

Bob Newland, Director  
South Dakotans for Safe Access  
HC 89 Box 184A  
Hermosa SD 57744

605-255-4032  
[newland@rapidcity.com](mailto:newland@rapidcity.com)  
605-209-4354 cell

6 May 2005

Kea Warne, Elections Supervisor  
Office of Secretary of State  
Capitol Building  
500 East Capitol Avenue; Ste 204  
Pierre SD 57501

RECEIVED

MAY 0 8 2005

S.D. SEC. OF STATE

Ms. Warne;

Having sent you a revised copy of the initiative petition titled: "An Act to provide safe access to medical marijuana for certain qualified persons", as a pdf file, via email, this is the cover letter containing the sponsors for the revised edition.

The sponsors for this (revised copy) initiative are:

Bob Newland  
HC 89 Box 184A  
Hermosa SD 57744

Jeremy Briggs  
612 1/2 Main St.  
Rapid City SD 57701

Eric Krantz  
723 Myrtle Ave; #2  
Rapid City SD 57701

Having received and implemented comments from the Legislative Research Council, and having herein filed the petition form and names and addresses of the sponsors, we believe we have fulfilled the requirements pursuant to South Dakota Codified Law necessary to establish the certification of this petition for circulation.

Please note that the petition copy sent by email on May 5 is different from the one you received by postal mail on May 5, 2005. Please destroy that copy and file this one. The difference is in the first sentence of Section 25: "**Section 25. The department may promulgate rules, pursuant to chapter 1-26, to define any additional medical conditions, or treatments for medical conditions, as debilitating medical conditions and to provide for ~~additional~~ requirements and procedures for the registry identification card.**" (The corrected file copy has deleted the struck-through word "additional", as shown above.)

Thank you.

Very truly yours,  
Bob Newland

**INITIATIVE PETITION**

WE, THE UNDERSIGNED qualified voters of the state of South Dakota, petition that the following proposed law be submitted to the voters of the state of South Dakota at the general election on November 7, 2006 for their approval or rejection pursuant to the Constitution of the State of South Dakota.

The substance of the proposed law is as follows:  
Be it enacted by the people of South Dakota.

**An Act to provide safe access to medical marijuana for certain qualified persons.**

**Section 1.** Terms used in this Act mean:

- (1) "Caregiver," any person, eighteen years of age or older, who has agreed to undertake responsibility for managing the well-being of a person with respect to the medical use of marijuana. The term does not include the qualifying patient's physician;
- (2) "Debilitating medical condition,"
  - (a) Cancer, glioblastoma, or positive status for human immunodeficiency virus, acquired immune deficiency syndrome, or the treatment of these conditions;
  - (b) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following:
    - (i) Cachexia or wasting syndrome;
    - (ii) Severe or chronic pain;
    - (iii) Severe nausea;
    - (iv) Seizures, including epileptic seizures;
    - (v) Severe or persistent muscle spasms, including spasms caused by spinal injury, multiple sclerosis, or Crohn's disease;
    - (vi) Fibromyalgia; or
  - (c) Any other medical condition or treatment for a medical condition adopted by the department by rule;
- (3) "Department," the Department of Health;
- (4) "Marijuana," as defined in § 34-20B-1;
- (5) "Medical use," the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the medical condition;
- (6) "Physician," a person who is licensed pursuant to chapter 36-4;
- (7) "Qualifying patient," a person who has been diagnosed by a physician as having a debilitating medical condition;
- (8) "Registry identification card," a document issued by the department that identifies a person as a qualifying patient or caregiver;
- (9) "Usable marijuana," the dried leaves and flowers of marijuana and any mixture or preparation of marijuana. The term does not include the seeds, stalks, and roots of the plant;
- (10) "Written certification," a qualifying patient's medical records or a statement signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the qualifying patient has a debilitating medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient.

**Section 2.** The department shall establish and maintain a program for the issuance of registry identification cards to persons who meet the requirements of this Act.

**Section 3.** Except as provided in section 4 of this Act, the department shall issue a registry identification card to a qualifying patient who submits the following, in accordance with department rules:

- (1) Written certification;
- (2) An application or renewal fee;
- (3) The name, address, and date of birth of the qualifying patient;
- (4) The name, address, and telephone number of the qualifying patient's physician; and

(5) The name, address, and date of birth of the qualifying patient's caregiver, if any. A qualifying patient may only have one caregiver at any one time.

**Section 4.** The department shall issue a registry identification card to a minor if the materials required under section 3 of this Act are submitted and the custodial parent or legal guardian with responsibility for health care decisions for the minor signs and submits a written statement that:

- (1) The minor's physician has explained to that minor and to the custodial parent or legal guardian with responsibility for health care decisions for the minor the potential risks and benefits of the medical use of marijuana; and
- (2) The custodial parent or legal guardian with responsibility for health care decisions for the minor:
  - (a) Consents to the medical use of marijuana by the minor;
  - (b) Agrees to serve as the minor's caregiver; and
  - (c) Agrees to control the acquisition of marijuana and the dosage and frequency of the medical use of marijuana by the minor.

