO SELL, SERVE, OR DISTRIBUTE MEDICAL MARIJUANA AT ANY TIME OTHER THAN BETWEEN THE HOURS OF 8:00 A.M. AND 7:00 P.M. MONDAY THROUGH SUNDAY.

(m) TO VIOLATE THE PROVISIONS OF SECTION 6-2-103 OR 6-2-105, C.R.S.

(5) EXCEPT AS PROVIDED IN SECTIONS 12-43.3-402 (4), 12-43.3-403, AND 12-43.3-404, IT IS UNLAWFUL FOR A MEDICAL MARIJUANA CENTER, MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATION WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, OR MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE TO SELL, DELIVER, OR CAUSE TO BE DELIVERED TO A LICENSEE ANY MEDICAL MARIJUANA NOT GROWN UPON ITS LICENSED PREMISES, OR FOR A LICENSEE OR MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE OR MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATION WITH AN OPTIONAL PREMISES CULTIVATION LICENSE TO SELL, POSSESS, OR PERMIT SALE OF MEDICAL MARIJUANA NOT GROWN UPON ITS

LICENSED PREMISES. A VIOLATION OF THE PROVISIONS OF THIS SUBSECTION (5) BY A LICENSEE SHALL BE GROUNDS FOR THE IMMEDIATE REVOCATION OF THE LICENSE GRANTED UNDER THIS ARTICLE.

(6) IT SHALL BE UNLAWFUL FOR A PHYSICIAN WHO MAKES PATIENT REFERRALS TO A LICENSED MEDICAL MARIJUANA CENTER TO RECEIVE ANYTHING OF VALUE FROM THE MEDICAL MARIJUANA CENTER LICENSEE OR ITS AGENTS, SERVANTS, OFFICERS, OR OWNERS OR ANYONE FINANCIALLY INTERESTED IN THE LICENSEE, AND IT SHALL BE UNLAWFUL FOR A LICENSEE LICENSED PURSUANT TO THIS ARTICLE TO OFFER ANYTHING OF VALUE TO A PHYSICIAN FOR MAKING PATIENT REFERRALS TO THE LICENSED MEDICAL MARIJUANA CENTER.

(7) A PERSON WHO COMMITS ANY ACTS THAT ARE UNLAWFUL PURSUANT TO THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S.; EXCEPT FOR VIOLATIONS THAT WOULD ALSO CONSTITUTE A VIOLATION OF TITLE 18, C.R.S., WHICH VIOLATION SHALL BE CHARGED AND PROSECUTED PURSUANT TO TITLE 18, C.R.S.

PART 10 SUNSET REVIEW

12-43.3-1001. Sunset review - article repeal. (1) THIS ARTICLE IS REPEALED, EFFECTIVE JULY 1, 2015.

(2) PRIOR TO THE REPEAL OF THIS ARTICLE, THE DEPARTMENT OF REGULATORY AGENCIES SHALL CONDUCT A SUNSET REVIEW AS DESCRIBED IN SECTION 24-34-104 (8), C.R.S.

SECTION 2. 25-1.5-106, Colorado Revised Statutes, is amended to read:

25-1.5-106. Medical marijuana program - powers and duties of the state health agency - repeal. (1) **Legislative declaration.** (a) THE GENERAL ASSEMBLY HEREBY DECLARES THAT IT IS NECESSARY TO IMPLEMENT RULES TO ENSURE THAT PATIENTS SUFFERING FROM LEGITIMATE DEBILITATING MEDICAL CONDITIONS ARE ABLE TO SAFELY GAIN ACCESS TO MEDICAL MARIJUANA AND TO ENSURE THAT THESE PATIENTS:

(I) ARE NOT SUBJECT TO CRIMINAL PROSECUTION FOR THEIR USE OF MEDICAL MARIJUANA IN ACCORDANCE WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY; AND

(II) ARE ABLE TO ESTABLISH AN AFFIRMATIVE DEFENSE TO THEIR USE OF MEDICAL MARIJUANA IN ACCORDANCE WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY.

(b) THE GENERAL ASSEMBLY HEREBY DECLARES THAT IT IS NECESSARY TO IMPLEMENT RULES TO PREVENT PERSONS WHO DO NOT SUFFER FROM LEGITIMATE DEBILITATING MEDICAL CONDITIONS FROM USING SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION AS A MEANS TO SELL, ACQUIRE, POSSESS, PRODUCE, USE, OR TRANSPORT MARIJUANA IN VIOLATION OF STATE AND FEDERAL LAWS.

(2) **Definitions.** IN ADDITION TO THE DEFINITIONS SET FORTH IN SECTION 14 (1) OF ARTICLE XVIII OF THE STATE CONSTITUTION, AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "PRIMARY CAREGIVER" MEANS A NATURAL PERSON, OTHER THAN THE PATIENT OR THE PATIENT'S PHYSICIAN, WHO IS EIGHTEEN YEARS OF AGE OR OLDER AND HAS SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT WHO HAS A DEBILITATING MEDICAL CONDITION.

(3) **Rule-making.** (a) The department shall, pursuant to section 14 of article XVIII of the state constitution, promulgate rules of administration concerning the implementation of the medical marijuana program established by such section and that specifically govern the following:

(a) (I) The establishment and maintenance of a confidential registry of patients who have applied for and are entitled to receive a registry identification card;

(b) (II) The development by the department of an application form and making such form available to residents of this state seeking to be listed on the confidential registry of patients who are entitled to receive a registry identification card;

(c) (III) The verification by the department of medical information concerning patients who have applied for a confidential registry card;

(d) (IV) The issuance and form of confidential registry identification cards;

(e) (V) Communications with law enforcement officials about confidential registry identification cards that have been suspended where a patient is no longer diagnosed as having a debilitating medical condition; and

(f) (VI) The manner in which the department may consider adding debilitating medical conditions to the list of debilitating medical conditions contained in section 14 of article XVIII of the state constitution; AND

(VII) A WAIVER PROCESS TO ALLOW A HOMEBOUND PATIENT WHO IS ON THE REGISTRY TO HAVE A PRIMARY CAREGIVER TRANSPORT THE PATIENT'S MEDICAL MARIJUANA FROM A LICENSED MEDICAL MARIJUANA CENTER TO THE PATIENT.

(b) THE STATE HEALTH AGENCY MAY PROMULGATE RULES REGARDING THE FOLLOWING:

(I) WHAT CONSTITUTES "SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT"; EXCEPT THAT THE ACT OF SUPPLYING MEDICAL MARIJUANA OR MARIJUANA PARAPHERNALIA, BY ITSELF, IS INSUFFICIENT TO CONSTITUTE "SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT";

(II) THE DEVELOPMENT OF A FORM FOR A PRIMARY CAREGIVER TO USE IN APPLYING TO THE REGISTRY, WHICH FORM SHALL REQUIRE, AT A MINIMUM, THAT THE APPLICANT PROVIDE HIS OR HER FULL NAME, HOME ADDRESS, DATE OF BIRTH, AND AN ATTESTATION THAT THE APPLICANT HAS A SIGNIFICANT RESPONSIBILITY FOR MANAGING THE WELL-BEING OF THE PATIENT FOR WHOM HE OR SHE IS DESIGNATED AS THE PRIMARY CAREGIVER AND THAT HE OR SHE UNDERSTANDS AND WILL ABIDE BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO THIS SECTION;

(III) THE DEVELOPMENT OF A FORM THAT CONSTITUTES "WRITTEN DOCUMENTATION", AS DEFINED AND USED IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, WHICH FORM A PHYSICIAN SHALL USE WHEN MAKING A MEDICAL MARIJUANA RECOMMENDATION FOR A PATIENT; AND

(IV) THE GROUNDS AND PROCEDURE FOR A PATIENT TO CHANGE HIS OR HER DESIGNATED PRIMARY CAREGIVER.

