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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3760

02/13/2024 Authored by Hanson, J., and Smith
The bill was read for the first time and referred to the Committee on Health Finance and Policy
03/07/2024 By motion, recalled and re-referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to cannabis; prohibiting licensing sanctions for certain patients in the
1.3 registry program; prohibiting schools and landlords from refusing to serve patients
1.4 enrolled in the registry program because cannabis is a controlled substance under
1.5 federal law; requiring employers, schools, and landlords to provide certain notice
1.6 when treating a person differently based on the person's status as a patient enrolled
1.7 in the registry program; prohibiting retaliation against patients enrolled in the
1.8 registry program; increasing civil statutory damages available to certain patients
1.9 enrolled in the registry program; providing for injunctive relief; making technical
1.10 changes; amending Minnesota Statutes 2023 Supplement, sections 342.56,
1.11 subdivision 2; 342.57, subdivisions 2, 3, 7, by adding subdivisions.

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

1.13 Section 1. Minnesota Statutes 2023 Supplement, section 342.56, subdivision 2, is amended
1.14 to read:

1.15 Subd. 2. Health care facilities. (a) Health care facilities licensed under chapter 144A;
1.16 hospice providers licensed under chapter 144A; boarding care homes or supervised living
1.17 facilities licensed under section 144.50; assisted living facilities under chapter 144G; facilities
1.18 owned, controlled, managed, or under common control with hospitals licensed under chapter
1.19 144; and other health care facilities licensed by the commissioner of health or the
1.20 commissioner of human services may adopt reasonable restrictions on the use of medical
1.21 cannabis flower or medical cannabinoid products by a patient enrolled in the registry program
1.22 who resides at or is actively receiving treatment or care at the facility. The restrictions may
1.23 include a provision that the facility must not store or maintain a patient's supply of medical
1.24 cannabis flower or medical cannabinoid products on behalf of the patient; that a patient
1.25 store the patient's supply of medical cannabis flower or medicinal cannabinoid products in
1.26 a locked container accessible only to the patient, the patient's designated caregiver, or the

2.1 patient's parent, legal guardian, or spouse; that the facility is not responsible for providing
2.2 medical cannabis for patients; and that medical cannabis flower or medical cannabinoid
2.3 products are used only in a location specified by the facility or provider. Nothing in this
2.4 subdivision requires facilities and providers listed in this subdivision to adopt such
2.5 restrictions.

2.6 (b) No facility or provider listed in this subdivision may unreasonably limit a patient's
2.7 access to or use of medical cannabis flower or medical cannabinoid products to the extent
2.8 that such use is authorized under sections 342.47 to 342.59. No facility or provider listed
2.9 in this subdivision may prohibit a patient access to or use of medical cannabis flower or
2.10 medical cannabinoid products due solely to the fact that cannabis is a ~~Schedule I drug~~
2.11 controlled substance pursuant to the federal Uniform Controlled Substances Act. If a federal
2.12 regulatory agency, the United States Department of Justice, or the federal Centers for
2.13 Medicare and Medicaid Services takes one of the following actions, a facility or provider
2.14 may suspend compliance with this paragraph until the regulatory agency, the United States
2.15 Department of Justice, or the federal Centers for Medicare and Medicaid Services notifies
2.16 the facility or provider that it may resume permitting the use of medical cannabis flower or
2.17 medical cannabinoid products within the facility or in the provider's service setting:

2.18 (1) a federal regulatory agency or the United States Department of Justice initiates
2.19 enforcement action against a facility or provider related to the facility's compliance with
2.20 the medical cannabis program; or

2.21 (2) a federal regulatory agency, the United States Department of Justice, or the federal
2.22 Centers for Medicare and Medicaid Services issues a rule or otherwise provides notification
2.23 to the facility or provider that expressly prohibits the use of medical cannabis in health care
2.24 facilities or otherwise prohibits compliance with the medical cannabis program.

2.25 (c) An employee or agent of a facility or provider listed in this subdivision or a person
2.26 licensed under chapter 144E is not violating this chapter or chapter 152 for the possession
2.27 of medical cannabis flower or medical cannabinoid products while carrying out employment
2.28 duties, including providing or supervising care to a patient enrolled in the registry program,
2.29 or distribution of medical cannabis flower or medical cannabinoid products to a patient
2.30 enrolled in the registry program who resides at or is actively receiving treatment or care at
2.31 the facility or from the provider with which the employee or agent is affiliated.

3.1 Sec. 2. Minnesota Statutes 2023 Supplement, section 342.57, subdivision 2, is amended
3.2 to read:

3.3 Subd. 2. **Criminal and civil protections.** (a) Subject to section 342.56, the following
3.4 are not violations of this chapter or chapter 152:

3.5 (1) use or possession of medical cannabis flower, medical cannabinoid products, or
3.6 medical cannabis paraphernalia by a patient enrolled in the registry program or by a visiting
3.7 patient to whom medical cannabis flower or medical cannabinoid products are distributed
3.8 under section 342.51, subdivision 5;

3.9 (2) possession of medical cannabis flower, medical cannabinoid products, or medical
3.10 cannabis paraphernalia by a registered designated caregiver or a parent, legal guardian, or
3.11 spouse of a patient enrolled in the registry program; or

3.12 (3) possession of medical cannabis flower, medical cannabinoid products, or medical
3.13 cannabis paraphernalia by any person while carrying out duties required under sections
3.14 342.47 to 342.60.

