

**50-46-301. Short title — purpose.** (1) This part may be cited as the "Montana Medical Marijuana Act".

(2) The purpose of this part is to:

(a) improve the regulatory system to make the Montana marijuana program safe, functional, and transparent for patients, providers, regulators, and Montana communities;

(b) provide legal protections to individuals with debilitating medical conditions, including posttraumatic stress disorder, who engage in the use of marijuana to alleviate the symptoms of the debilitating medical condition;

(c) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this part;

(d) allow persons to assist registered cardholders with the cultivation of marijuana and manufacture of marijuana-infused products;

(e) require licensing for the cultivation of marijuana and manufacture of marijuana-infused products;

(f) provide for dispensaries, employees, and the transport of marijuana and marijuana-infused products;

(g) establish reporting requirements for production of marijuana and marijuana-infused products and inspection requirements for premises;

(h) provide for the testing of marijuana by licensed testing laboratories; and

(i) give local governments a role in establishing standards for the cultivation, manufacture, and use of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions.

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

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

(2) "Debilitating medical condition" means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status;

(b) cachexia or wasting syndrome;

(c) severe chronic pain that is persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician;

(d) intractable nausea or vomiting;

(e) epilepsy or an intractable seizure disorder;

(f) multiple sclerosis;

(g) Crohn's disease;

(h) painful peripheral neuropathy;

(i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

(j) admittance into hospice care in accordance with rules adopted by the department;

(k) posttraumatic stress disorder; or

(l) any other medical condition or treatment for a medical condition approved by the legislature.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) "Dispensary" means a registered location from which a provider or marijuana-infused products provider is approved by the department to dispense marijuana or marijuana-infused products to a registered cardholder.

(5) (a) "Employee" means an individual employed to do something for the benefit of an employer or a third person.

(b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization.

(6) "Local government" means a county, a consolidated government, or an incorporated city or town.

(7) "Marijuana" has the meaning provided in 50-32-101.

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

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

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

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

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

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

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

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

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

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

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

(b) has an established office in Montana; and

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

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

(16) "Registered premises" means the location at which a provider or marijuana-infused products provider has indicated that marijuana will be cultivated or marijuana-infused products will be manufactured for a registered cardholder.

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

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

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

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

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

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

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

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

(a) obtaining the patient's medical history;

(b) performing a relevant and necessary physical examination;

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

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

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

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

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

(22) "Testing laboratory" means a qualified person, licensed by the department, who:

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

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

(23) "Treating physician" means an individual who:

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

(b) has an established office in Montana; and

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

(24) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant and any mixtures or preparations of the dried leaves and flowers that are appropriate for the use of marijuana by an individual with a debilitating medical condition.

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

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

**50-46-303. Department responsibilities — issuance of cards and licenses — confidentiality — inspections — reports.** (1) (a) The department shall establish and maintain a program for the issuance of registry identification cards to Montana residents who have debilitating medical conditions and who submit applications meeting the requirements of this part.

(b) Individuals who obtain registry identification cards are authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this part.

(2) The department shall establish and maintain a program for the licensure of testing laboratories and persons who are named as providers or marijuana-infused products providers by registered cardholders.

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

(4) Registry identification cards issued pursuant to this part must:

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

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

(c) state the date of issuance and the expiration date of the registry identification card;

(d) contain a unique identification number; and

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

(5) (a) The department shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials.

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

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

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

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

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

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

(8) A registered cardholder shall notify the department of any change in the cardholder's name, address, physician, provider, or marijuana-infused products provider or change in the status of the cardholder's debilitating medical condition within 10 days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

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

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

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

(10) The department shall provide the names of providers and marijuana-infused products providers to the local law enforcement agency having jurisdiction in the area in which the providers or marijuana-infused products providers are located. The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.