(c) (I) THE STATE HEALTH AGENCY SHALL CONDUCT A PUBLIC REVIEW HEARING WITH THE DEPARTMENT OF REVENUE BY SEPTEMBER 1, 2010, TO RECEIVE PUBLIC INPUT ON ANY EMERGENCY RULES ADOPTED BY THE STATE HEALTH AGENCY AND BE PROVIDED WITH AN UPDATE FROM THE INDUSTRY, CAREGIVERS, PATIENTS, AND OTHER STAKEHOLDERS REGARDING THE INDUSTRY'S CURRENT STATUS. THE STATE HEALTH AGENCY SHALL PROVIDE AT LEAST FIVE BUSINESS DAYS' NOTICE PRIOR TO THE HEARING.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2011.

(4) NOTWITHSTANDING ANY OTHER REQUIREMENTS TO THE CONTRARY, NOTICE ISSUED BY THE STATE HEALTH AGENCY FOR A RULEMAKING HEARING PURSUANT TO SECTION 24-4-103, C.R.S., FOR RULES CONCERNING THE MEDICAL MARIJUANA PROGRAM SHALL BE SUFFICIENT IF THE STATE HEALTH AGENCY PROVIDES THE NOTICE NO LATER THAN FORTY-FIVE DAYS IN ADVANCE OF THE RULEMAKING HEARING IN AT LEAST ONE PUBLICATION IN A NEWSPAPER OF GENERAL DISTRIBUTION IN THE STATE AND POSTS THE NOTICE ON THE STATE HEALTH AGENCY'S WEB SITE; EXCEPT THAT EMERGENCY RULES PURSUANT TO SECTION 24-4-103 (6), C.R.S., SHALL NOT REQUIRE ADVANCE NOTICE.

(5) **Primary caregivers.** (a) A PRIMARY CAREGIVER MAY NOT DELEGATE TO ANY OTHER PERSON HIS OR HER AUTHORITY TO PROVIDE MEDICAL MARIJUANA TO A PATIENT NOR MAY A PRIMARY CAREGIVER ENGAGE OTHERS TO ASSIST IN PROVIDING MEDICAL MARIJUANA TO A PATIENT.

(b) TWO OR MORE PRIMARY CAREGIVERS SHALL NOT JOIN TOGETHER FOR THE PURPOSE OF CULTIVATING MEDICAL MARIJUANA.

(c) ONLY A MEDICAL MARIJUANA CENTER WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, A MEDICAL MARIJUANA-INFUSED

PRODUCTS MANUFACTURING OPERATION WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, OR A PRIMARY CAREGIVER FOR HIS OR HER PATIENTS OR A PATIENT FOR HIMSELF OR HERSELF MAY CULTIVATE OR PROVIDE MARIJUANA AND ONLY FOR MEDICAL USE.

(d) A PRIMARY CAREGIVER SHALL PROVIDE TO A LAW ENFORCEMENT AGENCY, UPON INQUIRY, THE REGISTRY IDENTIFICATION CARD NUMBER OF EACH OF HIS OR HER PATIENTS. THE STATE HEALTH AGENCY SHALL MAINTAIN A REGISTRY OF THIS INFORMATION AND MAKE IT AVAILABLE TWENTY-FOUR HOURS PER DAY AND SEVEN DAYS A WEEK TO LAW ENFORCEMENT FOR VERIFICATION PURPOSES. UPON INQUIRY BY A LAW ENFORCEMENT OFFICER AS TO AN INDIVIDUAL'S STATUS AS A PATIENT OR PRIMARY CAREGIVER, THE STATE HEALTH AGENCY SHALL CHECK THE REGISTRY. IF THE INDIVIDUAL IS NOT REGISTERED AS A PATIENT OR PRIMARY CAREGIVER, THE STATE HEALTH AGENCY MAY PROVIDE THAT RESPONSE TO LAW ENFORCEMENT. IF THE PERSON IS A REGISTERED PATIENT OR PRIMARY CAREGIVER, THE STATE HEALTH AGENCY MAY NOT RELEASE INFORMATION UNLESS CONSISTENT WITH SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION. THE STATE HEALTH AGENCY MAY PROMULGATE RULES TO PROVIDE FOR THE EFFICIENT ADMINISTRATION OF THIS PARAGRAPH (d).

(6) Patient - primary caregiver relationship. (a) A PERSON SHALL BE LISTED AS A PRIMARY CAREGIVER FOR NO MORE THAN FIVE PATIENTS ON THE MEDICAL MARIJUANA PROGRAM REGISTRY AT ANY GIVEN TIME; EXCEPT THAT THE STATE HEALTH AGENCY MAY ALLOW A PRIMARY CAREGIVER TO SERVE MORE THAN FIVE PATIENTS IN EXCEPTIONAL CIRCUMSTANCES. IN DETERMINING WHETHER EXCEPTIONAL CIRCUMSTANCES EXIST, THE STATE HEALTH AGENCY MAY CONSIDER THE PROXIMITY OF MEDICAL MARIJUANA CENTERS TO THE PATIENT. A PRIMARY CAREGIVER SHALL MAINTAIN A LIST OF HIS OR HER PATIENTS INCLUDING THE REGISTRY IDENTIFICATION CARD NUMBER OF EACH PATIENT AT ALL TIMES.

(b) A PATIENT SHALL HAVE ONLY ONE PRIMARY CAREGIVER AT ANY GIVEN TIME.

(c) A PATIENT WHO HAS DESIGNATED A PRIMARY CAREGIVER FOR HIMSELF OR HERSELF MAY NOT BE DESIGNATED AS A PRIMARY CAREGIVER FOR ANOTHER PATIENT.

(d) A PRIMARY CAREGIVER MAY NOT CHARGE A PATIENT MORE THAN

THE COST OF CULTIVATING OR PURCHASING THE MEDICAL MARIJUANA, BUT MAY CHARGE FOR CAREGIVER SERVICES.

(e) (I) THE STATE HEALTH AGENCY SHALL MAINTAIN A SECURE AND CONFIDENTIAL REGISTRY OF AVAILABLE PRIMARY CAREGIVERS FOR THOSE PATIENTS WHO ARE UNABLE TO SECURE THE SERVICES OF A PRIMARY CAREGIVER.

(II) AN EXISTING PRIMARY CAREGIVER MAY INDICATE AT THE TIME OF REGISTRATION WHETHER HE OR SHE WOULD BE WILLING TO HANDLE ADDITIONAL PATIENTS AND WAIVE CONFIDENTIALITY TO ALLOW RELEASE OF HIS OR HER CONTACT INFORMATION TO PHYSICIANS OR REGISTERED PATIENTS ONLY.

(III) AN INDIVIDUAL WHO IS NOT REGISTERED BUT IS WILLING TO PROVIDE PRIMARY CAREGIVING SERVICES MAY SUBMIT HIS OR HER CONTACT INFORMATION TO BE PLACED ON THE PRIMARY CAREGIVER REGISTRY.

(IV) A PATIENT-PRIMARY CAREGIVER ARRANGEMENT SECURED PURSUANT TO THIS PARAGRAPH (e) SHALL BE STRICTLY BETWEEN THE PATIENT AND THE POTENTIAL PRIMARY CAREGIVER. THE STATE HEALTH AGENCY, BY PROVIDING THE INFORMATION REQUIRED BY THIS PARAGRAPH (e), SHALL NOT ENDORSE OR VOUCH FOR A PRIMARY CAREGIVER.

(V) THE STATE HEALTH AGENCY MAY MAKE AN EXCEPTION, BASED ON A REQUEST FROM A PATIENT, TO PARAGRAPH (a) OF THIS SUBSECTION (6) LIMITING PRIMARY CAREGIVERS TO FIVE PATIENTS. IF THE STATE HEALTH AGENCY MAKES AN EXCEPTION TO THE LIMIT, THE STATE HEALTH AGENCY SHALL NOTE THE EXCEPTION ON THE PRIMARY CAREGIVER'S RECORD IN THE REGISTRY.