3.15 (b) The Office of Cannabis Management, members of the Cannabis Advisory Council,
3.16 Office of Cannabis Management employees, agents or contractors of the Office of Cannabis
3.17 Management, and health care practitioners participating in the registry program are not
3.18 subject to any civil penalties or disciplinary action by the Board of Medical Practice, the
3.19 Board of Nursing, or any business, occupational, or professional licensing board or entity
3.20 solely for participating in the registry program either in a professional capacity or as a
3.21 patient. A pharmacist licensed under chapter 151 is not subject to any civil penalties or
3.22 disciplinary action by the Board of Pharmacy when acting in accordance with sections
3.23 342.47 to 342.60 either in a professional capacity or as a patient. Nothing in this section
3.24 prohibits a professional licensing board from taking action in response to a violation of law.

3.25 (c) Notwithstanding any law to the contrary, a Cannabis Advisory Council member, the
3.26 governor, or an employee of a state agency must not be held civilly or criminally liable for
3.27 any injury, loss of property, personal injury, or death caused by any act or omission while
3.28 acting within the scope of office or employment under sections 342.47 to 342.60.

3.29 (d) Federal, state, and local law enforcement authorities are prohibited from accessing
3.30 the registry except when acting pursuant to a valid search warrant. Notwithstanding section
3.31 13.09, a violation of this paragraph is a gross misdemeanor.

3.32 (e) Notwithstanding any law to the contrary, the office and employees of the office must
3.33 not release data or information about an individual contained in any report or document or

4.1 in the registry and must not release data or information obtained about a patient enrolled in
 4.2 the registry program, except as provided in sections 342.47 to 342.60. Notwithstanding
 4.3 section 13.09, a violation of this paragraph is a gross misdemeanor.

4.4 (f) No information contained in a report or document, contained in the registry, or
 4.5 obtained from a patient under sections 342.47 to 342.60 may be admitted as evidence in a
 4.6 criminal proceeding, unless:

4.7 (1) the information is independently obtained; or

4.8 (2) admission of the information is sought in a criminal proceeding involving a criminal
 4.9 violation of sections 342.47 to 342.60.

4.10 (g) Possession of a registry verification or an application for enrollment in the registry
 4.11 program:

4.12 (1) does not constitute probable cause or reasonable suspicion;

4.13 (2) must not be used to support a search of the person or property of the person with a
 4.14 registry verification or application to enroll in the registry program; and

4.15 (3) must not subject the person or the property of the person to inspection by any
 4.16 government agency.

4.17 (h) A patient enrolled in the registry program must not be subject to any penalty or
 4.18 disciplinary action by a court or occupational or professional licensing board solely because
 4.19 the patient is enrolled in the registry program or a test for cannabis components or metabolites
 4.20 shows that the patient has used cannabis flower or cannabis products.

4.21 Sec. 3. Minnesota Statutes 2023 Supplement, section 342.57, subdivision 3, is amended
 4.22 to read:

4.23 Subd. 3. **School enrollment; rental property.** (a) No school may refuse to enroll a
 4.24 patient as a pupil or otherwise penalize a patient solely because the patient is enrolled in
 4.25 the registry program, unless failing to do so would violate federal law or regulations or
 4.26 cause the school to lose a monetary or licensing-related benefit under federal law or
 4.27 regulations.

4.28 (b) No landlord may refuse to lease to a patient or otherwise penalize a patient solely
 4.29 because the patient is enrolled in the registry program, unless failing to do so would violate
 4.30 federal law or regulations or cause the landlord to lose a monetary or licensing-related
 4.31 benefit under federal law or regulations.

5.1 (c) For the purposes of this section, the fact that cannabis is a controlled substance
5.2 pursuant to the federal Uniform Controlled Substances Act must not be the sole basis for a
5.3 determination:

5.4 (1) by a school that the school must not enroll a patient as a pupil;

5.5 (2) by a school that the school must penalize a pupil who is a patient;

5.6 (3) by a landlord that the landlord must refuse to lease a property to the patient; or

5.7 (4) by a landlord to otherwise penalize a patient.

5.8 Sec. 4. Minnesota Statutes 2023 Supplement, section 342.57, is amended by adding a
5.9 subdivision to read:

5.10 Subd. 5a. **Notice.** An employer, a school, or a landlord who takes any action that would
5.11 otherwise be prohibited under subdivision 3 or 5 based on the belief that:

5.12 (1) failing to take the action would violate federal or state law or regulations; or

5.13 (2) failing to take the action would cause the employer, school, or landlord to lose a
5.14 monetary or licensing-related benefit under federal law or regulations, must provide written
5.15 notice to the affected patient at the time that the employer, school, or landlord takes the
5.16 action. The written notice must cite the federal law or regulations that would be violated
5.17 and, if applicable, what monetary or licensing-related benefit under federal law or regulations
5.18 the employer, school, or landlord would lose. Failure to provide written notice is a violation
5.19 of this section.

5.20 Sec. 5. Minnesota Statutes 2023 Supplement, section 342.57, is amended by adding a
5.21 subdivision to read:

5.22 Subd. 6a. **Retaliation prohibited.** A school, landlord, health care facility, or employer
5.23 must not retaliate against a patient for asserting the rights and remedies provided in this
5.24 section or section 152.32.

5.25 Sec. 6. Minnesota Statutes 2023 Supplement, section 342.57, subdivision 7, is amended
5.26 to read:

5.27 Subd. 7. **Action for damages; injunctive relief.** In addition to any other remedy provided
5.28 by law, a patient may bring an action for damages against any person who violates
5.29 subdivision 3, 4, or 5. A person who violates subdivision 3, 4, or 5 is liable to a patient
5.30 injured by the violation for the greater of the person's actual damages or a civil penalty of

- 6.1 ~~\$100~~ \$1,000 and reasonable attorney fees. A patient may bring an action for injunctive relief
- 6.2 to prevent or end a violation of subdivisions 3 to 6a.