**Section 5.** The department shall issue a registry identification card to the caregiver who is named in a qualifying patient's approved application if the caregiver signs a statement agreeing to provide marijuana only to qualifying patients who have named the applicant as caregiver. A caregiver may receive reasonable compensation for services provided to assist with a qualifying patient's medical use of marijuana.

**Section 6.** The department shall verify the information contained in an application or renewal submitted for a registry identification card and shall approve or deny an application or renewal within fifteen days of receipt of the application or renewal. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this Act, the department determines that the information was falsified, or the applicant is not qualified to receive a registry identification card under the provisions of this Act. Any rejection of an application or renewal is considered a final department action, and may be appealed pursuant to chapter 1-26.

**Section 7.** The department shall issue a registry identification card within five days of approving an application or renewal. Registry identification cards expire one year after the date of issuance. A registry identification card must include:

- (1) The name, address, and date of birth of the qualifying patient;
- (2) The name, address, and date of birth of the qualifying patient's caregiver, if any;
- (3) The date of issuance and expiration date of the registry identification card;
- (4) A random registry identification number; and
- (5) A photograph, if required by the department.

**Section 8.** A person who has been issued a registry identification card shall notify the department of any change in the qualifying patient's name, address, physician, or caregiver or any change in status of the qualifying patient's debilitating medical condition within ten days of the change. If a change occurs and is not reported to the department, the registry identification card is void.

**Section 9.** The department shall maintain a confidential list of the

NAME	RESIDENCE	DATE/COUNTY
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
11 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
12 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
13 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
14 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
15 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
16 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
17 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
18 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
19 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
20 PRINT	CITY OR TOWN	COUNTY OF REGISTRATION

**VERIFICATION BY PERSON CIRCULATING PETITION**  
INSTRUCTIONS TO CIRCULATOR: This section must be completed following circulation and before filing.

Print name of the circulator \_\_\_\_\_ Residence Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

I, under oath, state that I circulated the above petition, that each signer personally signed this petition in my presence, and that either the signer or I added the printed name, the residence address of the signer, the date of signing, and the county of voter registration.

(Seal)  
Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
My Commission Expires \_\_\_\_\_  
Form Revised 2000 - 5/02/05/07

Signature of Circulator \_\_\_\_\_ day of \_\_\_\_\_  
Notary Public  
Title of Officer Administering Oath \_\_\_\_\_

**RECEIVED**  
**MAY 06 2005**  
**S.D. SEC. OF STATE**

persons to whom the department has issued registry identification cards. Any individual name or any other identifying information on the list is confidential and is not subject to disclosure, except to:

- (1) An authorized employee of the department as necessary to perform official duties of the department; or
- (2) An authorized employee of a state or local law enforcement agency, only as necessary to verify that a person is a lawful possessor of a registry identification card.

**Section 10.** The department shall report annually to the Legislature the number of applications for registry identification cards, the number of qualifying patients and caregivers approved, the nature of the debilitating medical conditions of the qualifying patients, the number of registry identification cards revoked, and the number of physicians providing written certification for qualifying patients. The department may not provide any identifying information of qualifying patients, caregivers, or physicians.

**Section 11.** No qualifying patient or caregiver who possesses a registry identification card issued pursuant to this Act may be arrested, prosecuted, or penalized in any manner, or be denied any right or privilege. This section prohibits a professional licensing board from bringing disciplinary action for the medical use of marijuana or for assisting in the medical use of marijuana if the qualifying patient or caregiver possesses marijuana not in excess of the amounts allowed in section 12 of this Act.

**Section 12.** A qualifying patient may not possess more than six marijuana plants and one ounce of usable marijuana. A caregiver may not possess more than six marijuana plants and one ounce of usable marijuana for each qualifying patient to whom he or she is connected through the department's registration process.

**Section 13.** A qualifying patient or caregiver is presumed to be engaged in the medical use of marijuana if the qualifying patient or caregiver:

- (1) Is in possession of a registry identification card; and
- (2) Is in possession of an amount of marijuana that does not exceed the amount permitted under section 12 of this Act. The presumption may be rebutted by evidence that the symptoms or effects of a qualifying patient's debilitating medical condition.

**Section 14.** No physician may be arrested, prosecuted, or penalized in any manner, or denied any right or privilege, nor may a professional licensing board bring a disciplinary action against a physician solely for providing a written certification or for otherwise stating that, in the practitioner's professional opinion, the potential benefits of the medical marijuana would likely outweigh the health risks for a patient.

**Section 15.** An interest in or a right to property that is possessed, owned, or used in connection with the medical use of marijuana or any act incidental to the medical use of marijuana may not be forfeited under any provision of law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense.