(f) AT THE TIME A PATIENT APPLIES FOR INCLUSION ON THE CONFIDENTIAL REGISTRY, THE PATIENT SHALL INDICATE WHETHER THE PATIENT INTENDS TO CULTIVATE HIS OR HER OWN MEDICAL MARIJUANA, BOTH CULTIVATE HIS OR HER OWN MEDICAL MARIJUANA AND OBTAIN IT FROM EITHER A PRIMARY CAREGIVER OR LICENSED MEDICAL MARIJUANA CENTER, OR INTENDS TO OBTAIN IT FROM EITHER A PRIMARY CAREGIVER OR A LICENSED MEDICAL MARIJUANA CENTER. IF THE PATIENT ELECTS TO USE A LICENSED MEDICAL MARIJUANA CENTER, THE PATIENT SHALL REGISTER THE PRIMARY CENTER HE OR SHE INTENDS TO USE.

(7) Registry identification card required - denial - revocation - renewal. (a) TO BE CONSIDERED IN COMPLIANCE WITH THE PROVISIONS OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY, A PATIENT OR PRIMARY CAREGIVER SHALL HAVE HIS OR HER REGISTRY IDENTIFICATION CARD IN HIS OR HER POSSESSION AT ALL TIMES THAT HE OR SHE IS IN POSSESSION OF ANY FORM OF MEDICAL MARIJUANA AND PRODUCE THE SAME UPON REQUEST OF A LAW ENFORCEMENT OFFICER TO DEMONSTRATE THAT THE PATIENT OR PRIMARY CAREGIVER IS NOT IN VIOLATION OF THE LAW; EXCEPT THAT, IF MORE THAN THIRTY-FIVE DAYS HAVE PASSED SINCE THE DATE THE PATIENT OR PRIMARY CAREGIVER FILED HIS OR HER MEDICAL MARIJUANA PROGRAM APPLICATION AND THE STATE HEALTH AGENCY HAS NOT YET ISSUED OR DENIED A REGISTRY IDENTIFICATION CARD, A COPY OF THE PATIENT'S OR PRIMARY CAREGIVER'S APPLICATION ALONG WITH PROOF OF THE DATE OF SUBMISSION SHALL BE IN THE PATIENT'S OR PRIMARY CAREGIVER'S POSSESSION AT ALL TIMES THAT HE OR SHE IS IN POSSESSION OF ANY FORM OF MEDICAL MARIJUANA UNTIL THE STATE HEALTH AGENCY ISSUES OR DENIES THE REGISTRY IDENTIFICATION CARD. A PERSON WHO VIOLATES SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR VIOLATIONS OF SECTION 18-18-406, C.R.S.

(b) THE STATE HEALTH AGENCY MAY DENY A PATIENT'S OR PRIMARY CAREGIVER'S APPLICATION FOR A REGISTRY IDENTIFICATION CARD OR REVOKE THE CARD IF THE STATE HEALTH AGENCY, IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., DETERMINES THAT THE PHYSICIAN WHO DIAGNOSED THE PATIENT'S DEBILITATING MEDICAL CONDITION, THE PATIENT, OR THE PRIMARY CAREGIVER VIOLATED SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO THIS SECTION; EXCEPT THAT, WHEN A PHYSICIAN'S VIOLATION IS THE BASIS FOR ADVERSE ACTION, THE STATE HEALTH AGENCY MAY ONLY DENY OR REVOKE A PATIENT'S APPLICATION OR REGISTRY IDENTIFICATION CARD WHEN THE PHYSICIAN'S VIOLATION IS RELATED TO THE ISSUANCE OF A MEDICAL MARIJUANA RECOMMENDATION.

(c) A PATIENT OR PRIMARY CAREGIVER REGISTRY IDENTIFICATION CARD SHALL BE VALID FOR ONE YEAR AND SHALL CONTAIN A UNIQUE IDENTIFICATION NUMBER. IT SHALL BE THE RESPONSIBILITY OF THE PATIENT

OR PRIMARY CAREGIVER TO APPLY TO RENEW HIS OR HER REGISTRY IDENTIFICATION CARD PRIOR TO THE DATE ON WHICH THE CARD EXPIRES. THE STATE HEALTH AGENCY SHALL DEVELOP A FORM FOR A PATIENT OR PRIMARY CAREGIVER TO USE IN RENEWING HIS OR HER REGISTRY IDENTIFICATION CARD.

(d) IF THE STATE HEALTH AGENCY GRANTS A PATIENT A WAIVER TO ALLOW A PRIMARY CAREGIVER TO TRANSPORT THE PATIENT'S MEDICAL MARIJUANA FROM A MEDICAL MARIJUANA CENTER TO THE PATIENT, THE STATE HEALTH AGENCY SHALL DESIGNATE THE WAIVER ON THE PATIENT'S REGISTRY IDENTIFICATION CARD.

(e) A HOMEBOUND PATIENT WHO RECEIVES A WAIVER FROM THE STATE HEALTH AGENCY TO ALLOW A PRIMARY CAREGIVER TO TRANSPORT THE PATIENT'S MEDICAL MARIJUANA TO THE PATIENT FROM A MEDICAL MARIJUANA CENTER SHALL PROVIDE THE PRIMARY CAREGIVER WITH THE PATIENT'S REGISTRY IDENTIFICATION CARD, WHICH THE PRIMARY CAREGIVER SHALL CARRY WHEN THE PRIMARY CAREGIVER IS TRANSPORTING THE MEDICAL MARIJUANA. A MEDICAL MARIJUANA CENTER MAY PROVIDE THE MEDICAL MARIJUANA TO THE PRIMARY CAREGIVER FOR TRANSPORT TO THE PATIENT IF THE PRIMARY CAREGIVER PRODUCES THE PATIENT'S REGISTRY IDENTIFICATION CARD.

(8) Use of medical marijuana. (a) THE USE OF MEDICAL MARIJUANA IS ALLOWED UNDER STATE LAW TO THE EXTENT THAT IT IS CARRIED OUT IN ACCORDANCE WITH THE PROVISIONS OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, THIS SECTION, AND THE RULES OF THE STATE HEALTH AGENCY.

(b) A PATIENT OR PRIMARY CAREGIVER SHALL NOT:

(I) ENGAGE IN THE MEDICAL USE OF MARIJUANA IN A WAY THAT ENDANGERS THE HEALTH AND WELL-BEING OF A PERSON;

(II) ENGAGE IN THE MEDICAL USE OF MARIJUANA IN PLAIN VIEW OF OR IN A PLACE OPEN TO THE GENERAL PUBLIC;

(III) UNDERTAKE ANY TASK WHILE UNDER THE INFLUENCE OF MEDICAL MARIJUANA, WHEN DOING SO WOULD CONSTITUTE NEGLIGENCE OR PROFESSIONAL MALPRACTICE;

(IV) POSSESS MEDICAL MARIJUANA OR OTHERWISE ENGAGE IN THE USE OF MEDICAL MARIJUANA IN OR ON THE GROUNDS OF A SCHOOL OR IN A SCHOOL BUS;

(V) ENGAGE IN THE USE OF MEDICAL MARIJUANA WHILE:

(A) IN A CORRECTIONAL FACILITY OR A COMMUNITY CORRECTIONS FACILITY;

(B) SUBJECT TO A SENTENCE TO INCARCERATION; OR

(C) IN A VEHICLE, AIRCRAFT, OR MOTORBOAT;

(VI) OPERATE, NAVIGATE, OR BE IN ACTUAL PHYSICAL CONTROL OF ANY VEHICLE, AIRCRAFT, OR MOTORBOAT WHILE UNDER THE INFLUENCE OF MEDICAL MARIJUANA; OR

(VII) USE MEDICAL MARIJUANA IF THE PERSON DOES NOT HAVE A DEBILITATING MEDICAL CONDITION AS DIAGNOSED BY THE PERSON'S PHYSICIAN IN THE COURSE OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP AND FOR WHICH THE PHYSICIAN HAS RECOMMENDED THE USE OF MEDICAL MARIJUANA.