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

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

**50-46-307. (Temporary) Persons with debilitating medical conditions — requirements — minors — limitations.** (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to a person with a debilitating medical condition who submits the following, in accordance with department rules:

- (a) an application on a form prescribed by the department;
- (b) an application fee or a renewal fee;
- (c) the person's name, street address, and date of birth;
- (d) proof of Montana residency;
- (e) a statement that the person will be cultivating and manufacturing marijuana for the person's use or will be obtaining marijuana from a provider or a marijuana-infused products provider;
- (f) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates, manufactures, or obtains for the person's debilitating medical condition;
- (g) the name of the person's treating physician or referral physician and the street address and telephone number of the physician's office;
- (h) the street address where the person is cultivating or manufacturing marijuana if the person is cultivating or manufacturing marijuana for the person's own use;
- (i) the name, date of birth, and street address of the individual the person has selected as a provider or marijuana-infused products provider, if any; and
- (j) the written certification and accompanying statements from the person's treating physician or referral physician as required pursuant to 50-46-310.

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

- (a) provides proof of legal guardianship and responsibility for health care decisions if the person is submitting an application as the minor's legal guardian with responsibility for health care decisions; and
- (b) signs and submits a written statement that:
  - (i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; and
  - (ii) the minor's custodial parent or legal guardian with responsibility for health care decisions:
    - (A) consents to the use of marijuana by the minor;
    - (B) agrees to serve as the minor's marijuana-infused products provider;
    - (C) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor;
    - (D) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;
- (c) submits fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation. The parent or legal guardian shall pay the costs of the background check and may not obtain a registry identification card as a marijuana-infused products provider if the parent or legal guardian does not meet the requirements of 50-46-308.
- (d) pledges, on a form prescribed by the department, not to divert to any person any marijuana cultivated or manufactured for the minor's use in a marijuana-infused product.

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition to the minor's treating physician or referral physician.

(4) A person may not be a registered cardholder if the person is in the custody of or under the supervision of the department of corrections or a youth court.

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

(6) A registered cardholder may cultivate or manufacture marijuana as allowed under 50-46-319 only:

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

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

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

*50-46-307. (Effective June 30, 2017) Individuals with debilitating medical conditions — requirements — minors — limitations.* (1) Except as provided in subsections (2) through (4), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules:

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

(b) an application fee or a renewal fee;

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

(d) proof of Montana residency;

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

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

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

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

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

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

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

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

(b) signs and submits a written statement that:

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

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

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

(B) agrees to serve as the minor's marijuana-infused products provider;

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

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

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

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

(3) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition to the minor's treating physician or referral physician.

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

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

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

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

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

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

**50-46-308. (Temporary) Provider types — requirements — limitations — activities.** (1) The department shall issue a registry identification card to or renew a card for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:

(a) the person's name, date of birth, and street address on a form prescribed by the department;

(b) proof that the person is a Montana resident;

(c) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(d) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

(e) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or manufactures for a registered cardholder;

(f) a statement acknowledging that the person will cultivate and manufacture marijuana for the registered cardholder at only one location as provided in subsection (7). The location must be identified by street address.

(g) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the registration.

(2) The department may not register a person under this section if the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under 50-46-331;

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

(iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; or

(e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the person's application for a card issued under 50-46-307.

(3) (a) (i) A provider or marijuana-infused products provider may assist a maximum of three registered cardholders.

(ii) A person who is registered as both a provider and a marijuana-infused products provider may assist no more than three registered cardholders.

(b) If the provider or marijuana-infused products provider is a registered cardholder, the provider or marijuana-infused products provider may assist a maximum of two registered cardholders other than the provider or marijuana-infused products provider.

(4) A provider or marijuana-infused products provider may accept reimbursement from a cardholder only for the provider's application or renewal fee for a registry identification card issued under this section.

(5) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.

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

(a) accept anything of value, including monetary remuneration, for any services or products provided to a registered cardholder;

(b) buy or sell mature marijuana plants, seedlings, cuttings, clones, usable marijuana, or marijuana-infused products; or

(c) use marijuana unless the person is also a registered cardholder.

(7) (a) A person registered under this section may cultivate and manufacture marijuana for use by a registered cardholder only at one of the following locations:

(i) a property that is owned by the provider or marijuana-infused products provider;

(ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or

(iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of 50-46-307.

(b) No portion of the property used for cultivation and manufacture of marijuana may be shared with or rented or leased to another provider or marijuana-infused products provider or another registered cardholder.