**Section 16.** No person may be prosecuted under any provision of law for solely being in the presence or vicinity of the medical use of marijuana as permitted pursuant to this Act or for assisting a qualifying patient to administer or use medical marijuana.

**Section 17.** Possession of or application for a registry identification card does not alone constitute probable cause to search the person or property of the person possessing or applying for the registry identification card or otherwise subject the person or property of the person possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency.

**Section 18.** A registry identification card or its equivalent issued under the laws of another state, United States territory, or the District of Columbia to permit the medical use of marijuana by a qualifying

patient or to permit a person to assist with a qualifying patient's medical use of marijuana has the same force and effect as a registry identification card issued by the department.

**Section 19.** No school, employer, or landlord may refuse to enroll, employ, or lease to, or otherwise penalize a person solely because of his or her status as a registered qualifying patient or a registered caregiver.

**Section 20.** No person, including an employee or official of the department or other state or local government agency, may disclose confidential information relating to the medical use of marijuana if the person knowingly or purposely discloses confidential information in violation of this Act. A violation of this section is a Class 1 misdemeanor.

**Section 21.** This Act does not permit:

- (1) Any person to be in actual physical control of any motor vehicle, aircraft, or motorboat while impaired by marijuana. However, no qualifying patient may be prosecuted for such an offense merely for the presence of marijuana metabolites in the patient's hair, blood, urine, saliva, or other bodily fluids;
- (2) The smoking of marijuana in any place where tobacco smoking is prohibited by law or by the rules of the establishment, or in any public place, except in a health care facility by permission of an attending physician; or
- (3) The undertaking of tasks by a person impaired by marijuana if doing so would constitute malpractice or negligent behavior.

**Section 22.** Nothing in this Act requires:

- (1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana; or
- (2) An employer to accommodate the medical use of marijuana in any workplace.

**Section 23.** Except as provided in sections 21 and 22 of this Act, it is an affirmative defense to any criminal offense involving marijuana that the person charged with the offense:

- (1) Has a physician who states that or has medical records that indicate that, in the physician's professional opinion, after having completed a full assessment of the person's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the potential benefits of medical marijuana would likely outweigh the health risks for the person;
- (2) Provides marijuana to a person described in subdivision (1) if the person does not provide marijuana to anyone for uses that are not medical;
- (3) Is engaged in the acquisition, possession, cultivation, manufacture, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the consumption of marijuana to alleviate the symptoms or effects of the medical condition of the person identified in subdivision (1); or
- (4) Possesses marijuana only in an amount that is reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of the medical condition of the person identified in subdivision (1).

A person may assert the medical purpose for using marijuana in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing in which the defendant shows the elements listed in this section.

Any interest in or right to property that was possessed, owned, or used in connection with a person's use of marijuana for medical purposes is not forfeited if the person or the person's caregiver demonstrates the person's medical purpose for using marijuana pursuant to this section.

**Section 24.** No person may knowingly or purposely fabricate or misrepresent a registry identification card to a law enforcement officer. A violation of this section is a Class 1 misdemeanor.

**Section 25.** The department may promulgate rules, pursuant to chap-

ter 1-26, to define any additional medical conditions, or treatments for medical conditions, as debilitating medical conditions and to provide for requirements and procedures for the registry identification card. The department shall promulgate rules, pursuant to chapter 1-26, to address the manner in which the department will consider applications for and renewals of registry identification cards for qualifying patients and caregivers. The rules shall establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this Act. The department may

vary the application and renewal fees along a sliding scale that takes into consideration a qualifying patient's income, so that the fees do not place an undue hardship upon the qualifying patient.

**Section 26.** No person who has complied with this Act may be prosecuted under any section of law for acts committed in accordance with this Act.

**Section 27.** The code counsel shall place this Act in Title 34, and the provisions of Title 34 apply to this Act.

**INSTRUCTIONS TO SIGNERS:**

1. Signers of this petition must individually sign their names in the form in which they are registered to vote or as they usually sign their names.
2. Before the petition is filed, each signer or the circulator must add the residence address of the signer and the date of signing. If the signer is a resident of a second or third class municipality, a post office box may be used for the residence address.
3. Before the petition is filed, each signer or the circulator must print the name of the signer in the space provided and add the county of voter registration.
4. Abbreviations of common usage may be used. Ditto marks may not be used.
5. Failure to provide all information requested may invalidate the signature.

	NAME	RESIDENCE	DATE/COUNTY
1	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
1	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
2	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
3	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
4	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
5	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
6	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
7	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
8	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
9	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION
	SIGN	STREET AND NUMBER OR RURAL ROUTE AND BOX NUMBER	DATE OF SIGNING
10	PRINT	CITY OR TOWN	COUNTY OF REGISTRATION