(c) A PERSON SHALL NOT ESTABLISH A BUSINESS TO PERMIT PATIENTS TO CONGREGATE AND SMOKE OR OTHERWISE CONSUME MEDICAL MARIJUANA.

(9) **Limit on cultivation of medical marijuana.** ONLY REGISTERED PATIENTS, LICENSED PRIMARY CAREGIVERS, MEDICAL MARIJUANA-INFUSED PRODUCTS MANUFACTURING OPERATIONS WITH AN OPTIONAL PREMISES CULTIVATION LICENSE, AND LICENSED MEDICAL MARIJUANA CENTERS WITH OPTIONAL PREMISES CULTIVATION LICENSES MAY CULTIVATE MEDICAL MARIJUANA.

(10) **Affirmative defense.** IF A PATIENT OR PRIMARY CAREGIVER RAISES AN AFFIRMATIVE DEFENSE AS PROVIDED IN SECTION 14 (4) (b) OF ARTICLE XVIII OF THE STATE CONSTITUTION, THE PATIENT'S PHYSICIAN SHALL CERTIFY THE SPECIFIC AMOUNTS IN EXCESS OF TWO OUNCES THAT ARE NECESSARY TO ADDRESS THE PATIENT'S DEBILITATING MEDICAL CONDITION AND WHY SUCH AMOUNTS ARE NECESSARY. A PATIENT WHO ASSERTS THIS

AFFIRMATIVE DEFENSE SHALL WAIVE CONFIDENTIALITY PRIVILEGES RELATED TO THE CONDITION OR CONDITIONS THAT WERE THE BASIS FOR THE RECOMMENDATION. IF A PATIENT, PRIMARY CAREGIVER, OR PHYSICIAN RAISES AN EXCEPTION TO THE STATE CRIMINAL LAWS AS PROVIDED IN SECTION 14 (2) (b) OR (c) OF ARTICLE XVIII OF THE STATE CONSTITUTION, THE PATIENT, PRIMARY CAREGIVER OR PHYSICIAN WAIVES THE CONFIDENTIALITY OF HIS OR HER RECORDS RELATED TO THE CONDITION OR CONDITIONS THAT WERE THE BASIS FOR THE RECOMMENDATION MAINTAINED BY THE STATE HEALTH AGENCY FOR THE MEDICAL MARIJUANA PROGRAM. UPON REQUEST OF A LAW ENFORCEMENT AGENCY FOR SUCH RECORDS, THE STATE HEALTH AGENCY SHALL ONLY PROVIDE RECORDS PERTAINING TO THE INDIVIDUAL RAISING THE EXCEPTION, AND SHALL REDACT ALL OTHER PATIENT, PRIMARY CAREGIVER, OR PHYSICIAN IDENTIFYING INFORMATION.

(11) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (11), THE STATE HEALTH AGENCY SHALL ESTABLISH A BASIC FEE THAT SHALL BE PAID AT THE TIME OF SERVICE OF ANY SUBPOENA UPON THE STATE HEALTH AGENCY, PLUS A FEE FOR MEALS AND A FEE FOR MILEAGE AT THE RATE PRESCRIBED FOR STATE OFFICERS AND EMPLOYEES IN SECTION 24-9-104, C.R.S., FOR EACH MILE ACTUALLY AND NECESSARILY TRAVELED IN GOING TO AND RETURNING FROM THE PLACE NAMED IN THE SUBPOENA. IF THE PERSON NAMED IN THE SUBPOENA IS REQUIRED TO ATTEND THE PLACE NAMED IN THE SUBPOENA FOR MORE THAN ONE DAY, THERE SHALL BE PAID, IN ADVANCE, A SUM TO BE ESTABLISHED BY THE STATE HEALTH AGENCY FOR EACH DAY OF ATTENDANCE TO COVER THE EXPENSES OF THE PERSON NAMED IN THE SUBPOENA.

(b) THE SUBPOENA FEE ESTABLISHED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (11) SHALL NOT BE APPLICABLE TO ANY FEDERAL, STATE, OR LOCAL GOVERNMENTAL AGENCY.

(2) (12) **Fees.** The ~~department~~ STATE HEALTH AGENCY may collect fees from patients who, pursuant to section 14 of article XVIII of the state constitution, apply to the medical marijuana program ~~established by such section~~ for a ~~marijuana~~ registry identification CARD for the purpose of offsetting the ~~department's~~ STATE HEALTH AGENCY'S direct and indirect costs of administering the program. The amount of ~~such~~ THE fees shall be set by rule of the ~~state board of health~~ STATE HEALTH AGENCY. THE AMOUNT OF THE FEES SET PURSUANT TO THIS SECTION SHALL REFLECT THE ACTUAL DIRECT AND INDIRECT COSTS OF THE STATE LICENSING AUTHORITY

IN THE ADMINISTRATION AND ENFORCEMENT OF THIS ARTICLE SO THAT THE FEES AVOID EXCEEDING THE STATUTORY LIMIT ON UNCOMMITTED RESERVES IN ADMINISTRATIVE AGENCY CASH FUNDS AS SET FORTH IN SECTION 24-75-402 (3), C.R.S. All fees collected by the ~~department~~ STATE HEALTH AGENCY through the medical marijuana program shall be transferred to the state treasurer who shall credit the same to the medical marijuana program cash fund, which fund is hereby created.

~~(3)~~ (13) **Cash fund.** (a) The medical marijuana program cash fund shall be subject to annual appropriation by the general assembly to the ~~department~~ STATE HEALTH AGENCY for the purpose of establishing, operating, and maintaining the medical marijuana program. ~~established by section 14 of article XVIII of the state constitution.~~ All moneys credited to the medical marijuana program cash fund and all interest derived from the deposit of such moneys that are not expended during the fiscal year shall be retained in the fund for future use and shall not be credited or transferred to the general fund or any other fund.

(b) ~~Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred fifty-eight thousand seven hundred thirty-five dollars from the medical marijuana program cash fund and transfer such sum to the general fund.~~

SECTION 3. 25-5-403, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-5-403. Offenses. (3) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO A MEDICAL MARIJUANA CENTER OR A MEDICAL-MARIJUANA-INFUSED PRODUCTS MANUFACTURER LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., THAT MANUFACTURES OR SELLS A FOOD PRODUCT THAT CONTAINS MEDICAL MARIJUANA SO LONG AS THE FOOD PRODUCT IS LABELED AS CONTAINING MEDICAL MARIJUANA AND THE LABEL SPECIFIES THAT THE PRODUCT IS MANUFACTURED WITHOUT ANY REGULATORY OVERSIGHT FOR HEALTH, SAFETY, OR EFFICACY, AND THAT THERE MAY BE HEALTH RISKS ASSOCIATED WITH THE CONSUMPTION OR USE OF THE PRODUCT.

SECTION 4. 16-2.5-121, Colorado Revised Statutes, is amended to read:

16-2.5-121. Executive director of the department of revenue - senior director of enforcement for the department of revenue. The executive director and the senior director of enforcement of the department of revenue are peace officers while engaged in the performance of their duties whose authority includes the enforcement of laws and rules regarding automobile dealers pursuant to section 12-6-105 (1) (d) (II), C.R.S., the lottery pursuant to sections 24-35-205 (3) and 24-35-206 (7), C.R.S., MEDICAL MARIJUANA PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., limited gaming pursuant to section 12-47.1-204, C.R.S., liquor pursuant to section 12-47-904 (1), C.R.S., and racing events pursuant to section 12-60-203 (1), C.R.S., and the enforcement of all laws of the state of Colorado and who may be certified by the P.O.S.T. board.

SECTION 5. Part 1 of article 2.5 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

16-2.5-124.5. Director of marijuana enforcement and medical marijuana enforcement investigator. A MEDICAL MARIJUANA ENFORCEMENT INVESTIGATOR IS A PEACE OFFICER WHILE ENGAGED IN THE PERFORMANCE OF HIS OR HER DUTIES AND WHILE ACTING UNDER PROPER ORDERS OR RULES PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S., AND SHALL ALSO INCLUDE THE ENFORCEMENT OF ALL LAWS OF THE STATE OF COLORADO AND WHO MAY BE CERTIFIED BY THE P.O.S.T. BOARD.