*50-46-308. (Effective June 30, 2017) Provider types — requirements — limitations — activities. (1) (a) Subject to subsections (1)(b) and (2), the department shall issue a license to or renew a license for the person who is named as a provider or marijuana-infused products provider in a registered cardholder's approved application if the person submits to the department:*

(i) the person's name, date of birth, and street address on a form prescribed by the department;

(ii) proof that the person is a Montana resident;

(iii) fingerprints to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation;

(iv) a written agreement signed by the registered cardholder that indicates whether the person will act as the cardholder's provider or marijuana-infused products provider;

(v) a statement, on a form prescribed by the department, that the person will not divert to any other person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures for a registered cardholder;

(vi) a statement acknowledging that the person will cultivate marijuana and manufacture marijuana-infused products for the registered cardholder at only one location as provided in subsection (5). The location must be identified by street address.

(vii) a fee as determined by the department to cover the costs of the fingerprint and background check and associated administrative costs of processing the license.

(b) If the person to be licensed consists of more than one individual, the names of all individuals must be submitted along with the fingerprints and date of birth of each.

(2) The department may not license a person under this section if the person or an individual with a financial interest in the person:

(a) has a felony conviction or a conviction for a drug offense;

(b) is in the custody of or under the supervision of the department of corrections or a youth court;

(c) has been convicted of a violation under 50-46-331;

(d) has failed to:

(i) pay any taxes, interest, penalties, or judgments due to a government agency;

(ii) stay out of default on a government-issued student loan;

(iii) pay child support; or

- (iv) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency;
  - (e) is a registered cardholder who has designated a provider or marijuana-infused products provider in the individual's application for a card issued under 50-46-307;
  - (f) has resided in Montana for less than 1 year; or
  - (g) is under 18 years of age.
- (3) Marijuana for use pursuant to this part must be cultivated and manufactured in Montana.
- (4) A provider or marijuana-infused products provider may not use marijuana unless the person is also a registered cardholder.
- (5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana-infused products for use by a registered cardholder only at one of the following locations:
- (i) a property that is owned by the provider or marijuana-infused products provider;
  - (ii) with written permission of the landlord, a property that is rented or leased by the provider or marijuana-infused products provider; or
  - (iii) a property owned, leased, or rented by the registered cardholder pursuant to the provisions of 50-46-307.
- (b) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused products may be shared with or rented or leased to another provider or marijuana-infused products provider or a registered cardholder.
- (6) A licensed provider or marijuana-infused products provider may:
- (a) operate dispensaries;
  - (b) employ employees to cultivate marijuana, manufacture marijuana-infused products, and dispense and transport marijuana and marijuana-infused products; and
  - (c) provide a small amount of marijuana or marijuana-infused products cultivated or manufactured on the registered premises to a licensed testing laboratory.

**50-46-309. (Temporary) Marijuana-infused products provider — requirements — allowable activities.** (1) An individual registered as a marijuana-infused products provider shall:

- (a) prepare marijuana-infused products at a premises registered with the department that is used for the manufacture and preparation of marijuana-infused products; and
  - (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.
- (2) A marijuana-infused products provider:
- (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and
  - (b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a registered provider and is providing the marijuana to a registered cardholder who has selected the person as the person's registered provider.
- (3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.
- (4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.

**50-46-309. (Effective June 30, 2017) Marijuana-infused products provider — requirements — allowable activities.** (1) A person licensed as a marijuana-infused products provider shall:

- (a) prepare marijuana-infused products at a registered premises ; and
  - (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused products.
- (2) A marijuana-infused products provider:
- (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and
  - (b) may not provide a cardholder with marijuana in a form that may be used for smoking unless the marijuana-infused products provider is also a licensed provider and is providing the marijuana to a registered cardholder who has selected the person as the registered cardholder's licensed provider.
- (3) All registered premises on which marijuana-infused products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.
- (4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50, chapter 31.



**50-46-310. Written certification — accompanying statements.** (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must:

(a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and

(b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is providing written certification.