SECTION 6. 24-75-402 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in amount of fees - exclusions. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(z) THE MEDICAL MARIJUANA LICENSE CASH FUND CREATED IN SECTION 12-43.3-501, C.R.S.

SECTION 7. 39-26-102, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-102. Definitions. As used in this article, unless the context otherwise requires:

(5.8) "MEDICAL MARIJUANA" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION 12-43.3-104 (7), C.R.S.

SECTION 8. 39-26-123 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(a.5) "SALES TAXES ATTRIBUTABLE TO SALES OF MEDICAL MARIJUANA" MEANS THE NET REVENUE RAISED FROM THE STATE SALES TAXES IMPOSED PURSUANT TO THIS ARTICLE ON THE SALES OF MEDICAL MARIJUANA.

SECTION 9. 39-26-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions - repeal. (6) (a) FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2010, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE FIRST TWO MILLION DOLLARS OF SALES TAXES ATTRIBUTABLE TO SALES OF MEDICAL MARIJUANA OR EQUALLY APPROPRIATE THE SALES TAXES ATTRIBUTABLE TO SALES OF MEDICAL MARIJUANA IF TWO MILLION DOLLARS IS NOT GENERATED.

(b) (I) ONE HALF OF THE MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES TO BE USED TO PROVIDE INTEGRATED BEHAVIORAL HEALTH SERVICES FOR JUVENILES AND ADULTS WITH SUBSTANCE USE DISORDERS AND MENTAL HEALTH TREATMENT NEEDS WHO ARE INVOLVED WITH, OR AT RISK OF INVOLVEMENT WITH, THE CRIMINAL JUSTICE SYSTEM. THE MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES TO BE USED TO PROVIDE INTEGRATED BEHAVIORAL HEALTH SERVICES FOR JUVENILES AND ADULTS WITH SUBSTANCE USE DISORDERS OR WITH SUBSTANCE USE DISORDERS AND MENTAL HEALTH TREATMENT NEEDS WHO ARE INVOLVED WITH, OR AT RISK OF INVOLVEMENT WITH, THE CRIMINAL JUSTICE SYSTEM. THE DEPARTMENT SHALL ENSURE THAT APPROPRIATIONS IN THIS LINE ITEM

ARE DISTRIBUTED THROUGH THE DEPARTMENT'S DESIGNATED MANAGED SERVICE ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS. THE APPROPRIATIONS SHALL BE BASED ON, INCLUDING BUT NOT LIMITED TO SUBSTANCE USE AND MENTAL HEALTH PREVALENCE DATA THAT IS DEVELOPED WORKING COLLABORATIVELY WITH THE MANAGED SERVICES ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS.

(II) ONE HALF OF THE MONEYS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING FOR SCREENING, BRIEF INTERVENTION, AND REFERRAL TO TREATMENT FOR INDIVIDUALS AT RISK OF SUBSTANCE ABUSE PURSUANT TO SECTION 25.5-5-202 (1) (u), C.R.S.

SECTION 10. 39-26-123, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-26-123. Receipts - disposition - transfers of general fund surplus - sales tax holding fund - creation - definitions - repeal. (6) FOR ANY STATE FISCAL YEAR COMMENCING ON OR AFTER JULY 1, 2010, THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE FIRST TWO MILLION DOLLARS OF SALES TAXES ATTRIBUTABLE TO SALES TAXES PAID BY PERSONS OR ENTITIES LICENSED BY ARTICLE 43.3 OF TITLE 12, C.R.S., OR EQUALLY APPROPRIATE THE SALES TAXES ATTRIBUTABLE TO SALES TAXES PAID BY PERSONS OR ENTITIES LICENSED BY ARTICLE 43.3 OF TITLE 12, C.R.S., IF LESS THAN TWO MILLION DOLLARS IS GENERATED. THE MONEYS DESCRIBED IN THIS SUBSECTION (6) SHALL BE APPROPRIATED TO THE DEPARTMENT OF HUMAN SERVICES TO BE USED TO PROVIDE INTEGRATED BEHAVIORAL HEALTH SERVICES FOR JUVENILES AND ADULTS WITH SUBSTANCE USE DISORDERS OR WITH SUBSTANCE USE DISORDERS AND MENTAL HEALTH TREATMENT NEEDS WHO ARE INVOLVED WITH, OR AT RISK OF INVOLVEMENT WITH, THE CRIMINAL JUSTICE SYSTEM. THE DEPARTMENT SHALL ENSURE THAT APPROPRIATIONS IN THIS LINE ITEM ARE DISTRIBUTED THROUGH THE DEPARTMENT'S DESIGNATED MANAGED SERVICE ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS. THE APPROPRIATIONS SHALL BE BASED ON, INCLUDING BUT NOT LIMITED TO SUBSTANCE USE AND MENTAL HEALTH PREVALENCE DATA THAT IS DEVELOPED WORKING COLLABORATIVELY WITH THE MANAGED SERVICES ORGANIZATIONS AND COMMUNITY MENTAL HEALTH CENTERS.

SECTION 11. 25-14-203 (16), Colorado Revised Statutes, is

amended to read:

25-14-203. Definitions. As used in this part 2, unless the context otherwise requires:

(16) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco OR MEDICAL MARIJUANA AS DEFINED BY SECTION 12-43.3-104 (7), C.R.S.

SECTION 12. 24-34-104 (46), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (46) The following agencies, functions, or both shall terminate on July 1, 2015:

(o) THE REGULATION OF PERSONS LICENSED PURSUANT TO ARTICLE 43.3 OF TITLE 12, C.R.S.

SECTION 13. 24-72-202 (6) (b) (XI) and (6) (b) (XII), Colorado Revised Statutes, are amended, and the said 24-72-202 (6) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

24-72-202. Definitions. As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(XI) Information security incident reports prepared pursuant to section 24-37.5-404 (2) (e) or 24-37.5-404.5 (2) (e); or

(XII) Information security audit and assessment reports prepared pursuant to section 24-37.5-403 (2) (d) or 24-37.5-404.5 (2) (d); OR

(XIII) STATE AND LOCAL APPLICATIONS AND LICENSES FOR AN OPTIONAL PREMISES CULTIVATION OPERATION AS DESCRIBED IN SECTION 12-43.3-403, C.R.S., AND THE LOCATION OF THE OPTIONAL PREMISES CULTIVATION OPERATION.

SECTION 14. Part 7 of article 26 of title 39, Colorado Revised

Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

39-26-726. Medical marijuana - debilitating conditions and ability to purchase. ALL SALES OF MEDICAL MARIJUANA TO A PATIENT WHO IS DETERMINED TO BE INDIGENT FOR PURPOSES OF WAIVING THE FEE REQUIRED BY SECTION 25-1.5-106, C.R.S. SHALL BE EXEMPT FROM TAXATION UNDER PART 1 OF THIS ARTICLE. IF THE PATIENT IS DETERMINED TO BE INDIGENT THE STATE HEALTH AGENCY SHALL MARK HIS OR HER REGISTRY IDENTIFICATION CARD AS SUCH AND THE PATIENT SHALL PRESENT THE CARD TO THE LICENSED MEDICAL MARIJUANA CENTER TO RECEIVE THE TAX EXEMPTION.

SECTION 15. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to mental health and alcohol and drug abuse services, for the fiscal year beginning July 1, 2010, the sum of three hundred thirty-four thousand two hundred twenty-seven dollars (\$334,227), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana license cash fund created in section 12-43.3-501 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the enforcement business group, for the fiscal year beginning July 1, 2010, the sum of ten million three hundred seventeen thousand five hundred eighty-three dollars (\$10,317,583) cash funds and 110.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of two hundred seventy-one thousand three hundred sixty-eight dollars (\$271,368) and 2.0 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(4) In addition to any other appropriation, there is hereby appropriated to the department of public safety, Colorado bureau of

investigation, for the fiscal year beginning July 1, 2010, the sum of two hundred sixty thousand seven hundred dollars (\$260,700) and 1.2 FTE, or so much thereof as may be necessary, for the provision of background checks to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana program cash fund created in section 25-1.5-106 (12), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the center for health and environmental education, for the fiscal year beginning July 1, 2010, the sum of fifty-nine thousand seven hundred forty-seven dollars (\$59,747) cash funds and 1.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 16. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for allocation to mental health and alcohol and drug abuse services, for the fiscal year beginning July 1, 2010, the sum of six hundred sixty-eight thousand four hundred fifty-four dollars (\$668,454), or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana license cash fund created in section 12-43.3-501 (1), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for allocation to the enforcement business group, for the fiscal year beginning July 1, 2010, the sum of ten million three hundred seventeen thousand five hundred eighty-three dollars (\$10,317,583) cash funds and 110.0 FTE, or so much thereof as may be necessary, for the implementation of this act.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of two hundred seventy-one thousand three hundred sixty-eight dollars (\$271,368) and 2.0 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of revenue related to the implementation of this act. Said sum shall be from

reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(4) In addition to any other appropriation, there is hereby appropriated to the department of public safety, Colorado bureau of investigation, for the fiscal year beginning July 1, 2010, the sum of two hundred sixty thousand seven hundred dollars (\$260,700) and 1.2 FTE, or so much thereof as may be necessary, for the provision of background checks to the department of revenue related to the implementation of this act. Said sum shall be from reappropriated funds received from the department of revenue out of the appropriation made in subsection (2) of this section.

(5) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana program cash fund created in section 25-1.5-106 (12), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the center for health and environmental education, for the fiscal year beginning July 1, 2010, the sum of fifty-nine thousand seven hundred forty-seven dollars (\$59,747) cash funds and 1.2 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 17. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 18. Specified effective date. (1) Except as otherwise provided in subsection (2) of this section, this act shall take effect July 1, 2010.

(2) (a) Sections 9 and 15 of this act shall take effect only if House Bill 10-1033 is enacted and becomes law and shall take effect upon the effective date of House Bill 10-1033.

(b) Sections 10 and 16 of this act shall take effect only if section 9 of this act does not take effect and does not become law.

SECTION 19. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



SENATE BILL 10-109

BY SENATOR(S) Romer and Spence, Boyd, Bacon, Hodge, Hudak, Johnston, Tapia, Tochtrop, Foster, Newell, Williams;
also REPRESENTATIVE(S) Massey and McCann, Rice, Frangas, McFadyen, Casso, Fischer, Labuda, Miklosi, Soper, Summers, Todd, Vigil, Kagan, Looper, Waller.

CONCERNING REGULATION OF THE PHYSICIAN-PATIENT RELATIONSHIP FOR
MEDICAL MARIJUANA PATIENTS, AND MAKING APPROPRIATIONS IN
CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-1.5-106, Colorado Revised Statutes, is amended to read:

25-1.5-106. Medical marijuana program - powers and duties of state health agency - medical review board - repeal. (1) **Definitions.** IN ADDITION TO THE DEFINITIONS SET FORTH IN SECTION 14 (1) OF ARTICLE XVIII OF THE STATE CONSTITUTION, AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP", FOR PURPOSES OF THE MEDICAL MARIJUANA PROGRAM, MEANS:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(I) A PHYSICIAN AND A PATIENT HAVE A TREATMENT OR COUNSELING RELATIONSHIP, IN THE COURSE OF WHICH THE PHYSICIAN HAS COMPLETED A FULL ASSESSMENT OF THE PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION, INCLUDING AN APPROPRIATE PERSONAL PHYSICAL EXAMINATION;

(II) THE PHYSICIAN HAS CONSULTED WITH THE PATIENT WITH RESPECT TO THE PATIENT'S DEBILITATING MEDICAL CONDITION BEFORE THE PATIENT APPLIES FOR A REGISTRY IDENTIFICATION CARD; AND

(III) THE PHYSICIAN IS AVAILABLE TO OR OFFERS TO PROVIDE FOLLOW-UP CARE AND TREATMENT TO THE PATIENT, INCLUDING BUT NOT LIMITED TO PATIENT EXAMINATIONS, TO DETERMINE THE EFFICACY OF THE USE OF MEDICAL MARIJUANA AS A TREATMENT OF THE PATIENT'S DEBILITATING MEDICAL CONDITION.

(b) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE STATE HEALTH AGENCY.

(c) "IN GOOD STANDING", WITH RESPECT TO A PHYSICIAN'S LICENSE, MEANS:

(I) THE PHYSICIAN HOLDS A DOCTOR OF MEDICINE OR DOCTOR OF OSTEOPATHIC MEDICINE DEGREE FROM AN ACCREDITED MEDICAL SCHOOL;

(II) THE PHYSICIAN HOLDS A VALID, UNRESTRICTED LICENSE TO PRACTICE MEDICINE IN COLORADO; AND

(III) THE PHYSICIAN HAS A VALID AND UNRESTRICTED UNITED STATES DEPARTMENT OF JUSTICE FEDERAL DRUG ENFORCEMENT ADMINISTRATION CONTROLLED SUBSTANCES REGISTRATION.

(d) "MEDICAL MARIJUANA PROGRAM" MEANS THE PROGRAM ESTABLISHED BY SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION AND THIS SECTION.

(e) "REGISTRY IDENTIFICATION CARD" MEANS THE NONTRANSFERABLE CONFIDENTIAL REGISTRY IDENTIFICATION CARD ISSUED BY THE STATE HEALTH AGENCY TO PATIENTS AND PRIMARY CAREGIVERS

PURSUANT TO THIS SECTION.

(f) "STATE HEALTH AGENCY" MEANS THE PUBLIC HEALTH RELATED ENTITY OF STATE GOVERNMENT DESIGNATED BY THE GOVERNOR BY EXECUTIVE ORDER PURSUANT TO SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

~~(1)~~ (2) **Rule-making.** The ~~department~~ STATE HEALTH AGENCY shall, pursuant to section 14 of article XVIII of the state constitution, promulgate rules of administration concerning the implementation of the medical marijuana program established by such section and that specifically govern the following:

(a) The establishment and maintenance of a confidential registry of patients who have applied for and are entitled to receive a registry identification card. THE CONFIDENTIAL REGISTRY OF PATIENTS MAY BE USED TO DETERMINE WHETHER A PHYSICIAN SHOULD BE REFERRED TO THE COLORADO BOARD OF MEDICAL EXAMINERS FOR A SUSPECTED VIOLATION OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, PARAGRAPH (a), (b), OR (c) OF SUBSECTION (3) OF THIS SECTION, OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO THIS SUBSECTION (2).

(b) The development by the ~~department~~ STATE HEALTH AGENCY of an application form and THE PROCESS FOR making ~~such~~ THE form available to residents of this state seeking to be listed on the confidential registry of patients who are entitled to receive a registry identification card;

(c) The verification by the ~~department~~ STATE HEALTH AGENCY of medical information concerning patients who have applied for a ~~confidential~~ registry IDENTIFICATION card OR FOR RENEWAL OF A REGISTRY IDENTIFICATION CARD;

(d) THE DEVELOPMENT BY THE STATE HEALTH AGENCY OF A FORM THAT CONSTITUTES "WRITTEN DOCUMENTATION" AS DEFINED AND USED IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, WHICH FORM A PHYSICIAN SHALL USE WHEN MAKING A MEDICAL MARIJUANA RECOMMENDATION FOR A PATIENT;

~~(d)~~ (e) The CONDITIONS FOR issuance AND RENEWAL, and THE form,

of ~~confidential~~ THE registry identification cards ISSUED TO PATIENTS, INCLUDING BUT NOT LIMITED TO STANDARDS FOR ENSURING THAT THE STATE HEALTH AGENCY ISSUES A REGISTRY IDENTIFICATION CARD TO A PATIENT ONLY IF HE OR SHE HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP WITH A PHYSICIAN IN GOOD STANDING AND LICENSED TO PRACTICE MEDICINE IN THE STATE OF COLORADO;

~~(e)~~ (f) Communications with law enforcement officials about ~~confidential~~ registry identification cards that have been suspended ~~where~~ WHEN a patient is no longer diagnosed as having a debilitating medical condition; ~~and~~

~~(f)~~ (g) The manner in which the ~~department~~ STATE HEALTH AGENCY may consider adding debilitating medical conditions to the list of debilitating medical conditions contained in section 14 of article XVIII of the state constitution.