(2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must:

(a) confirm that the physician is:

(i) the patient's treating physician and that the patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the patient; or

(ii) the patient's referral physician;

(b) confirm that the patient suffers from a debilitating medical condition;

(c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating;

(d) confirm that the physician has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination that included a personal review of any medical records maintained by other physicians and that may have included the patient's reaction and response to conventional medical therapies;

(e) describe the medications, procedures, and other medical options used to treat the condition;

(f) state that the medications, procedures, or other medical options have not been effective;

(g) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the patient and has considered the potential drug interaction with marijuana;

(h) state that the physician has a reasonable degree of certainty that the patient's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana;

(i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the patient;

(j) list restrictions on the patient's activities due to the use of marijuana;

(k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year;

(l) state that the physician will:

(i) continue to serve as the patient's treating physician or referral physician; and

(ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment; and

(m) contain an attestation that the information provided in the written certification and accompanying statements is true and correct.

(3) A physician who is the second physician recommending marijuana for use by a minor shall submit:

(a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician;

(b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and

(c) an attestation that the information provided in the written certification and accompanying statements is true and correct.

(4) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification.

**50-46-311. (Effective June 30, 2017) Testing laboratories.** (1) The department shall license testing laboratories that meet the requirements of this part to measure the tetrahydrocannabinol and cannabidiol content of marijuana and marijuana-infused products and to test marijuana and marijuana-infused products for toxins and mold.

(2) A person with a financial interest in a licensed testing laboratory may not have a financial interest in a provider for whom testing services are performed.

(3) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. The scientific director must have the following minimum qualifications:

(a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or

(b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

**50-46-312. (Effective June 30, 2017) License as privilege — criteria.** (1) A provider license is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider:

(a) the qualifications of the applicant; and

(b) the suitability of the proposed registered premises.

(2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application.

(3) (a) The department may deny a license if the applicant's proposed registered premises:

(i) is situated within a zone of a city, town, or county where an activity related to the medical use of marijuana is prohibited by ordinance or resolution, a certified copy of which has been filed with the department;

(ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.

(iii) is not approved by local building, health, or fire officials; or

(iv) will adversely affect the welfare of the people residing in or of retail businesses located in the vicinity.

(b) For the purposes of this subsection (3), "school" and "postsecondary school" have the meanings provided in 20-5-402.

**50-46-317. (Temporary) Registry card to be carried and exhibited on demand — photo identification required.** A registered cardholder, provider, or marijuana-infused products provider shall keep the person's registry identification card in the person's immediate possession at all times. The person shall display the registry identification card and a valid photo identification upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

**50-46-317. (Effective June 30, 2017) Registry card or license to be exhibited on demand — photo identification required.** A registered cardholder, provider, or marijuana-infused products provider shall keep the individual's registry identification card or license in the individual's or person's immediate possession at all times. The registry identification card or license and a valid photo identification must be displayed upon demand of a law enforcement officer, justice of the peace, or city or municipal judge.

**50-46-318. (Temporary) Health care facility procedures for patients with marijuana for use.** (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in 50-46-320, a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or person with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

**50-46-318. (Effective June 30, 2017)** Health care facility procedures for patients with marijuana for use. (1) (a) Except for hospices and residential care facilities that allow the use of marijuana as provided in 50-46-320, a health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility:

(i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or

(ii) make a reasonable effort to contact the patient's provider, marijuana-infused products provider, court-appointed guardian, or individual with a power of attorney, if any.

(b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located.

(2) A provider, marijuana-infused products provider, court-appointed guardian, or individual with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence.

(3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana.

(4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises.

**50-46-319. (Temporary) Legal protections — allowable amounts.** (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the individual cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in 50-46-329, possession of or application for a registry identification card does not alone constitute probable cause to search the individual or the property of the individual possessing or applying for the registry identification card or otherwise subject the individual or property of the individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by this part if the person:

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

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

*50-46-319. (Effective June 30, 2017) Legal protections — allowable amounts.* (1) (a) A registered cardholder may possess up to 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana.

(b) A provider or marijuana-infused products provider may possess 4 mature plants, 12 seedlings, and 1 ounce of usable marijuana for each registered cardholder who has named the person as the registered cardholder's provider.

(2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card or license issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because:

(a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or

(b) the registered cardholder acquires or uses marijuana.

(3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition.

(4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if:

(a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

(b) a physician violates the standard of care or other requirements of this part.

(5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused products as permitted under this part.