(3) **Physicians.** A PHYSICIAN WHO CERTIFIES A DEBILITATING MEDICAL CONDITION FOR AN APPLICANT TO THE MEDICAL MARIJUANA PROGRAM SHALL COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:

(a) THE PHYSICIAN SHALL HAVE A VALID, UNRESTRICTED COLORADO LICENSE TO PRACTICE MEDICINE, WHICH LICENSE IS IN GOOD STANDING.

(b) AFTER A PHYSICIAN, WHO HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP WITH THE PATIENT APPLYING FOR THE MEDICAL MARIJUANA PROGRAM, DETERMINES, FOR THE PURPOSES OF MAKING A RECOMMENDATION, THAT THE PATIENT HAS A DEBILITATING MEDICAL CONDITION AND THAT THE PATIENT MAY BENEFIT FROM THE USE OF MEDICAL MARIJUANA, THE PHYSICIAN SHALL CERTIFY TO THE STATE HEALTH AGENCY THAT THE PATIENT HAS A DEBILITATING MEDICAL CONDITION AND THAT THE PATIENT MAY BENEFIT FROM THE USE OF MEDICAL MARIJUANA. IF THE PHYSICIAN CERTIFIES THAT THE PATIENT WOULD BENEFIT FROM THE USE OF MEDICAL MARIJUANA BASED ON A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION, THE PHYSICIAN SHALL SPECIFY THE CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION AND, IF KNOWN, THE CAUSE OR SOURCE OF THE CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION.

(c) THE PHYSICIAN SHALL MAINTAIN A RECORD-KEEPING SYSTEM FOR

ALL PATIENTS FOR WHOM THE PHYSICIAN HAS RECOMMENDED THE MEDICAL USE OF MARIJUANA, AND, PURSUANT TO AN INVESTIGATION INITIATED PURSUANT TO SECTION 12-36-118, C.R.S., THE PHYSICIAN SHALL PRODUCE SUCH MEDICAL RECORDS TO THE COLORADO STATE BOARD OF MEDICAL EXAMINERS AFTER REDACTING ANY PATIENT OR PRIMARY CAREGIVER IDENTIFYING INFORMATION.

(d) A PHYSICIAN SHALL NOT:

(I) ACCEPT, SOLICIT, OR OFFER ANY FORM OF PECUNIARY REMUNERATION FROM OR TO A PRIMARY CAREGIVER, DISTRIBUTOR, OR ANY OTHER PROVIDER OF MEDICAL MARIJUANA;

(II) OFFER A DISCOUNT OR ANY OTHER THING OF VALUE TO A PATIENT WHO USES OR AGREES TO USE A PARTICULAR PRIMARY CAREGIVER, DISTRIBUTOR, OR OTHER PROVIDER OF MEDICAL MARIJUANA TO PROCURE MEDICAL MARIJUANA;

(III) EXAMINE A PATIENT FOR PURPOSES OF DIAGNOSING A DEBILITATING MEDICAL CONDITION AT A LOCATION WHERE MEDICAL MARIJUANA IS SOLD OR DISTRIBUTED; OR

(IV) HOLD AN ECONOMIC INTEREST IN AN ENTERPRISE THAT PROVIDES OR DISTRIBUTES MEDICAL MARIJUANA IF THE PHYSICIAN CERTIFIES THE DEBILITATING MEDICAL CONDITION OF A PATIENT FOR PARTICIPATION IN THE MEDICAL MARIJUANA PROGRAM.

(4) **Enforcement.** (a) IF THE STATE HEALTH AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, PARAGRAPH (a), (b), OR (c) OF SUBSECTION (3) OF THIS SECTION, OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE STATE HEALTH AGENCY MAY REFER THE MATTER TO THE STATE BOARD OF MEDICAL EXAMINERS CREATED IN SECTION 12-36-103, C.R.S., FOR AN INVESTIGATION AND DETERMINATION.

(b) IF THE STATE HEALTH AGENCY HAS REASONABLE CAUSE TO BELIEVE THAT A PHYSICIAN HAS VIOLATED PARAGRAPH (d) OF SUBSECTION (3) OF THIS SECTION, THE STATE HEALTH AGENCY SHALL CONDUCT A HEARING PURSUANT TO SECTION 24-4-104, C.R.S., TO DETERMINE WHETHER

A VIOLATION HAS OCCURRED.

(c) UPON A FINDING OF UNPROFESSIONAL CONDUCT PURSUANT TO SECTION 12-36-117 (1) (mm), C.R.S., BY THE STATE BOARD OF MEDICAL EXAMINERS OR A FINDING OF A VIOLATION OF PARAGRAPH (d) OF SUBSECTION (3) OF THIS SECTION BY THE STATE HEALTH AGENCY, THE STATE HEALTH AGENCY SHALL RESTRICT A PHYSICIAN'S AUTHORITY TO RECOMMEND THE USE OF MEDICAL MARIJUANA, WHICH RESTRICTIONS MAY INCLUDE THE REVOCATION OR SUSPENSION OF A PHYSICIAN'S PRIVILEGE TO RECOMMEND MEDICAL MARIJUANA. THE RESTRICTION SHALL BE IN ADDITION TO ANY SANCTION IMPOSED BY THE STATE BOARD OF MEDICAL EXAMINERS.

(d) WHEN THE STATE HEALTH AGENCY HAS OBJECTIVE AND REASONABLE GROUNDS TO BELIEVE AND FINDS, UPON A FULL INVESTIGATION, THAT A PHYSICIAN HAS DELIBERATELY AND WILLFULLY VIOLATED SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION OR THIS SECTION AND THAT THE PUBLIC HEALTH, SAFETY, OR WELFARE IMPERATIVELY REQUIRES EMERGENCY ACTION, AND THE STATE HEALTH AGENCY INCORPORATES THOSE FINDINGS INTO AN ORDER, THE STATE HEALTH AGENCY MAY SUMMARILY SUSPEND THE PHYSICIAN'S AUTHORITY TO RECOMMEND THE USE OF MEDICAL MARIJUANA PENDING THE PROCEEDINGS SET FORTH IN PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (4). A HEARING ON THE ORDER OF SUMMARY SUSPENSION SHALL BE HELD NO LATER THAN THIRTY DAYS AFTER THE ISSUANCE OF THE ORDER OF SUMMARY SUSPENSION, UNLESS A LONGER TIME IS AGREED TO BY THE PARTIES, AND AN INITIAL DECISION IN ACCORDANCE WITH SECTION 24-4-105 (14), C.R.S., SHALL BE RENDERED NO LATER THAN THIRTY DAYS AFTER THE CONCLUSION OF THE HEARING CONCERNING THE ORDER OF SUMMARY SUSPENSION.

(5) **Renewal of patient identification card upon criminal conviction.** ANY PATIENT WHO IS CONVICTED OF A CRIMINAL OFFENSE UNDER ARTICLE 18 OF TITLE 18, C.R.S., SENTENCED OR ORDERED BY A COURT TO DRUG OR SUBSTANCE ABUSE TREATMENT, OR SENTENCED TO THE DIVISION OF YOUTH CORRECTIONS, SHALL BE SUBJECT TO IMMEDIATE RENEWAL OF HIS OR HER PATIENT REGISTRY IDENTIFICATION CARD, AND THE PATIENT SHALL APPLY FOR THE RENEWAL BASED UPON A RECOMMENDATION FROM A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP.