(b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not a registered cardholder.

(6) Except as provided in 50-46-329, possession of or application for a license or registry identification card does not alone constitute probable cause to search the person or individual or the property of the person or individual or otherwise subject the person or individual or property of the person or individual possessing or applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

(7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge.

(8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to be engaged in the use of marijuana as allowed by this part if the person:

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

(ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part.

(b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition.

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

- (a) any person, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or
- (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:
  - (i) in a health care facility as defined in 50-5-101;
  - (ii) in a school or a postsecondary school as defined in 20-5-402;
  - (iii) on or in any property owned by a school district or a postsecondary school;
  - (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
  - (v) in a school bus or other form of public transportation;
  - (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
  - (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
  - (viii) at a public park, public beach, public recreation center, or youth center;
  - (ix) in or on the property of any church, synagogue, or other place of worship;
  - (x) in plain view of or in a place open to the general public; or
  - (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate or manufacture marijuana for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in this part may be construed to require:

(a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse a person for costs associated with the use of marijuana by a registered cardholder;

(b) an employer to accommodate the use of marijuana by a registered cardholder;

(c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or

(d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

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

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

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

(6) Nothing in this part may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

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

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

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

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

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

50-46-320. (Effective June 30, 2017) Limitations of act. (1) This part does not permit:

- (a) any individual, including a registered cardholder, to operate, navigate, or be in actual physical control of a motor vehicle, aircraft, or motorboat while under the influence of marijuana; or
- (b) except as provided in subsection (3), the use of marijuana by a registered cardholder:
  - (i) in a health care facility as defined in 50-5-101;
  - (ii) in a school or a postsecondary school as defined in 20-5-402;
  - (iii) on or in any property owned by a school district or a postsecondary school;
  - (iv) on or in any property leased by a school district or a postsecondary school when the property is being used for school-related purposes;
  - (v) in a school bus or other form of public transportation;
  - (vi) when ordered by any court of competent jurisdiction into a correctional facility or program;
  - (vii) if a court has imposed restrictions on the cardholder's use pursuant to 46-18-202;
  - (viii) at a public park, public beach, public recreation center, or youth center;
  - (ix) in or on the property of any church, synagogue, or other place of worship;
  - (x) in plain view of or in a place open to the general public; or
  - (xi) where exposure to the marijuana smoke significantly adversely affects the health, safety, or welfare of children.

(2) A registered cardholder, provider, or marijuana-infused products provider may not cultivate marijuana or manufacture marijuana-infused products for use by a registered cardholder in a manner that is visible from the street or other public area.

(3) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder.

(4) Nothing in this part may be construed to require:

- (a) a government medical assistance program, a group benefit plan that is covered by the provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-71-116 to reimburse an individual for costs associated with the use of marijuana by a registered cardholder;
- (b) an employer to accommodate the use of marijuana by a registered cardholder;
- (c) a school or postsecondary school to allow a registered cardholder to participate in extracurricular activities; or
- (d) a landlord to allow a tenant who is a registered cardholder, provider, or marijuana-infused products provider to cultivate or manufacture marijuana or to allow a registered cardholder to use marijuana.

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

- (a) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or
- (b) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102.

(6) Nothing in this part may be construed to allow a provider or marijuana-infused products provider to use marijuana or to prevent criminal prosecution of a provider or marijuana-infused products provider who uses marijuana or paraphernalia for personal use.

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

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

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

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

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

**50-46-327. (Temporary) Prohibitions on physician affiliation with providers and marijuana-infused products providers — sanctions.** (1) (a) A physician who provides written certifications may not:

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

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

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where marijuana to be used for a debilitating medical condition is cultivated or manufactured or where marijuana-infused products are made.

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

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

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

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

**50-46-327. (Effective June 30, 2017) Prohibitions on physician affiliation with providers and marijuana-infused products providers — sanctions.** (1) (a) A physician who provides written certifications may not:

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

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

(iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where marijuana to be used for a debilitating medical condition is cultivated or where marijuana-infused products are produced.

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

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

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

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

**50-46-328. Local government authority to regulate.** (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of locations where marijuana is cultivated or manufactured in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.

(2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating as storefront businesses.

**50-46-329. (Temporary) Inspection procedures.** (1) The department and state or local law enforcement agencies may conduct unannounced inspections of registered premises.

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

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

(3) (a) A registered premises, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

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

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

**50-46-329. (Effective June 30, 2017) Inspection procedures.** (1) The department may conduct unannounced inspections of registered premises, dispensaries, and testing laboratories.

(2) The department shall inspect annually each dispensary, registered premises, and testing laboratory.

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

(b) The department may require a provider or marijuana-infused products provider to furnish information that the department considers necessary for the proper administration of this part.

(4) (a) A registered premises or dispensary, including any places of storage, where marijuana is cultivated, manufactured, or stored is subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation during normal business hours.

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

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

(6) The department may establish penalties, including financial penalties and license revocation, for the violation of agricultural or public health standards.

**50-46-330. (Temporary) Unlawful conduct by cardholders — penalties.** (1) The department shall revoke and may not reissue the registry identification card of a person who:

(a) is convicted of a drug offense;

(b) allows another person to be in possession of the person's:

(i) registry identification card; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the person is registered and cultivating or manufacturing marijuana.



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

**50-46-330. (Effective June 30, 2017) Unlawful conduct by cardholders — penalties.** (1) The department shall revoke and may not reissue the registry identification card of an individual who:

(a) is convicted of a drug offense;

(b) allows another individual to be in possession of the individual's:

(i) registry identification card; or

(ii) mature marijuana plants, seedlings, usable marijuana, or marijuana-infused products; or

(c) fails to cooperate with the department concerning an investigation or inspection if the individual is registered and cultivating marijuana or manufacturing marijuana-infused products.

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

**50-46-331. (Temporary) Fraudulent representation — penalties.** (1) In addition to any other penalties provided by law, a person who fraudulently represents to a law enforcement official that the person is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under 50-46-310 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) A person convicted under this section may not be registered as a provider or marijuana-infused products provider under 50-46-308.

**50-46-331. (Effective June 30, 2017) Fraudulent representation — penalties.** (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is a registered cardholder, provider, or marijuana-infused products provider is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(2) A physician who purposely and knowingly misrepresents any information required under 50-46-310 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both.

(3) An individual convicted under this section may not be licensed as a provider or marijuana-infused products provider under 50-46-308.

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

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

**50-46-339. (Temporary) Law enforcement authority.** Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person with a registry identification card.

**50-46-339. (Effective June 30, 2017) Law enforcement authority.** Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person or individual with a license or registry identification card.

**50-46-340. Forfeiture.** (1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of this part in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of this part.

(2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings.

**50-46-341. (Temporary) Advertising prohibited.** Persons with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

*50-46-341. (Effective June 30, 2017) Advertising prohibited.* Persons with licenses and individuals with valid registry identification cards may not advertise marijuana or marijuana-related products in any medium, including electronic media.

**50-46-342. Hotline.** (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this part.

(2) The department may:

(a) investigate reports of suspected abuse of the provisions of this part; or

(b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring.

**50-46-343. Legislative monitoring.** (1) The children, families, health, and human services interim committee shall provide oversight of the department's activities related to registering individuals pursuant to this part and of issues related to the cultivation, manufacture, and use of marijuana pursuant to this part.

(2) The committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature.

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

(a) the manner in which the department will consider applications for registry identification cards [for providers and marijuana-infused products providers and] for individuals with debilitating medical conditions and renewal of registry identification cards;

(b) the acceptable forms of proof of Montana residency;

(c) the procedures for obtaining fingerprints for the fingerprint and background check required under 50-46-307 and 50-46-308;

(d) other rules necessary to implement the purposes of this part.

(2) License fees for providers and marijuana-infused products providers may not exceed \$1,000 for 10 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both marijuana and marijuana-infused products is required to have only one license.

(3) License fees for testing laboratories may not exceed \$1,200.

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

(5) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part.

**50-46-345. (Effective June 30, 2017) Medical marijuana state special revenue account.** (1) There is a medical marijuana state special revenue account within the state special revenue fund established in 17-2-102.

(2) Money deposited into the account pursuant to 50-46-344(4) must be used by the department for the purpose of administering the Montana Medical Marijuana Act.