(6) A PARENT WHO SUBMITS A MEDICAL MARIJUANA REGISTRY APPLICATION FOR HIS OR HER CHILD SHALL HAVE HIS OR HER SIGNATURE NOTARIZED ON THE APPLICATION.

~~(2)~~ (7) **Fees - repeal.** (a) The ~~department~~ STATE HEALTH AGENCY may collect fees from patients who, pursuant to section 14 of article XVIII of the state constitution, apply to the medical marijuana program ~~established by such section~~ for a marijuana registry identification CARD for the purpose of offsetting the ~~department's~~ STATE HEALTH AGENCY'S direct and indirect costs of administering the program. The amount of ~~such~~ THE fees shall be set by rule of the ~~state board of health~~ STATE HEALTH AGENCY. THE STATE HEALTH AGENCY SHALL ALSO PROMULGATE RULES THAT ALLOW A PATIENT TO CLAIM INDIGENCE AS IT RELATES TO PAYING THE FEE APPROVED PURSUANT TO THIS SUBSECTION (7). THE RULES SHALL ESTABLISH THE STANDARD FOR INDIGENCE, THE PROCESS THE STATE HEALTH AGENCY SHALL USE TO DETERMINE WHETHER A PATIENT WHO CLAIMS INDIGENCE MEETS THE STANDARD FOR INDIGENCE, AND THE PROCESS FOR GRANTING A WAIVER IF THE STATE HEALTH AGENCY DETERMINES THAT THE PATIENT MEETS THE STANDARD FOR INDIGENCE. All fees collected by the ~~department~~ STATE HEALTH AGENCY through the medical marijuana program shall be transferred to the state treasurer who shall credit the same to the medical marijuana program cash fund, which fund is hereby created.

(b) (I) THE FEES COLLECTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (7) MAY BE USED FOR THE DIRECT AND INDIRECT COSTS TO THE STATE BOARD OF MEDICAL EXAMINERS ASSOCIATED WITH INVESTIGATING AND PROSECUTING UP TO FIVE OF THE REFERRALS OF PHYSICIANS RECEIVED PER YEAR FROM THE STATE HEALTH AGENCY IN RELATION TO THE MEDICAL MARIJUANA PROGRAM.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2012.

~~(3)~~ (8) **Cash fund - repeal.** (a) The medical marijuana program cash fund shall be subject to annual appropriation by the general assembly to the ~~department~~ STATE HEALTH AGENCY for the purpose of establishing, operating, and maintaining the medical marijuana program. ~~established by section 14 of article XVIII of the state constitution.~~ All moneys credited to the medical marijuana program cash fund and all interest derived from the deposit of such moneys that are not expended during the fiscal year shall be retained in the fund for future use and shall not be credited or transferred to

the general fund or any other fund.

(b) Notwithstanding any provision of paragraph (a) of this subsection (~~3~~) (8) to the contrary, on April 20, 2009, the state treasurer shall deduct two hundred fifty-eight thousand seven hundred thirty-five dollars from the medical marijuana program cash fund and transfer such sum to the general fund.

(c) (I) THE STATE HEALTH AGENCY SHALL TRANSFER FROM THE MEDICAL MARIJUANA PROGRAM CASH FUND TO THE DEPARTMENT OF REGULATORY AGENCIES FOR ALLOCATION TO THE STATE BOARD OF MEDICAL EXAMINERS MONEYS TO COVER THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH INVESTIGATING AND PROSECUTING UP TO FIVE OF THE REFERRALS OF PHYSICIANS RECEIVED PER YEAR FROM THE STATE HEALTH AGENCY IN RELATION TO THE MEDICAL MARIJUANA PROGRAM.

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2012.

(9) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 2. 25-1-1202 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

25-1-1202. Index of statutory sections regarding medical record confidentiality and health information. (1) Statutory provisions concerning policies, procedures, and references to the release, sharing, and use of medical records and health information include the following:

(vv.5) SECTION 25-1.5-106, CONCERNING THE MEDICAL MARIJUANA PROGRAM;

SECTION 3. 12-36-117 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12-36-117. Unprofessional conduct - repeal. (1) "Unprofessional conduct" as used in this article means:

(mm) FAILURE TO COMPLY WITH THE REQUIREMENTS OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION, SECTION 25-1.5-106, C.R.S., OR THE RULES PROMULGATED BY THE STATE HEALTH AGENCY

PURSUANT TO SECTION 25-1.5-106 (2), C.R.S.

SECTION 4. 12-36-118 (5) (g), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

12-36-118. Disciplinary action by board - immunity.

(5) (g) (X) IN ALL CASES INVOLVING ALLEGED VIOLATIONS OF SECTION 12-36-117 (1) (mm), THE BOARD SHALL PROMPTLY NOTIFY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OF ITS FINDINGS, INCLUDING WHETHER IT FOUND THAT THE PHYSICIAN VIOLATED SECTION 12-36-117 (1) (mm) AND ANY RESTRICTIONS IT PLACED ON THE PHYSICIAN WITH RESPECT TO RECOMMENDING THE USE OF MEDICAL MARIJUANA.

SECTION 5. 12-36-103 (6) (a), Colorado Revised Statutes, is amended to read:

12-36-103. State board of medical examiners - immunity - subject to termination - repeal of article. (6) (a) (I) The provisions of section 24-34-104, C.R.S., concerning the termination schedule for regulatory bodies of the state unless extended as provided in that section, are applicable to the Colorado state board of medical examiners created by this section.

(II) THE REVIEW REQUIRED BY THIS SUBSECTION (6) SHALL INCLUDE AN ANALYSIS OF PHYSICIAN RESPONSIBILITIES RELATED TO RECOMMENDATIONS FOR MEDICAL MARIJUANA AND THE PROVISIONS OF SECTION 25-1.5-106, C.R.S.

SECTION 6. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the medical marijuana program cash fund created in section 25-1.5-106 (8), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2010, the sum of eight hundred fifteen thousand two hundred twenty-four dollars (\$815,224) cash funds and 2.1 FTE, or so much thereof as may be necessary, for the implementation of this act. Of said appropriation, ninety-nine thousand eight hundred seventy-nine dollars (\$99,879) shall be allocated to the administration and support division and seven hundred fifteen thousand three hundred forty-five dollars (\$715,345) and 2.1 FTE

shall be allocated to the center for health and environmental information.

(2) In addition to any other appropriation, there is hereby appropriated to the department of regulatory agencies, for the fiscal year beginning July 1, 2010, the sum of five hundred ninety-three thousand three hundred thirty-three dollars (\$593,333) and 1.2 FTE, for the investigation and prosecution of physicians referred to the board of medical examiners pursuant to section 25-1.5-106 (5), Colorado Revised Statutes, or so much thereof as may be necessary for the implementation of this act. Said appropriation shall be from reappropriated funds received from the department of public health and environment out of the appropriation made in subsection (1) of this section to the center for health and environmental information. Of said appropriation, five hundred twelve thousand five hundred eighty-four dollars (\$512,584) shall be allocated to the executive director's office and eighty thousand seven hundred forty-nine dollars (\$80,749) and 1.2 FTE shall be allocated to the division of registrations.

(3) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2010, the sum of six hundred twelve thousand four hundred sixty-three dollars (\$612,463) and 5.2 FTE, or so much thereof as may be necessary, for the provision of legal services to the department of public health and environment and the department of regulatory agencies related to the implementation of this act. Of said appropriation, ninety-nine thousand eight hundred seventy-nine dollars (\$99,879) shall be from reappropriated funds received from the department of public health and environment out of the appropriation made in subsection (1) of this section to the administration and support division and five hundred twelve thousand five hundred eighty-four dollars (\$512,584) shall be from reappropriated funds received from the department of regulatory agencies out of the appropriation made in subsection (2) of this section to the executive director's office.

SECTION 7. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO