

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 108

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE SERGEANT KITZHABER MEDICAL CANNABIS ACT; AMENDING TITLE 39,
2 IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 97, TITLE 39, IDAHO CODE,
3 TO PROVIDE A SHORT TITLE AND LEGISLATIVE INTENT, TO PROVIDE FOR STATU-
4 TORY CONSTRUCTION, TO DEFINE TERMS, TO AUTHORIZE THE USE OF CANNABIS
5 AND CANNABIS PRODUCTS AND RELATED ACTIVITIES UNDER CERTAIN CIRCUM-
6 STANCES, TO PROVIDE FOR AN ELECTRONIC VERIFICATION SYSTEM, TO ESTABLISH
7 PROVISIONS REGARDING QUALIFYING CONDITIONS, TO ESTABLISH PROVISIONS
8 REGARDING PRACTITIONER REGISTRATION, TRAINING, AND TREATMENT RECOM-
9 MENDATIONS, TO ESTABLISH PROVISIONS REGARDING LIMITATIONS ON LIABILITY
10 AND THE STANDARD OF CARE, TO PROVIDE FOR A QUALIFIED PATIENT ENTER-
11 PRISE FUND AND REVENUE NEUTRALITY, TO ESTABLISH PROVISIONS REGARDING
12 NONDISCRIMINATION, TO CLARIFY THAT INSURERS AND OTHERS ARE NOT REQUIRED
13 TO COVER CANNABIS, CANNABIS PRODUCTS, OR MEDICAL CANNABIS DEVICES, TO
14 ESTABLISH PROVISIONS REGARDING THE USE OF HEMP EXTRACT, CANNABIDIOL,
15 AND CERTAIN OTHER PRODUCTS, TO ESTABLISH PROVISIONS REGARDING MEDI-
16 CAL CANNABIS PATIENT CARDS, TO ESTABLISH PROVISIONS REGARDING MEDICAL
17 CANNABIS CAREGIVER CARDS, TO PROVIDE FOR A CRIMINAL HISTORY AND BACK-
18 GROUND CHECK OF A DESIGNATED CAREGIVER, TO ESTABLISH PROVISIONS REGARD-
19 ING MEDICAL CANNABIS CARD REQUIREMENTS AND A REBUTTABLE PRESUMPTION,
20 TO ESTABLISH PROVISIONS REGARDING A LOST OR STOLEN MEDICAL CANNABIS
21 CARD, TO ESTABLISH PROVISIONS REGARDING MEDICAL CANNABIS PHARMACIES
22 AND LICENSURE, TO PROVIDE FOR CRIMINAL HISTORY AND BACKGROUND CHECKS OF
23 CERTAIN INDIVIDUALS, TO PROVIDE FOR LICENSE RENEWAL, TO PROVIDE FOR AN
24 OPERATING PLAN, TO PROVIDE FOR A MAXIMUM NUMBER OF LICENSES, TO ESTAB-
25 LISH PROVISIONS REGARDING MEDICAL CANNABIS PHARMACY AGENTS AND REGIS-
26 TRATION, TO ESTABLISH PROVISIONS REGARDING MEDICAL CANNABIS PHARMACY
27 AGENT REGISTRATION AND A REBUTTABLE PRESUMPTION, TO PROVIDE MEDICAL
28 CANNABIS PHARMACY OPERATING REQUIREMENTS, TO ESTABLISH PROVISIONS RE-
29 GARDING DISPENSING OF CANNABIS AND CANNABIS PRODUCTS, TO PROVIDE FOR
30 PARTIAL FILLING OF A RECOMMENDED TREATMENT, TO PROVIDE FOR INSPECTIONS
31 OF MEDICAL CANNABIS PHARMACIES, TO ESTABLISH PROVISIONS REGARDING AD-
32 VERTISING AND A CERTAIN WEBSITE, TO PROVIDE FOR THE IMPORTATION AND
33 TRANSPORTATION OF CANNABIS, CANNABIS PRODUCTS, AND MEDICAL CANNABIS
34 DEVICES, TO ESTABLISH PROVISIONS REGARDING LOCAL CONTROL OVER MEDICAL
35 CANNABIS PHARMACIES, TO PROVIDE FOR CRIMINAL ENFORCEMENT, TO PROVIDE
36 FOR ADMINISTRATIVE ENFORCEMENT, TO ESTABLISH PROVISIONS REGARDING
37 SUPPLIERS, TO PROVIDE FOR A REPORT, TO PROVIDE RULEMAKING AUTHORITY
38 AND FOR CERTAIN TRAINING, TO PROVIDE LEGAL IMMUNITIES, TO PROVIDE THAT
39 CERTAIN ACTIVITIES ARE NOT PERMITTED, TO PROVIDE FOR PENALTIES, TO
40 PROVIDE PROHIBITIONS, TO PROVIDE PROTECTIONS, AND TO PROVIDE SEVER-
41 ABILITY; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A
42 NEW SECTION 63-3642, IDAHO CODE, TO PROVIDE A TAX EXEMPTION AND TO PRO-
43 VIDE FOR AN EXCISE TAX; AMENDING SECTION 37-2705, IDAHO CODE, TO REMOVE
44 PROVISIONS FROM SCHEDULE I IN THE UNIFORM CONTROLLED SUBSTANCES ACT;
45

1 AMENDING SECTION 37-2707, IDAHO CODE, TO REVISE SCHEDULE II IN THE UNI-
 2 FORM CONTROLLED SUBSTANCES ACT; AMENDING SECTION 37-2732, IDAHO CODE,
 3 TO PROVIDE EXCEPTIONS AND APPLICABILITY AND TO MAKE TECHNICAL CORREC-
 4 TIONS; AMENDING SECTION 37-2732B, IDAHO CODE, TO PROVIDE AN EXCEPTION;
 5 PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Title 39, Idaho Code, be, and the same is hereby amended
 8 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
 9 ter 97, Title 39, Idaho Code, and to read as follows:

10 CHAPTER 97
 11 SERGEANT KITZHABER MEDICAL CANNABIS ACT

12 39-9701. SHORT TITLE -- LEGISLATIVE INTENT -- STATUTORY CONSTRUC-
 13 TION. (1) This chapter shall be known and may be cited as the "Sergeant
 14 Kitzhaber Medical Cannabis Act."

15 (2) In enacting this chapter, it is the intent of the legislature to
 16 authorize the possession, distribution, transportation, and use of cannabis
 17 and cannabis products, within the limits prescribed by this chapter, for the
 18 purpose of making medical cannabis treatment available to Idaho patients
 19 suffering from serious health conditions. Persons whose actions are per-
 20 mitted by and in compliance with the provisions of this chapter will not,
 21 for such actions, be held to violate chapter 27, title 37, Idaho Code, or
 22 any other provision of state law, local ordinance, or administrative rule
 23 contrary to the provisions of this chapter.

24 (3) The provisions of this chapter should be construed in the light most
 25 consistent with the intent provided in this section.

26 39-9702. DEFINITIONS. For the purposes of this chapter, unless con-
 27 text otherwise requires:

28 (1) "Blister" means a plastic cavity or pocket used to contain no more
 29 than a single dose of cannabis or a cannabis product in a blister pack.

30 (2) "Blister pack" means a plastic, paper, or foil package with mul-
 31 tiple blisters each containing no more than a single dose of cannabis or a
 32 cannabis product.

33 (3) "Board" means the board of pharmacy or the division of occupational
 34 and professional licenses acting on behalf of the board of pharmacy.

35 (4) "Cannabidiol" or "CBD" means a nonintoxicating cannabinoid found
 36 in cannabis and hemp.

37 (5) "Cannabis" means marijuana as defined in section 37-2701, Idaho
 38 Code.

39 (6) "Cannabis product" means a product derived from, or made by, pro-
 40 cessing cannabis plants or parts of the plant that:

41 (a) Is intended for human use; and

42 (b) Contains cannabis or tetrahydrocannabinol.

43 (7) "Community location" means a public or private school, a church, a
 44 public library, a public playground, or a public park.

45 (8) "Department" means the state department of health and welfare.

46 (9) "Designated caregiver" means an individual who:

- 1 (a) Is designated by a patient with a medical cannabis patient card as
2 the patient's caregiver; and
- 3 (b) Registers with the department pursuant to section 39-9713, Idaho
4 Code.
- 5 (10) "Dosing parameters" means quantity, routes, and frequency of ad-
6 ministration for a recommended treatment of cannabis in a medicinal dosage
7 form or a cannabis product in a medicinal dosage form.
- 8 (11) "Electronic verification system" means the system established by
9 section 39-9704, Idaho Code.
- 10 (12) "Licensed medical cannabis pharmacist" or "medical cannabis phar-
11 macist" means an individual licensed under chapter 17, title 54, Idaho Code,
12 who is employed by a medical cannabis pharmacy.
- 13 (13) "Licensed mental health therapist" means an individual licensed
14 under title 54, Idaho Code, who provides mental health services within the
15 scope of the individual's license.
- 16 (14) "Marijuana" has the same meaning as provided in section 37-2701,
17 Idaho Code.
- 18 (15) "Medical cannabis" means cannabis in a medicinal dosage form or a
19 cannabis product in a medicinal dosage form.
- 20 (16) "Medical cannabis card" means a medical cannabis patient card or a
21 medical cannabis caregiver card.
- 22 (17) "Medical cannabis cardholder" means the holder of a medical
23 cannabis card.
- 24 (18) "Medical cannabis caregiver card" means an official card that:
25 (a) The department issues to an individual whom a medical cannabis pa-
26 tient cardholder designates as a designated caregiver; and
27 (b) Is connected to the electronic verification system.
- 28 (19) "Medical cannabis device" means a device used to grind, inhale, or
29 ingest cannabis in a medicinal dosage form or a cannabis product in a medic-
30 inal dosage form or a device used specifically for the mechanical vaporiza-
31 tion of raw, unprocessed cannabis flower.
- 32 (20) "Medical cannabis patient card" means an official card that:
33 (a) The department issues to an individual with a qualifying condition;
34 and
35 (b) Is connected to the electronic verification system.
- 36 (21) "Medical cannabis pharmacy" means a person that:
37 (a) (i) Acquires or intends to acquire:
38 1. Cannabis in a medicinal dosage form or a cannabis product
39 in a medicinal dosage form; or
40 2. A medical cannabis device; or
41 (ii) Possesses cannabis in a medicinal dosage form, a cannabis
42 product in a medicinal dosage form, or a medical cannabis device;
43 and
44 (b) Sells or intends to sell cannabis in a medicinal dosage form, a
45 cannabis product in a medicinal dosage form, or a medical cannabis de-
46 vice to a medical cannabis cardholder.
- 47 (22) "Medical cannabis pharmacy agent" means an individual who:
48 (a) Is an employee of a medical cannabis pharmacy; and
49 (b) Holds a valid medical cannabis pharmacy agent registration issued
50 by the board.

1 (23) "Medical cannabis pharmacy nurse" means a nurse licensed pursuant
2 to chapter 14, title 54, Idaho Code, who qualifies to dispense medical
3 cannabis at a medical cannabis pharmacy as provided by the board in rule.

4 (24) "Medical cannabis treatment" means cannabis in a medicinal dosage
5 form, a cannabis product in a medicinal dosage form, or a medical cannabis
6 device.

7 (25) "Medicinal dosage form" means cannabis or a cannabis product in
8 a form suitable for medical treatment as described in paragraphs (a), (b),
9 and (c) of this subsection. The three (3) separate categories of medicinal
10 dosage form may be prescribed and obtained by category or by a combination of
11 categories. All forms must be packaged in single or multiple dosage forms
12 with specific and consistent cannabinoid content as provided in this subsec-
13 tion.

14 (a) "Liquid processed form of medical cannabis" means:

15 (i) A concentrated oil not to exceed one hundred (100) millili-
16 ters per container;

17 (ii) A liquid suspension not to exceed one hundred (100) millili-
18 ters per container;

19 (iii) A topical preparation not to exceed one hundred (100) milli-
20 liters per container; or

21 (iv) A sublingual preparation not to exceed one hundred (100) mil-
22 liliters per container.

23 (b) "Solid processed form of medical cannabis" means:

24 (i) A tablet, up to ten (10) tablets per package;

25 (ii) A capsule, up to ten (10) capsules per package;

26 (iii) A gelatinous cube, gelatinous rectangular cuboid, or
27 lozenge in a cube or rectangular cuboid shape, up to ten (10) per
28 package;

29 (iv) Butter, resin, or wax not to exceed one hundred (100) grams
30 total weight per package or container; or

31 (v) A transdermal preparation not to exceed one hundred (100) mil-
32 ligrams per container.

33 (c) "Unprocessed medical cannabis flower" is a general term that means
34 the trichome-covered part of a female cannabis plant. It must be pack-
35 aged in a blister pack or tamper-evident package or container. Each in-
36 dividual blister or tamper-evident package or container must:

37 (i) Contain a specific and consistent weight that does not exceed
38 one (1) gram per each individual blister pack and five (5) grams
39 per complete package or does not exceed two (2) grams per tamper-
40 evident package or container and that varies by no more than ten
41 percent (10%) from the stated weight; and

42 (ii) Be labeled with a barcode that provides information con-
43 nected to an inventory control system and the individual blister's
44 content and weight or tamper-evident package's or container's
45 content and weight.

46 (d) A medicinal dosage form must be measured in grams, milligrams, or
47 milliliters.

48 (e) "Medicinal dosage form" includes a portion of unprocessed cannabis
49 flower that:

- 1 (i) The medical cannabis cardholder has recently removed from the
2 blister pack for use; and
3 (ii) Does not exceed the quantity described in this subsection.
4 (f) "Medicinal dosage form" does not include:
5 (i) Any unprocessed cannabis flower outside of the blister or
6 tamper-evident package or container, except as otherwise provided
7 in this subsection; or
8 (ii) A process of vaporizing concentrated cannabis oil via a car-
9 tridge or other similar product or device by placing the concen-
10 trated cannabis oil cartridge or other similar product or device
11 in a vape or vaping device.
- 12 (26) "Person" means:
13 (a) An individual, a facility, a partnership, an association, a firm, a
14 trust, a limited liability company, or a corporation; or
15 (b) An agent or an employee of an individual, a facility, a partnership,
16 an association, a firm, a trust, a limited liability company, or a cor-
17 poration.
- 18 (27) "Practitioner" has the same meaning as provided in section
19 54-1705, Idaho Code.
- 20 (28) "Qualified patient enterprise fund" means the fund established in
21 section 39-9708, Idaho Code.
- 22 (29) "Qualifying condition" means a condition described in section
23 39-9705, Idaho Code.
- 24 (30) "Tetrahydrocannabinol" or "THC" means a substance derived from
25 cannabis and contained in a plant of the genus Cannabis, as well as synthetic
26 equivalents of the substances contained in the cannabis plant, or in the
27 resinous extractives of Cannabis, sp. and/or synthetic substances, deriva-
28 tives, and their isomers with similar chemical structure as described in
29 section 37-2707(i), Idaho Code.
- 30 39-9703. AUTHORIZATION. Notwithstanding any provision of law to the
31 contrary, the possession, distribution, transportation, and use of cannabis
32 and cannabis products, as well as activities related to the possession, dis-
33 tribution, transportation, and use of cannabis and cannabis products, are
34 authorized as provided in this chapter for the purposes identified in this
35 chapter.
- 36 39-9704. ELECTRONIC VERIFICATION SYSTEM -- PENALTIES. (1) The board
37 will establish an electronic verification system that complies with the pro-
38 visions of this section. An existing system may be used or adapted to comply
39 with the provisions of this section. The board may, as necessary:
40 (a) Coordinate with the division of purchasing to develop a sollicita-
41 tion for a third-party provider to develop and maintain the electronic
42 verification system; and
43 (b) Select a third-party provider who meets the requirements contained
44 in the solicitation issued under paragraph (a) of this subsection.
- 45 (2) The board must ensure that, on or before January 1, 2022, the elec-
46 tronic verification system:
47 (a) Allows an individual or a practitioner acting on the individual's
48 behalf to apply for a medical cannabis patient card;

1 (b) Allows an individual to apply to renew a medical cannabis patient
2 card in accordance with section 39-9712, Idaho Code;

3 (c) Allows a practitioner to access the electronic verification system
4 in accordance with board rule;

5 (d) Connects with an inventory control system developed by the board
6 that tracks and archives purchases of any cannabis in a medicinal
7 dosage form, cannabis product in a medicinal dosage form, or medical
8 cannabis device. The inventory control system must include personally
9 identifiable information of a medical cannabis cardholder making such
10 purchases;

11 (e) Provides access to:

12 (i) The board to the extent necessary to carry out the board's
13 functions and responsibilities under this chapter;

14 (ii) The department to the extent necessary to carry out the de-
15 partment's functions and responsibilities under this chapter; and

16 (iii) Licensing boards for practitioners as provided in board
17 rule;

18 (f) Provides access to state or local law enforcement; and

19 (g) Creates a record each time a person accesses the database that iden-
20 tifies the person who accesses the database and the individual whose
21 records the person accesses.

22 (3) The board may release de-identified data that the system collects
23 for the purpose of:

24 (a) Conducting medical research; and

25 (b) Providing the report required by section 39-9734, Idaho Code.

26 (4) The board will promulgate rules to establish:

27 (a) The limitations on access to the data in the electronic verifica-
28 tion system as described in this section; and

29 (b) Standards and procedures to ensure accurate identification of an
30 individual requesting information or receiving information as provided
31 in this section.

32 (5) (a) Any person who knowingly and intentionally releases any infor-
33 mation in the electronic verification system in violation of this sec-
34 tion is guilty of a misdemeanor.

35 (b) Any person who recklessly or with gross negligence releases any
36 information in the electronic verification system in violation of this
37 section is guilty of an infraction. The board will establish such in-
38 fraction penalties in rule.

39 (6) (a) Any person who obtains or attempts to obtain information from
40 the electronic verification system by misrepresentation or fraud is
41 guilty of a misdemeanor.

42 (b) Any person who obtains or attempts to obtain information from the
43 electronic verification system for a purpose other than a purpose this
44 chapter authorizes is guilty of a misdemeanor.

45 (7) (a) Except as provided in paragraph (e) of this subsection, a person
46 may not knowingly and intentionally use, release, publish, or otherwise
47 make available to any other person information obtained from the elec-
48 tronic verification system for any purpose other than a purpose speci-
49 fied in this section.

50 (b) Each separate violation of this subsection is:

- 1 (i) A misdemeanor; and
 2 (ii) Subject to a civil penalty not to exceed five thousand dol-
 3 lars (\$5,000).
 4 (c) The board will determine a civil violation of this subsection in ac-
 5 cordance with chapter 52, title 67, Idaho Code.
 6 (d) Civil penalties assessed under this subsection will be deposited
 7 into the qualified patient enterprise fund established by section
 8 39-9708, Idaho Code.
 9 (e) This subsection does not prohibit a person who obtains information
 10 from the electronic verification system under subsection (2) (a), (c),
 11 or (f) of this section from:
 12 (i) Including the information in the person's medical chart or
 13 file for access by a person authorized to review the medical chart
 14 or file;
 15 (ii) Providing the information to a person in accordance with the
 16 requirements of the health insurance portability and accountabil-
 17 ity act of 1996; or
 18 (iii) Discussing or sharing that information on the patient with
 19 the patient.

- 20 39-9705. QUALIFYING CONDITIONS. (1) By designating a particular
 21 condition under subsection (2) of this section for which the use of medical
 22 cannabis to treat symptoms is decriminalized, the legislature does not con-
 23 clusively state that:
 24 (a) Current scientific evidence clearly supports the efficacy of a med-
 25 ical cannabis treatment for the condition; or
 26 (b) A medical cannabis treatment will treat, cure, or positively affect
 27 the condition.
 28 (2) For the purposes of this chapter, each of the following conditions
 29 can be considered a qualifying condition if the condition is active:
 30 (a) Acquired immune deficiency syndrome (AIDS) or human immunodeficiency
 31 virus (HIV);
 32 (b) Alzheimer's disease;
 33 (c) Amyotrophic lateral sclerosis (ALS);
 34 (d) Autism;
 35 (e) Cachexia;
 36 (f) Cancer;
 37 (g) Chronic pain;
 38 (h) Crohn's disease or ulcerative colitis;
 39 (i) Epilepsy or debilitating seizures;
 40 (j) Multiple sclerosis or debilitating muscle spasms;
 41 (k) Nausea that is not significantly responsive to traditional treat-
 42 ment, except for nausea related to:
 43 (i) Pregnancy;
 44 (ii) Cannabis-induced cyclical vomiting syndrome; or
 45 (iii) Cannabinoid hyperemesis syndrome;
 46 (l) Post-traumatic stress disorder (PTSD) that is being treated and
 47 monitored by a licensed mental health therapist and that:

- 1 (i) Has been diagnosed by a health care provider or mental health
 2 provider employed or contracted by the United States department of
 3 veterans affairs; or
 4 (ii) Has been diagnosed or confirmed by a provider who is:
 5 1. A licensed board-eligible or board-certified psychia-
 6 trist;
 7 2. A licensed psychologist with a doctorate-level degree;
 8 3. A licensed clinical social worker with a doctorate-level
 9 degree; or
 10 4. A licensed advanced practice registered nurse who is
 11 qualified to practice within the psychiatric mental health
 12 nursing specialty;
 13 (m) A terminal illness where the patient's condition is not expected to
 14 improve with or without other medical treatments;
 15 (n) A condition resulting in the individual receiving hospice care;
 16 (o) A rare condition or disease that:
 17 (i) Affects fewer than two hundred thousand (200,000) individu-
 18 als in the United States, as defined in section 526 of the federal
 19 food, drug, and cosmetic act; and
 20 (ii) Is not adequately managed despite treatment attempts using:
 21 1. Conventional medications other than opioids or opiates;
 22 or
 23 2. Physical interventions; or
 24 (p) Another debilitating medical condition as determined by a practi-
 25 tioner.

- 26 39-9706. PRACTITIONER REGISTRATION -- TRAINING -- TREATMENT RECOM-
 27 MENDATION. (1) A practitioner may not recommend a medical cannabis treatment
 28 unless the board registers the practitioner in accordance with this section.
 29 (2) The board will, within fifteen (15) days after the day on which the
 30 board receives a completed application from a practitioner, register the
 31 practitioner if the practitioner:
 32 (a) Provides to the board the practitioner's name and address;
 33 (b) Provides to the board a report detailing the practitioner's comple-
 34 tion of the training requirements described in subsection (3) of this
 35 section; and
 36 (c) Provides to the board evidence that the practitioner:
 37 (i) Has the authority to write a prescription;
 38 (ii) Is licensed to prescribe a controlled substance; and
 39 (iii) Has the authority, in accordance with the individual's scope
 40 of practice, to prescribe a schedule II controlled substance.
 41 (3) As a condition precedent to registration, a practitioner must com-
 42 plete training as determined by the board in cooperation with other applica-
 43 ble licensing boards, which training must cover:
 44 (a) The provisions of this chapter;
 45 (b) General information about medical cannabis under federal and state
 46 law;
 47 (c) The latest scientific research on the endocannabinoid system and
 48 medical cannabis, including risks and benefits;

1 (d) Recommendations for medical cannabis as it relates to the continu-
 2 ing care of a patient in pain management, risk management, potential ad-
 3 diction, or palliative care;

4 (e) Best practices for recommending the form and dosage of medical
 5 cannabis products based on the qualifying condition underlying a medi-
 6 cal cannabis recommendation; and

7 (f) Other information as determined by the board, in cooperation with
 8 applicable licensing boards.

9 (4) A practitioner may recommend medical cannabis to an individual un-
 10 der this chapter in the course of a provider-patient relationship only af-
 11 ter the practitioner has completed and documented in the patient's medical
 12 record a thorough assessment of the patient's condition and medical history
 13 based on the appropriate standard of care for the patient's condition.

14 (5) (a) Except as provided in paragraph (b) of this subsection, a prac-
 15 titioner may not advertise that the practitioner recommends medical
 16 cannabis treatment.

17 (b) For purposes of paragraph (a) of this subsection, the communication
 18 of the following through a website does not constitute advertising:

19 (i) A qualifying condition that the practitioner treats;

20 (ii) A scientific study regarding medical cannabis use; or

21 (iii) Information about a product or service offered by the prac-
 22 titioner.

23 (6) (a) A practitioner's registration under this section expires two
 24 (2) years after the day on which the board issues the registration.

25 (b) The board will renew a practitioner's registration if the practi-
 26 tioner:

27 (i) Applies for renewal;

28 (ii) Is eligible for a registration under this section, includ-
 29 ing maintaining an unrestricted license as described in subsec-
 30 tion (2) of this section;

31 (iii) Certifies to the board in a completed renewal application
 32 that the information required in subsection (2) of this section is
 33 accurate or updates the information; and

34 (iv) Submits a report detailing the completion of any training for
 35 renewal as may be required by the board.

36 (7) The board may revoke the registration of a practitioner who fails to
 37 maintain compliance with the requirements of this section.

38 (8) A practitioner may not receive any compensation or benefit for the
 39 practitioner's medical cannabis treatment recommendation from:

40 (a) A medical cannabis pharmacy or an owner, an officer, a director, a
 41 board member, an employee, or an agent of a medical cannabis pharmacy;
 42 or

43 (b) Another practitioner.

44 39-9707. LIMITATIONS ON LIABILITY -- STANDARD OF CARE. (1) A practi-
 45 tioner described in subsection (2) of this section is not subject to the fol-
 46 lowing solely for violating a federal law or regulation that would otherwise
 47 prohibit recommending, prescribing, or dispensing medical cannabis, a med-
 48 ical cannabis product, or a cannabis-based drug that the United States food
 49 and drug administration has not approved:

- 1 (a) Civil or criminal liability; or
 2 (b) Licensure sanctions under title 54, Idaho Code.
 3 (2) The limitations of liability described in subsection (1) of this
 4 section apply to:
 5 (a) A practitioner who recommends a medical cannabis treatment to a pa-
 6 tient; or
 7 (b) A licensed medical cannabis pharmacist or medical cannabis phar-
 8 macy nurse who dispenses, in a medical cannabis pharmacy, treatment
 9 with cannabis in a medicinal dosage form or a cannabis product in a
 10 medicinal dosage form to a medical cannabis cardholder in accordance
 11 with this chapter.
 12 (3) Nothing in this section or chapter reduces or in any way negates the
 13 duty of an individual described in subsection (2) of this section to use rea-
 14 sonable and ordinary care in the treatment of a patient who may have a quali-
 15 fying condition and:
 16 (a) For whom a practitioner has recommended or might consider recom-
 17 mending a medical cannabis treatment; or
 18 (b) With whom a licensed medical cannabis pharmacist or medical
 19 cannabis pharmacy nurse has interacted in the dosing or dispensing of
 20 cannabis or a cannabis product.

- 21 39-9708. QUALIFIED PATIENT ENTERPRISE FUND -- REVENUE NEUTRALITY. (1)
 22 There is hereby established in the state treasury the qualified patient en-
 23 terprise fund.
 24 (2) Moneys in the fund established by this section will consist of:
 25 (a) Moneys deposited in the fund under this chapter;
 26 (b) Appropriations the legislature makes to the fund;
 27 (c) Civil penalties assessed pursuant to section 39-9704, Idaho Code;
 28 (d) The interest described in subsection (3) of this section; and
 29 (e) Moneys deposited pursuant to section 63-3642, Idaho Code.
 30 (3) Interest earned on idle moneys in the fund will be deposited in the
 31 fund.
 32 (4) The board may use moneys in the fund only to fund the board's respon-
 33 sibilities under this chapter. The board must reimburse the department from
 34 the fund for the department's administrative expenses under this chapter.
 35 (5) Fees authorized by this chapter will be set in amounts necessary, in
 36 total, to cover expenses related to implementation and enforcement of this
 37 chapter.

- 38 39-9709. NONDISCRIMINATION FOR MEDICAL CARE OR GOVERNMENT EMPLOY-
 39 MENT. (1) For purposes of medical care, including an organ transplant, a
 40 patient's use, in accordance with this chapter, of cannabis in a medicinal
 41 dosage form or a cannabis product in a medicinal dosage form:
 42 (a) Is considered the equivalent of the authorized use of any other med-
 43 ication used at the discretion of a physician; and
 44 (b) Does not constitute the use of an illicit substance or otherwise
 45 disqualify an individual from needed medical care.
 46 (2) (a) Notwithstanding any other provision of law and except as pro-
 47 vided in paragraph (b) of this subsection, the state or any political
 48 subdivision must treat an employee's use of medical cannabis in accor-

1 dance with this chapter in the same way the state or political subdivi-
2 sion treats employee use of opioids and opiates.

3 (b) Paragraph (a) of this subsection does not apply where application
4 would jeopardize federal funding for the employee's position.

5 39-9710. NO INSURANCE REQUIREMENT. Nothing in this chapter requires
6 an insurer, a third-party administrator, or an employer to pay for or reim-
7 burse cannabis, a cannabis product, or a medical cannabis device.

8 39-9711. NO EFFECT ON USE OF HEMP EXTRACT -- CANNABIDIOL -- APPROVED
9 DRUGS. (1) Nothing in this chapter prohibits an individual:

10 (a) From purchasing, selling, possessing, administering, or using hemp
11 extract that is legal under federal law; or

12 (b) From purchasing, selling, possessing, administering, or using a
13 cannabidiol product that is approved by the United States food and drug
14 administration.

15 (2) Nothing in this chapter restricts or otherwise affects the pre-
16 scription, distribution, or dispensing of a product that the United States
17 food and drug administration has approved.

18 39-9712. MEDICAL CANNABIS PATIENT CARD -- FEES -- STUDIES. (1) Effec-
19 tive January 1, 2022, the department will issue a medical cannabis patient
20 card or a caregiver card to an individual described in subsection (2) of this
21 section within fifteen (15) days after the day on which an individual who
22 satisfies the eligibility criteria in this section or section 39-9713, Idaho
23 Code, submits a completed application in accordance with this section or
24 section 39-9713, Idaho Code.

25 (2) An individual is eligible for a medical cannabis patient card if:

26 (a) The individual is at least twenty-one (21) years of age;

27 (b) The individual is an Idaho resident;

28 (c) The individual's practitioner recommends treatment with medical
29 cannabis in accordance with subsection (4) of this section;

30 (d) The individual signs an acknowledgment stating that the individual
31 received the information described in subsection (8) of this section;
32 and

33 (e) The individual pays to the department a fee in an amount set by the
34 department.

35 (3) An individual who is eligible for a medical cannabis card described
36 in subsection (2) of this section or the individual's practitioner acting
37 on the individual's behalf will submit an application for a medical cannabis
38 card to the department:

39 (a) Through an electronic application connected to the electronic ver-
40 ification system; and

41 (b) With information including:

42 (i) The applicant's name, gender, age, and address; and

43 (ii) The number of the applicant's form of identification that is
44 a valid United States federal- or state-issued photo identifica-
45 tion, including a driver's license, a United States passport, a
46 United States passport card, or a United States military identifi-
47 cation card.

- 1 (4) To recommend a medical cannabis treatment to a patient or to renew a
2 recommendation, a practitioner must:
- 3 (a) Before recommending cannabis in a medicinal dosage form or a
4 cannabis product in a medicinal dosage form:
- 5 (i) Verify the patient's valid form of identification described
6 in subsection (3) of this section;
- 7 (ii) Review any record related to the patient in:
- 8 1. The electronic verification system; and
9 2. Other databases regarding other controlled substance
10 prescriptions or criminal violations where controlled sub-
11 stances are involved; and
- 12 (iii) Consider the recommendation in light of the patient's qual-
13 ifying condition and history of medical cannabis and controlled
14 substance use;
- 15 (b) State in the practitioner's recommendation that the patient:
- 16 (i) Suffers from a qualifying condition, including the type of
17 qualifying condition;
- 18 (ii) May benefit from treatment with cannabis or a cannabis prod-
19 uct in a specific medicinal dosage form. The practitioner must
20 state the medicinal dosage form the patient is authorized to use.
21 Practitioners may select one (1), two (2), or all three (3) cate-
22 gories of medical cannabis, which are:
- 23 1. Liquid processed form of medical cannabis;
24 2. Solid processed form of medical cannabis; and
25 3. Unprocessed medical cannabis flower; and
- 26 (c) If recommending less than the maximum amount, indicate the amount
27 and dosage of each form of medical cannabis a patient should purchase
28 per thirty (30) day period.
- 29 (5) A medical cannabis card that the department issues under this sec-
30 tion is valid for the lesser of:
- 31 (a) An amount of time that the practitioner determines; or
32 (b) Twelve (12) months.
- 33 (6) (a) A medical cannabis patient card is renewable if, at the time of
34 renewal, the cardholder meets the requirements of subsection (2) of
35 this section.
- 36 (b) A cardholder described in paragraph (a) of this subsection may re-
37 new a medical cannabis patient card according to a process established
38 by the department.
- 39 (c) A cardholder under subsection (2) of this section who renews a med-
40 ical cannabis patient card must pay to the department a renewal fee in
41 an amount set by the department, which may not exceed the cost of the
42 relatively lower administrative burden of renewal in comparison to the
43 original application process.
- 44 (7) (a) A cardholder under this section must carry the cardholder's
45 valid medical cannabis card with the patient's name when engaging in
46 activities authorized by this chapter.
- 47 (b) (i) A medical cannabis patient cardholder may purchase, in ac-
48 cordance with this chapter and the recommendation underlying the
49 card, cannabis in a medicinal dosage form, a cannabis product in a
50 medicinal dosage form, or a medical cannabis device.

1 (ii) A cardholder under this section may possess or transport,
2 in accordance with this chapter and the recommendation underlying
3 the card, cannabis in a medicinal dosage form, a cannabis product
4 in a medicinal dosage form, or a medical cannabis device.

5 (iii) To address the qualifying condition underlying the medical
6 cannabis treatment recommendation, a medical cannabis patient
7 cardholder may use cannabis in a medicinal dosage form, a medical
8 cannabis product in a medicinal dosage form, or a medical cannabis
9 device.

10 (c) If a licensed medical cannabis pharmacy is not operating within the
11 state on and after January 1, 2022, or is operating in the state but not
12 within one hundred (100) miles of a cardholder's physical address, a
13 cardholder under this section is not subject to prosecution for the pos-
14 session of up to a sixty (60) day supply of medical cannabis, including:

15 (i) No more than four thousand (4,000) milligrams of THC, which
16 may be in solid processed form of medical cannabis, liquid pro-
17 cessed form of medical cannabis, or a combination of both. The
18 CBD-to-THC ratio in the medical cannabis will be determined by
19 the relevant practitioner. The product must display a label that
20 clearly shows the amount of tetrahydrocannabinol and cannabidiol
21 in the specific medical cannabis form;

22 (ii) No more than sixty (60) grams of unprocessed medical cannabis
23 flower containing twenty-two percent (22%) or less THC;

24 (iii) If a terminally ill, hospice, or cancer patient with the au-
25 thorization of the practitioner, up to twenty thousand (20,000)
26 milligrams of THC in processed medical cannabis where each indi-
27 vidual serving of the processed medical cannabis contains no more
28 than one hundred (100) milligrams of THC; or

29 (iv) Marijuana drug paraphernalia.

30 (8) The department, in cooperation with the board, will establish by
31 rule a process to provide information regarding the following to an individ-
32 ual receiving a medical cannabis card:

33 (a) Risks associated with medical cannabis treatment;

34 (b) The fact that a condition's listing as a qualifying condition does
35 not suggest that medical cannabis treatment is an effective treatment
36 or cure for that condition; and

37 (c) Other relevant warnings and safety information.

38 (9) The department may establish procedures by rule to implement the
39 application and issuance provisions of this section.

40 (10) (a) A person may submit to the department a request to conduct a
41 medical research study using medical cannabis cardholder data that the
42 electronic verification system contains.

43 (b) The department, in cooperation with the board, will review a
44 request described in paragraph (a) of this subsection to determine
45 whether the medical research study is valid.

46 (c) If the department and the board make a determination under para-
47 graph (b) of this subsection that the medical research study is valid,
48 the department must notify each relevant cardholder asking for the
49 cardholder's consent to participate in the study.

1 (d) The department may release, for the purposes of a study described in
2 this subsection, information about a cardholder under this section who
3 consents to participate under paragraph (c) of this subsection.

4 (e) The department, in cooperation with the board, may establish stan-
5 dards for a medical research study's validity by rule.

6 39-9713. MEDICAL CANNABIS CAREGIVER CARD -- REGISTRATION -- RENEWAL
7 -- REVOCATION. (1) A cardholder described in section 39-9712, Idaho Code,
8 may designate up to two (2) individuals to serve as a designated caregiver
9 for the cardholder if a practitioner determines that, due to physical diffi-
10 culty or undue hardship, the cardholder needs assistance to obtain the medi-
11 cal cannabis treatment that the practitioner recommends.

12 (2) An individual who the department registers as a designated care-
13 giver under this section:

14 (a) May carry a valid medical cannabis caregiver card;

15 (b) In accordance with this chapter, may purchase, possess, transport,
16 or assist the patient in the use of cannabis in a medicinal dosage form,
17 a cannabis product in a medicinal dosage form, or a medical cannabis de-
18 vice on behalf of the designating medical cannabis cardholder;

19 (c) May not charge a fee to an individual to act as the individual's des-
20 ignated caregiver or for a service that the designated caregiver pro-
21 vides in relation to the role as a designated caregiver;

22 (d) May accept reimbursement from the designating medical cannabis
23 cardholder for direct costs the designated caregiver incurs for assist-
24 ing with the designating cardholder's medicinal use of cannabis; and

25 (e) Is not subject to prosecution for the possession of the following,
26 if a licensed medical cannabis pharmacy is not operating within the
27 state on and after January 1, 2022, or is operating in the state but not
28 within one hundred (100) miles of a cardholder's physical address:

29 (i) No more than four thousand (4,000) milligrams of THC, which
30 may be in solid processed form of medical cannabis, liquid pro-
31 cessed form of medical cannabis, or a combination of both. The
32 CBD-to-THC ratio in the medical cannabis will be determined by
33 the relevant practitioner. The product must display a label that
34 clearly shows the amount of tetrahydrocannabinol and cannabidiol
35 in the specific medical cannabis form;

36 (ii) No more than sixty (60) grams of unprocessed medical cannabis
37 flower containing twenty-two percent (22%) or less THC;

38 (iii) If a terminally ill, hospice, or cancer patient with the au-
39 thorization of the practitioner, up to twenty thousand (20,000)
40 milligrams of THC in processed medical cannabis where each indi-
41 vidual serving of the processed medical cannabis contains no more
42 than one hundred (100) milligrams of THC; or

43 (iv) Marijuana drug paraphernalia.

44 (3) (a) The department will:

45 (i) Within fifteen (15) days after the day on which an individual
46 submits a completed application in compliance with this section,
47 issue a medical cannabis caregiver card to the applicant if the ap-
48 plicant:

- 1 1. Is designated as a caregiver under subsection (1) of this
2 section;
- 3 2. Is eligible for a medical cannabis caregiver card under
4 subsection (4) of this section; and
- 5 3. Complies with this section; and
- 6 (ii) Notify the Idaho state police of each individual that the de-
7 partment registers as a designated caregiver.
- 8 (b) The department must ensure that a medical cannabis caregiver card
9 contains the information described in subsection (5) (b) of this sec-
10 tion.
- 11 (4) An individual is eligible for a medical cannabis caregiver card if
12 the individual:
- 13 (a) Is at least twenty-one (21) years of age;
- 14 (b) Is an Idaho resident;
- 15 (c) Pays to the department a fee in an amount set by the department, plus
16 the cost of the criminal history and background check described in sec-
17 tion 39-9714, Idaho Code;
- 18 (d) Signs an acknowledgment stating that the applicant received the in-
19 formation described in section 39-9712 (8), Idaho Code; and
- 20 (e) Has not been convicted of a misdemeanor or felony drug distribution
21 offense that is a felony under either state or federal law, unless:
- 22 (i) The individual completes any imposed sentence two (2) or more
23 years before the day on which the individual submits the applica-
24 tion; or
- 25 (ii) The offense was for conduct that is authorized under this
26 chapter.
- 27 (5) An eligible applicant for a medical cannabis caregiver card will:
- 28 (a) Submit an application for a medical cannabis caregiver card to the
29 department through an electronic application connected to the elec-
30 tronic verification system; and
- 31 (b) Submit the following information in such application:
- 32 (i) The applicant's name, gender, age, and address; and
- 33 (ii) The name, gender, age, and address of the cardholder de-
34 scribed in section 39-9712, Idaho Code, who designated the appli-
35 cant.
- 36 (6) Except as otherwise provided, a medical cannabis caregiver card
37 that the department issues under this section is valid for the lesser of:
- 38 (a) An amount of time that the cardholder described in section 39-9712,
39 Idaho Code, who designated the caregiver determines; or
- 40 (b) The amount of time remaining before the card of the cardholder de-
41 scribed in section 39-9712, Idaho Code, expires.
- 42 (7) (a) If a designated caregiver meets the requirements of subsection
43 (4) of this section, the designated caregiver's medical cannabis care-
44 giver card renews automatically at the time the cardholder described in
45 section 39-9712, Idaho Code, who designated the caregiver:
- 46 (i) Renews the cardholder's card; and
- 47 (ii) Renews the caregiver's designation, in accordance with para-
48 graph (b) of this subsection.

1 (b) The department will provide a method in the card renewal process
 2 to allow a cardholder described in section 39-9712, Idaho Code, who has
 3 designated a caregiver to:

4 (i) Signify that the cardholder renews the caregiver's designa-
 5 tion;

6 (ii) Remove a caregiver's designation; or

7 (iii) Designate a new caregiver.

8 (8) The department may revoke a medical cannabis caregiver card if the
 9 designated caregiver:

10 (a) Violates this chapter; or

11 (b) Has been convicted under state or federal law for conduct that is
 12 not authorized by this chapter and that is:

13 (i) A felony; or

14 (ii) After the effective date of this chapter, a misdemeanor for
 15 drug distribution.

16 39-9714. DESIGNATED CAREGIVER -- CRIMINAL HISTORY AND BACKGROUND
 17 CHECK. Each applicant for a medical cannabis caregiver card must submit to a
 18 criminal history and background check as determined by the department. The
 19 department will assess an applicant a fee in an amount set by the department
 20 for the criminal history and background check.

21 39-9715. MEDICAL CANNABIS CARD -- PATIENT AND DESIGNATED CAREGIVER
 22 REQUIREMENTS -- REBUTTABLE PRESUMPTION.

23 (1) (a) A medical cannabis cardholder who possesses cannabis in a medic-
 24 inal dosage form or a cannabis product in a medicinal dosage form that
 25 the cardholder purchased under this chapter:

26 (i) Must carry the cardholder's medical cannabis card when engag-
 27 ing in activities authorized by this chapter;

28 (ii) Must carry, with the cannabis in a medicinal dosage form or
 29 cannabis product in a medicinal dosage form, a label that:

30 1. Identifies that the cannabis or cannabis product was sold
 31 from a licensed medical cannabis pharmacy; and

32 2. Includes an identification number that links the
 33 cannabis or cannabis product to the inventory control sys-
 34 tem; and

35 (iii) May possess:

36 1. No more than four thousand (4,000) milligrams of THC,
 37 which may be in solid processed form of medical cannabis,
 38 liquid processed form of medical cannabis, or a combina-
 39 tion of both. The CBD-to-THC ratio in the medical cannabis
 40 will be determined by the relevant practitioner. The prod-
 41 uct must display a label that clearly shows the amount of
 42 tetrahydrocannabinol and cannabidiol in the specific medi-
 43 cal cannabis form;

44 2. No more than sixty (60) grams of unprocessed medical
 45 cannabis flower containing twenty-two percent (22%) or less
 46 THC; or

47 3. If a terminally ill, hospice, or cancer patient with the
 48 authorization of the practitioner, up to twenty thousand

1 (20,000) milligrams of THC in processed medical cannabis
2 where each individual serving of the processed medical
3 cannabis contains no more than one hundred (100) milligrams
4 of THC.

5 (b) A medical cannabis cardholder who possesses cannabis in a medicinal
6 dosage form or a cannabis product in a medicinal dosage form in viola-
7 tion of this subsection is guilty of an infraction and subject to a fine
8 of one hundred dollars (\$100).

9 (c) A medical cannabis cardholder who possesses over the amount au-
10 thorized in paragraph (a)(iii) of this subsection but no more than
11 twice the amount authorized in paragraph (a)(iii) of this subsection
12 is guilty of a misdemeanor and subject to a fine of one thousand dollars
13 (\$1,000).

14 (d) An individual who is guilty of a violation described in paragraph
15 (b) or (c) of this subsection is not guilty of a violation of chapter 27,
16 title 37, Idaho Code, for the conduct underlying the penalty described
17 in either paragraph.

18 (e) A medical cannabis cardholder who possesses more than twice the
19 amount authorized in paragraph (a)(iii) of this subsection is subject
20 to an applicable penalty prescribed by chapter 27, title 37, Idaho Code.

21 (2) A medical cannabis patient cardholder may not combust unprocessed
22 medical cannabis flower in public or in view of the public.

23 (3) If a medical cannabis cardholder carrying the cardholder's card
24 possesses cannabis in a medicinal dosage form or a cannabis product in a
25 medicinal dosage form in compliance with subsection (1) of this section or
26 a medical cannabis device that corresponds with the cannabis or cannabis
27 product:

28 (a) There is a rebuttable presumption that the cardholder possesses the
29 cannabis, cannabis product, or medical cannabis device legally; and

30 (b) There is no probable cause, based solely on the cardholder's pos-
31 session of the cannabis in medicinal dosage form, cannabis product in
32 medicinal dosage form, or medical cannabis device, to believe that the
33 cardholder is engaging in illegal activity.

34 (4) (a) If a peace officer stops an individual who possesses cannabis in
35 a medicinal dosage form, a cannabis product in a medicinal dosage form,
36 or a medical cannabis device and the individual represents to the peace
37 officer that the individual holds a valid medical cannabis card but the
38 individual does not have the medical cannabis card in the individual's
39 possession at the time of the stop by the peace officer, then the peace
40 officer must attempt to access the electronic verification system to
41 determine whether the individual holds a valid medical cannabis card.

42 (b) If the peace officer is able to verify that the individual described
43 in paragraph (a) of this subsection is a valid medical cannabis card-
44 holder, then the peace officer:

45 (i) May not arrest or take the individual into custody for the
46 sole reason that the individual is in possession of cannabis in a
47 medicinal dosage form, a cannabis product in a medicinal dosage
48 form, or a medical cannabis device; and

49 (ii) May not seize the cannabis, cannabis product, or medical
50 cannabis device.

1 (c) If the peace officer is unable to verify that the individual de-
2 scribed in paragraph (a) of this subsection is a valid medical cannabis
3 cardholder, then the peace officer may refer the individual for prose-
4 cution or issue a citation that would be appropriate under the circum-
5 stances for an individual who does not hold a valid medical cannabis
6 card. The peace officer may also seize any cannabis, cannabis product,
7 or medical cannabis device. However, the individual may not be taken
8 into custody, and any criminal complaint or citation must be dismissed
9 upon presentation of proof that the individual holds a valid medical
10 cannabis card to the prosecuting attorney with jurisdiction over the
11 complaint or citation.

12 (5) A medical cannabis patient cardholder must ensure that medical
13 cannabis is stored in such a way that it is inaccessible to members of the
14 cardholder's household, except for a member of the household who is:

15 (a) A medical cannabis caregiver cardholder; and

16 (b) Assisting the medical cannabis patient cardholder with authorized
17 use of medical cannabis.

18 39-9716. LOST OR STOLEN MEDICAL CANNABIS CARD. (1) If a medical
19 cannabis card is lost or stolen, the medical cannabis cardholder must report
20 the lost or stolen card to the department.

21 (2) Upon receiving the report described in subsection (1) of this sec-
22 tion, the department will designate the medical cannabis card as lost or
23 stolen in the electronic verification system.

24 (3) A medical cannabis pharmacy agent may confiscate a medical cannabis
25 card that is designated as lost or stolen in accordance with subsection (2)
26 of this section if an individual presents the card at the medical cannabis
27 pharmacy.

28 (4) To request a new medical cannabis card, the medical cannabis card-
29 holder described in subsection (1) of this section must:

30 (a) Complete a form as designated by the department; and

31 (b) Pay a fee in an amount set by the department.

32 39-9717. MEDICAL CANNABIS PHARMACY -- LICENSE -- ELIGIBILITY. (1) A
33 person may not operate a medical cannabis pharmacy without a license that the
34 board issues under this chapter.

35 (2) (a) Subject to section 39-9721, Idaho Code, the board will issue a
36 license to operate a medical cannabis pharmacy to an applicant who is
37 eligible for a license under this section.

38 (b) An applicant is eligible for a license under this section if the ap-
39 plicant submits to the board:

40 (i) Subject to paragraph (c) of this subsection, a proposed name
41 and address where the applicant will operate the medical cannabis
42 pharmacy;

43 (ii) The name and address of an individual who has a financial or
44 voting interest of two percent (2%) or greater in the proposed med-
45 ical cannabis pharmacy;

46 (iii) Evidence that the applicant has obtained and maintains
47 a performance bond that a surety authorized to transact surety
48 business in the state issues in an amount of at least one hundred

1 twenty-five thousand dollars (\$125,000) for each application that
2 the applicant submits to the board;

3 (iv) An operating plan that:

4 1. Complies with section 39-9720, Idaho Code; and

5 2. Includes operating procedures that comply with the
6 operating requirements for a medical cannabis pharmacy de-
7 scribed in this chapter and with a relevant local ordinance
8 that is consistent with section 39-9730, Idaho Code;

9 (v) If the municipality or county where the proposed medical
10 cannabis pharmacy would be located requires a local land use per-
11 mit, a copy of the person's approved application for the local land
12 use permit; and

13 (vi) An application fee in an amount set by the board.

14 (c) (i) A person may not locate a medical cannabis pharmacy in or
15 within six hundred (600) feet of an area that the relevant munici-
16 pality or county has zoned as primarily residential.

17 (ii) An applicant for a license under this section must provide
18 evidence of compliance with the proximity requirement described
19 in subparagraph (i) of this paragraph.

20 (d) Except as provided in paragraph (c) of this subsection, a medical
21 cannabis pharmacy is a permitted use in all zoning districts within a
22 municipality or county.

23 (e) If the board receives more than one (1) application for a medical
24 cannabis pharmacy within the same city or town, the board will consult
25 with the local land use authority before approving any of the applica-
26 tions pertaining to that city or town.

27 (3) If the board determines that an applicant is eligible for a license
28 under this section, the board will:

29 (a) Charge the applicant an initial license fee in an amount set by the
30 board; and

31 (b) Notify the Idaho state police of the license approval and the names
32 of each individual described in subsection (2) (b) (ii) of this section.

33 (4) The board must not issue a license to operate a medical cannabis
34 pharmacy to an applicant if the individual described in subsection
35 (2) (b) (ii) of this section:

36 (a) Has been convicted under state or federal law for conduct that is
37 not authorized by this chapter and that is:

38 (i) A felony; or

39 (ii) After the effective date of this chapter, a misdemeanor for
40 drug distribution; or

41 (b) Is younger than twenty-one (21) years of age.

42 (5) The board may revoke a license under this section if:

43 (a) The medical cannabis pharmacy does not begin operations within one
44 (1) year after the day on which the board issues the initial license;

45 (b) The medical cannabis pharmacy makes the same violation of this
46 chapter three (3) times; or

47 (c) An individual described in subsection (2) (b) (ii) of this section is
48 convicted, while the license is active, under state or federal law for
49 conduct that is not authorized by this chapter and that is:

50 (i) A felony; or

1 (ii) After the effective date of this chapter, a misdemeanor for
2 drug distribution.

3 (6) The board will deposit the proceeds of the fee imposed by this sec-
4 tion in the qualified patient enterprise fund established pursuant to sec-
5 tion 39-9708, Idaho Code.

6 (7) The board must begin accepting applications under this section on
7 or before January 1, 2022.

8 (8) The board's authority to issue a license under this section is ple-
9 nary and is not subject to review.

10 (9) The holder of a license issued under this section is responsible for
11 ensuring that the medical cannabis pharmacy operating pursuant to such li-
12 cense complies with this chapter, rules promulgated pursuant to this chap-
13 ter, and all other applicable laws and rules.

14 39-9718. MEDICAL CANNABIS PHARMACY OWNERS AND DIRECTORS -- CRIMINAL
15 HISTORY AND BACKGROUND CHECKS. (1) Each individual who has a financial or
16 voting interest of two percent (2%) or greater in an applicant for licensure
17 as a medical cannabis pharmacy or who has the power to direct or cause the
18 management or control of the applicant must submit to a criminal history and
19 background check as determined by the board.

20 (2) The board will assess an individual who submits to a criminal his-
21 tory and background check under subsection (1) of this section a fee in an
22 amount set by the board.

23 39-9719. PHARMACY LICENSE RENEWAL. (1) The board will renew a license
24 under this chapter every year if, at the time of renewal:

25 (a) The licensee meets the requirements of section 39-9717, Idaho Code;
26 and

27 (b) The licensee pays the board a license renewal fee in an amount set by
28 the board.

29 (2) (a) If a licensed medical cannabis pharmacy abandons the medical
30 cannabis pharmacy's license, the board will publish notice of an avail-
31 able license.

32 (b) The board may establish criteria to identify the medical cannabis
33 pharmacy actions that constitute abandonment of a medical cannabis
34 pharmacy license.

35 39-9720. OPERATING PLAN. A person applying for a medical cannabis
36 pharmacy license must submit to the board a proposed operating plan for the
37 medical cannabis pharmacy that complies with this section and that includes:

38 (1) A description of the physical characteristics of the proposed fa-
39 cility, including a floor plan and an architectural elevation;

40 (2) A description of the credentials and experience of:

41 (a) Each officer, director, or owner of the proposed medical cannabis
42 pharmacy; and

43 (b) Any highly skilled or experienced prospective employee;

44 (3) The medical cannabis pharmacy's employee training standards;

45 (4) A security plan;

46 (5) A description of the medical cannabis pharmacy's inventory control
47 system, including a plan to make the inventory control system compatible

1 with the electronic verification system. The inventory control system must
2 comply with requirements established by the board in rule; and

3 (6) Storage protocols, both short- and long-term, to ensure that
4 cannabis is stored in a manner that is sanitary and preserves the integrity
5 of the cannabis.

6 39-9721. MAXIMUM NUMBER OF LICENSES. (1) The board may not issue more
7 than twenty-eight (28) medical cannabis pharmacy licenses.

8 (2) If there are more qualified applicants than there are available li-
9 censes for medical cannabis pharmacies, the board will:

10 (a) Evaluate each applicant and award the license to the applicant that
11 best demonstrates:

12 (i) Experience with establishing and successfully operating a
13 business that involves complying with a regulatory environment,
14 tracking inventory, and training, evaluating, and monitoring em-
15 ployees;

16 (ii) An operating plan that will best ensure the safety and secu-
17 rity of patrons and the community;

18 (iii) Positive connections to the local community;

19 (iv) The suitability of the proposed location and the location's
20 accessibility for qualifying patients; and

21 (v) The extent to which the applicant can reduce the cost of
22 cannabis or cannabis products for patients; and

23 (b) Ensure a geographic dispersal among licensees that is suffi-
24 cient to reasonably maximize access to the largest number of medical
25 cannabis cardholders. At least three (3) licenses may be issued for
26 each geographic area that corresponds to the public health districts
27 established in section 39-408, Idaho Code.

28 (3) The board may conduct an interview with an applicant for a license
29 that the board evaluates under subsection (2) of this section.

30 39-9722. MEDICAL CANNABIS PHARMACY AGENT -- REGISTRATION. (1) An
31 individual may not serve as a medical cannabis pharmacy agent of a medical
32 cannabis pharmacy unless the board registers the individual as a medical
33 cannabis pharmacy agent.

34 (2) A physician licensed under chapter 18, title 54, Idaho Code, re-
35 gardless of the physician's status as a practitioner, may not act as a medi-
36 cal cannabis pharmacy agent, have a financial or voting interest of two per-
37 cent (2%) or greater in a medical cannabis pharmacy, or have the power to di-
38 rect or cause the management or control of a medical cannabis pharmacy.

39 (3) (a) The board will, within fifteen (15) days after the day on which
40 the board receives a completed application from a medical cannabis
41 pharmacy on behalf of a prospective medical cannabis pharmacy agent,
42 register and issue a medical cannabis pharmacy agent registration to
43 the prospective agent if the medical cannabis pharmacy:

44 (i) Provides to the board:

45 1. The prospective agent's name and address;

46 2. The name and location of the licensed medical cannabis
47 pharmacy where the prospective agent seeks to act as the med-
48 ical cannabis pharmacy agent; and

- 1 3. The submission required under paragraph (b) of this sub-
2 section; and
- 3 (ii) Pays a fee to the board in an amount set by the board.
- 4 (b) Each prospective agent described in paragraph (a) of this subsec-
5 tion must submit to a criminal history and background check as deter-
6 mined by the board.
- 7 (c) The board will assess an individual who submits to a criminal his-
8 tory and background check pursuant to this subsection a fee in an amount
9 set by the board.
- 10 (4) The board will designate, on an individual's medical cannabis phar-
11 macy agent registration, the name of the medical cannabis pharmacy where the
12 individual is registered as an agent.
- 13 (5) A medical cannabis pharmacy agent must comply with any registration
14 standards established by the board in rule.
- 15 (6) The department will ensure that any initial registration standard
16 described in subsection (5) of this section includes training in:
- 17 (a) The provisions of this chapter; and
- 18 (b) Medical cannabis pharmacy best practices.
- 19 (7) The board may revoke the medical cannabis pharmacy agent registra-
20 tion of or refuse to issue a medical cannabis pharmacy agent registration to
21 an individual who:
- 22 (a) Violates the requirements of this chapter; or
- 23 (b) Has been convicted under state or federal law for conduct that is
24 not permitted under this chapter and that is:
- 25 (i) A felony; or
- 26 (ii) After the effective date of this chapter, a misdemeanor for
27 drug distribution.
- 28 (8) (a) A medical cannabis pharmacy agent registration expires two (2)
29 years after the day on which the board issues or renews the registra-
30 tion.
- 31 (b) A medical cannabis pharmacy agent may renew the agent's registra-
32 tion if the agent:
- 33 (i) Is eligible for a medical cannabis pharmacy agent registra-
34 tion under this section;
- 35 (ii) Certifies to the board in a renewal application that the in-
36 formation in subsection (3) (a) of this section is accurate or up-
37 dates the information; and
- 38 (iii) Pays to the board a renewal fee in an amount set by the board,
39 which fee may not exceed the cost of the relatively lower adminis-
40 trative burden of renewal in comparison to the original applica-
41 tion process.

- 42 39-9723. MEDICAL CANNABIS PHARMACY AGENT REGISTRATION -- REBUTTABLE
43 PRESUMPTION. (1) A medical cannabis pharmacy agent must carry the individ-
44 ual's medical cannabis pharmacy agent registration with the individual at
45 all times when:
- 46 (a) The individual is on the premises of a medical cannabis pharmacy;
47 and

1 (b) The individual is transporting cannabis in a medicinal dosage form,
2 a cannabis product in a medicinal dosage form, or a medical cannabis de-
3 vice.

4 (2) If a medical cannabis pharmacy agent handles or transports cannabis
5 in a medicinal dosage form, a cannabis product in a medicinal dosage form, or
6 a medical cannabis device in compliance with this chapter and rules promul-
7 gated pursuant to this chapter:

8 (a) There is a rebuttable presumption that the medical cannabis
9 pharmacy agent possesses the cannabis, cannabis product, or medical
10 cannabis device legally; and

11 (b) There is no probable cause, based solely on the medical cannabis
12 pharmacy agent's possession of the cannabis in medicinal dosage form,
13 cannabis product in medicinal dosage form, or medical cannabis device,
14 that the individual is engaging in illegal activity.

15 (3) (a) A medical cannabis pharmacy agent who fails to carry the agent's
16 medical cannabis pharmacy agent registration in accordance with sub-
17 section (1) of this section is:

18 (i) For a first or second offense in a two (2) year period, guilty
19 of an infraction and subject to a fine of one hundred dollars
20 (\$100); or

21 (ii) For a third or subsequent offense in a two (2) year period,
22 guilty of a misdemeanor and subject to a fine of seven hundred
23 fifty dollars (\$750).

24 (b) (i) The prosecuting attorney must notify the board and the
25 relevant medical cannabis pharmacy of each conviction under para-
26 graph (a) of this subsection.

27 (ii) For each violation described in paragraph (a) (ii) of this
28 subsection, the board may assess the relevant medical cannabis
29 pharmacy a fine of up to five thousand dollars (\$5,000), in accor-
30 dance with a fine schedule that the board establishes by rule.

31 (c) An individual who is guilty of a violation described in paragraph
32 (a) of this subsection is not guilty of a violation of chapter 27, title
33 37, Idaho Code, for the conduct underlying the violation.

34 39-9724. MEDICAL CANNABIS PHARMACY OPERATING REQUIREMENTS -- GEN-
35 ERAL.

36 (1) (a) A medical cannabis pharmacy must operate:

37 (i) At the physical address provided to the board;

38 (ii) In accordance with the operating plan provided to and ap-
39 proved by the board; and

40 (iii) In accordance with this section and other requirements pro-
41 vided by the board in rule.

42 (b) A medical cannabis pharmacy must notify the board before a change
43 in the medical cannabis pharmacy's physical address or operating plan.
44 Any change in the operating plan must be approved by the board.

45 (2) An individual may not enter a medical cannabis pharmacy unless the
46 individual:

47 (a) Is at least twenty-one (21) years of age; and

1 (b) Except as provided in subsection (5) of this section, possesses
2 a valid medical cannabis pharmacy agent registration card or medical
3 cannabis card.

4 (3) A medical cannabis pharmacy may not employ an individual who is
5 younger than twenty-one (21) years of age.

6 (4) A medical cannabis pharmacy may not employ an individual who has
7 been convicted of a felony under state or federal law, provided that the con-
8 duct underlying the offense must be conduct that is not authorized by this
9 chapter.

10 (5) Notwithstanding the provisions of subsection (2) of this section,
11 a medical cannabis pharmacy may authorize an individual who is not a medical
12 cannabis pharmacy agent or has a medical cannabis card to access the medical
13 cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the
14 individual at all times while the individual is at the medical cannabis phar-
15 macy and maintains a record of the individual's access.

16 (6) A medical cannabis pharmacy must operate in a facility that has:

17 (a) A single, secure public entrance;

18 (b) A security system with a backup power source that:

19 (i) Detects and records entry into the medical cannabis pharmacy;
20 and

21 (ii) Provides notice of an unauthorized entry to law enforcement
22 when the medical cannabis pharmacy is closed; and

23 (c) A lock on each area where the medical cannabis pharmacy stores
24 cannabis or a cannabis product.

25 (7) A medical cannabis pharmacy must post, both clearly and conspicu-
26 ously in the medical cannabis pharmacy, the limit on the purchase of cannabis
27 described in section 39-9725(2), Idaho Code.

28 (8) A medical cannabis pharmacy may not allow any individual to consume
29 cannabis on the property or premises of the medical cannabis pharmacy.

30 (9) A medical cannabis pharmacy may not sell cannabis or a cannabis
31 product without first indicating on the cannabis or cannabis product label
32 the name of the medical cannabis pharmacy.

33 (10)(a) Each medical cannabis pharmacy must retain in the pharmacy's
34 records the following information regarding each recommendation under-
35 lying a transaction:

36 (i) The name, address, and telephone number of the practitioner
37 who issued the recommendation;

38 (ii) The patient's name and address;

39 (iii) The date of issuance;

40 (iv) Dosing parameters recommended by the patient's practi-
41 tioner; and

42 (v) If the patient did not complete the transaction, the name of
43 the medical cannabis cardholder who completed the transaction.

44 (b) The medical cannabis pharmacy may not sell cannabis or a cannabis
45 product unless the cannabis or cannabis product has a label securely af-
46 fixed to the container indicating the following minimum information:

47 (i) The name, address, and telephone number of the medical
48 cannabis pharmacy;

49 (ii) The unique identification number that the medical cannabis
50 pharmacy assigns;

- 1 (iii) The date of the sale;
2 (iv) The name of the patient;
3 (v) The name of the practitioner who recommended the medical
4 cannabis treatment;
5 (vi) Directions for use and cautionary statements, if any;
6 (vii) The amount dispensed and the cannabinoid content;
7 (viii) The beyond use date; and
8 (ix) Any other requirements determined by the board.

9 (11) A medical cannabis pharmacy agent will:

10 (a) Verbally offer to a medical cannabis cardholder at the time of a
11 purchase of cannabis, a cannabis product, or a medical cannabis device,
12 personal counseling with a licensed medical cannabis pharmacist or med-
13 ical cannabis pharmacy nurse; and

14 (b) Provide a telephone number or website by which the cardholder may
15 contact a licensed medical cannabis pharmacist or medical cannabis
16 pharmacy nurse for counseling.

17 (12) (a) A medical cannabis pharmacy may create a medical cannabis dis-
18 posal program that allows an individual to deposit unused or excess med-
19 ical cannabis, cannabis residue from a medical cannabis device, or med-
20 ical cannabis product in a locked box or other secure receptacle within
21 the medical cannabis pharmacy.

22 (b) A medical cannabis pharmacy with a disposal program described
23 in paragraph (a) of this subsection must ensure that only a medical
24 cannabis pharmacy agent can access deposited medical cannabis or medi-
25 cal cannabis products.

26 (c) A medical cannabis pharmacy must dispose of any deposited medical
27 cannabis or medical cannabis products by:

28 (i) Rendering the deposited medical cannabis or medical cannabis
29 products unusable and unrecognizable before transporting de-
30 posited medical cannabis or medical cannabis products from the
31 medical cannabis pharmacy; and

32 (ii) Disposing of the deposited medical cannabis or medical
33 cannabis products in accordance with department rule.

34 (13) The board will establish by rule protocols for a recall of cannabis
35 and cannabis products by a medical cannabis pharmacy.

36 39-9725. DISPENSING -- AMOUNT A MEDICAL CANNABIS PHARMACY MAY DIS-
37 PENSE -- REPORTING -- FORM OF CANNABIS OR CANNABIS PRODUCT.

38 (1) (a) A medical cannabis pharmacy may not sell a product other than,
39 subject to this chapter:

40 (i) Cannabis in a medicinal dosage form that the medical cannabis
41 pharmacy acquired from a supplier approved by the board;

42 (ii) A cannabis product in a medicinal dosage form that the med-
43 ical cannabis pharmacy acquired from a supplier approved by the
44 board;

45 (iii) A medical cannabis device acquired from a supplier approved
46 by the board; or

47 (iv) Educational material related to the medical use of cannabis.

48 (b) A medical cannabis pharmacy may sell an item listed in paragraph (a)
49 of this subsection only to an individual with:

- 1 (i) A medical cannabis card; and
2 (ii) Corresponding identification that is a valid United States
3 federal- or state-issued photo identification, including a
4 driver's license, a United States passport, a United States pass-
5 port card, or a United States military identification card.
- 6 (c) Notwithstanding paragraph (a) of this subsection, a medical
7 cannabis pharmacy may not sell a cannabis-based drug that the United
8 States food and drug administration has approved, unless authorized in
9 writing by the board.
- 10 (2) A medical cannabis pharmacy may not dispense:
- 11 (a) To a medical cannabis cardholder in a twenty-eight (28) day period:
- 12 (i) More than the lesser of an amount sufficient to provide thirty
13 (30) days of treatment based on the dosing parameters that the rel-
14 evant practitioner recommends; or
- 15 (ii) If the provider indicates that the individual is permitted to
16 have the maximum amount permitted under Idaho law:
- 17 1. More than two thousand (2,000) milligrams of THC, which
18 may be in solid processed form of medical cannabis, liq-
19 uid processed form of medical cannabis, or a combination of
20 both. The CBD-to-THC ratio in the medical cannabis will be
21 determined by the relevant practitioner. The product must
22 display a label that clearly shows the amount of tetrahydro-
23 cannabiniol and cannabidiol in the specific medical cannabis
24 form;
- 25 2. More than thirty (30) grams of unprocessed medical
26 cannabis flower containing twenty-two percent (22%) or less
27 THC that carries a label clearly displaying the amount of
28 tetrahydrocannabinol and cannabidiol in the specific medi-
29 cal cannabis form; or
- 30 3. For a terminally ill, hospice, or cancer patient with the
31 authorization of the practitioner, more than ten thousand
32 (10,000) milligrams of THC in processed medical cannabis
33 where each individual serving of the processed medical
34 cannabis contains no more than one hundred (100) milligrams
35 of THC and carries a label clearly displaying the amount of
36 tetrahydrocannabinol and cannabidiol in the specific medi-
37 cal cannabis form; or
- 38 (b) To a medical cannabis cardholder whose primary residence is located
39 more than one hundred (100) miles from the nearest medical cannabis
40 pharmacy, in a fifty-eight (58) day period, more than the lesser of an
41 amount sufficient to provide sixty (60) days of treatment based on the
42 dosing parameters that the relevant practitioner recommends; or
- 43 (i) More than four thousand (4,000) milligrams of THC, which may
44 be in solid processed form of medical cannabis, liquid processed
45 form of medical cannabis, or a combination of both. The CBD-to-
46 THC ratio in the medical cannabis will be determined by the rele-
47 vant practitioner. The product must display a label that clearly
48 shows the amount of tetrahydrocannabinol and cannabidiol in the
49 specific medical cannabis form;

1 (ii) More than sixty (60) grams of unprocessed medical cannabis
2 flower containing twenty-two percent (22%) or less THC that car-
3 ries a label clearly displaying the amount of tetrahydrocannabi-
4 nol and cannabidiol in the specific medical cannabis form; or
5 (iii) For a terminally ill, hospice, or cancer patient with the
6 authorization of the practitioner, more than twenty thousand
7 (20,000) milligrams of THC in processed medical cannabis where
8 each individual serving of the processed medical cannabis con-
9 tains no more than one hundred (100) milligrams of THC and carries
10 a label clearly displaying the amount of tetrahydrocannabinol and
11 cannabidiol in the specific medical cannabis form.

12 (3) An individual with a medical cannabis card may not purchase more
13 cannabis or cannabis products than the amounts designated in subsection (2)
14 of this section.

15 (4) A practitioner may recommend treatment with medical cannabis or
16 a cannabis product without recommending specific dosing parameters if the
17 practitioner specifies a maximum amount of medical cannabis a patient may
18 have. In such a situation, the medical cannabis pharmacy must provide spe-
19 cific dosing parameters.

20 (a) The practitioner must document in the recommendation:

21 (i) An evaluation of the qualifying condition underlying the rec-
22 ommendation;

23 (ii) Prior treatment attempts with cannabis and cannabis prod-
24 ucts; and

25 (iii) The patient's current medication list.

26 (b) Before the relevant medical cannabis cardholder may obtain
27 cannabis in a medicinal dosage form or a cannabis product in a medicinal
28 dosage form, a licensed medical cannabis pharmacist or medical cannabis
29 pharmacy nurse must:

30 (i) Review pertinent medical records, including the practitioner
31 documentation described in paragraph (a) of this subsection; and

32 (ii) After completing the review described in subparagraph (i) of
33 this paragraph and consulting with the recommending practitioner
34 as needed, determine the best course of treatment through consul-
35 tation with the cardholder regarding:

36 1. The patient's qualifying condition underlying the recom-
37 mendation from the practitioner;

38 2. Indications for available treatments;

39 3. Dosing parameters; and

40 4. Potential adverse reactions.

41 (5) A medical cannabis pharmacy must:

42 (a) (i) Access the electronic verification system before dis-
43 pensing cannabis or a cannabis product to a medical cannabis
44 cardholder in order to determine if the cardholder or, where ap-
45 plicable, the associated patient has met the maximum amount of
46 cannabis or cannabis products described in subsection (2) of this
47 section; and

48 (ii) If the verification indicates that the individual has met the
49 maximum amount described in subsection (2) of this section:

50 1. Decline the sale; and

- 1 2. Notify the practitioner who made the underlying recom-
2 mendation;
- 3 (b) Submit a record to the electronic verification system each time the
4 medical cannabis pharmacy dispenses cannabis or a cannabis product to a
5 medical cannabis cardholder;
- 6 (c) Package any cannabis or cannabis product in a blister pack or tam-
7 per-evident package or in a container that:
- 8 (i) Is tamper-resistant and tamper-evident; and
9 (ii) Opaque; and
- 10 (d) For a product that is a cube designed for ingestion through chewing
11 or holding in the mouth for slow dissolution, include a separate, off-
12 label warning about the risks of overconsumption.
- 13 (6) Except as otherwise provided by law or rule, a medical cannabis
14 pharmacy may not sell medical cannabis in the form of a cigarette or a medical
15 cannabis device that is intentionally designed or constructed to resemble a
16 cigarette.
- 17 (7) A medical cannabis pharmacy may not give, at no cost, a product that
18 the medical cannabis pharmacy is allowed to sell under subsection (1) of this
19 section.
- 20 (8) The board may impose a uniform fee on each medical cannabis card-
21 holder transaction in a medical cannabis pharmacy in an amount set by the
22 board.

23 39-9726. PARTIAL FILLING. (1) As used in this section, "partially
24 fill" means to provide less than the full amount of cannabis or cannabis
25 product that a practitioner recommends, if the practitioner recommended
26 specific dosing parameters.

27 (2) A medical cannabis pharmacy may partially fill a recommendation for
28 a medical cannabis treatment at the request of the practitioner who issued
29 the medical cannabis treatment recommendation or the medical cannabis card-
30 holder.

31 (3) The board will make rules specifying how to record the date, quan-
32 tity supplied, and quantity remaining of a partially filled medical cannabis
33 treatment recommendation.

34 (4) A licensed medical cannabis pharmacist or medical cannabis phar-
35 macy nurse may, upon the request of a medical cannabis cardholder, deter-
36 mine different dosing parameters, subject to the dosing limits in section
37 39-9725(2), Idaho Code, to fill the quantity remaining of a partially filled
38 medical cannabis treatment recommendation if:

39 (a) The licensed medical cannabis pharmacist or medical cannabis phar-
40 macy nurse determined dosing parameters for the partial fill; and

41 (b) The medical cannabis cardholder reports that:

42 (i) The partial fill did not substantially affect the qualifying
43 condition underlying the medical cannabis recommendation; or

44 (ii) The patient experienced an adverse reaction to the partial
45 fill or was otherwise unable to successfully use the partial fill.

46 39-9727. INSPECTIONS. (1) Each medical cannabis pharmacy must main-
47 tain the pharmacy's medical cannabis treatment recommendation files and

1 other records in accordance with this chapter, board rules, and the federal
2 health insurance portability and accountability act of 1996.

3 (2) The board may inspect the records and facility of a medical cannabis
4 pharmacy at any time during business hours in order to determine if the medi-
5 cal cannabis pharmacy complies with this chapter.

6 (3) An inspection under this section may include:

7 (a) Inspection of a site, facility, vehicle, book, record, paper, docu-
8 ment, data, and other physical or electronic information;

9 (b) Questioning of any relevant individual; or

10 (c) Inspection of equipment, an instrument, a tool, or machinery, in-
11 cluding a container or label.

12 (4) In making an inspection under this section, the board may freely
13 access any area and review and make copies of a book, record, paper, docu-
14 ment, data, or other physical or electronic information, including finan-
15 cial data, sales data, shipping data, pricing data, and employee data.

16 (5) Failure to provide the board or the board's authorized agents imme-
17 diate access to records and facilities during business hours in accordance
18 with this section may result in:

19 (a) The imposition of a civil penalty set by the board;

20 (b) License or registration suspension or revocation; or

21 (c) An immediate cessation of operations under a cease and desist order
22 issued by the board.

23 39-9728. ADVERTISING -- WEBSITE. (1) Except as provided in this sec-
24 tion, a medical cannabis pharmacy may not advertise in any medium.

25 (2) A medical cannabis pharmacy may use signage on the outside of the
26 medical cannabis pharmacy that includes only:

27 (a) The medical cannabis pharmacy's name and hours of operation; and

28 (b) A green cross.

29 (3) A medical cannabis pharmacy may maintain a website that includes
30 information about:

31 (a) The location and hours of operation of the medical cannabis phar-
32 macy;

33 (b) A product or service available at the medical cannabis pharmacy;

34 (c) Personnel affiliated with the medical cannabis pharmacy;

35 (d) Best practices that the medical cannabis pharmacy upholds; and

36 (e) Educational material related to the medical use of cannabis.

37 (4) The board will create a website providing, at a minimum, informa-
38 tion:

39 (a) For patients and caregivers on how to apply for and renew a medical
40 cannabis card;

41 (b) On practitioners registered to recommend medical cannabis, if such
42 practitioners request to be included on the website;

43 (c) For practitioners on medical cannabis resources and education;

44 (d) On medical cannabis pharmacies, including their locations;

45 (e) For licensed medical cannabis pharmacists, medical cannabis
46 pharmacy nurses, and medical cannabis pharmacy agents on rules and re-
47 sources relating to medical cannabis pharmacies; and

48 (f) On other matters and resources as determined by the board.

1 39-9729. CANNABIS, CANNABIS PRODUCT, OR MEDICAL CANNABIS DEVICE IM-
2 PORTATION AND TRANSPORTATION. (1) The board will establish rules for the im-
3 portation of cannabis, cannabis products, and medical cannabis devices into
4 this state, and any person acting according to and in compliance with such
5 rules will be considered acting in compliance with this chapter.

6 (2) The board will establish rules for the transportation of cannabis,
7 cannabis products, and medical cannabis devices around this state, and any
8 person acting according to and in compliance with such rules will be consid-
9 ered acting in compliance with this chapter.

10 (3) The board may establish by rule requirements for transporting
11 cannabis in an unprocessed form or a medicinal dosage form, a cannabis prod-
12 uct in a medicinal dosage form, or a medical cannabis device to ensure that
13 the cannabis, cannabis product, or medical cannabis device remains safe for
14 human consumption or use.

15 (4) If a person imports or transports cannabis, cannabis products, or
16 medical cannabis devices in a manner that does not comply with the rules de-
17 scribed in this section, then the protections of this chapter do not apply,
18 and such person will be subject to the provisions of chapter 27, title 37,
19 Idaho Code.

20 39-9730. LOCAL CONTROL.

21 (1) (a) (i) Except as provided in subparagraph (ii) of this para-
22 graph, to be eligible to obtain or maintain a license under section
23 39-9717, Idaho Code, a person must demonstrate that the intended
24 medical cannabis pharmacy location is located at least:

- 25 1. Six hundred (600) feet from a community location's prop-
26 erty boundary following the shortest route of ordinary
27 pedestrian travel;
- 28 2. Two hundred (200) feet from the patron entrance to the
29 community location's property boundary; and
- 30 3. Six hundred (600) feet from an area zoned primarily resi-
31 dential.

32 (ii) A municipal or county land use authority may recommend in
33 writing that the board waive the community location proximity re-
34 quirement described in subparagraph (i) of this paragraph.

35 (b) A municipality or county may not deny or revoke a land use permit
36 or a business license to operate a medical cannabis pharmacy on the sole
37 basis that the applicant or medical cannabis pharmacy violates federal
38 law regarding the legal status of cannabis.

39 (2) A municipality or county may enact an ordinance that:

- 40 (a) Is not in conflict with this chapter; and
- 41 (b) Governs the time, place, or manner of medical cannabis pharmacy op-
42 erations in the municipality or county.

43 39-9731. ENFORCEMENT -- CRIMINAL. (1) Except as provided in this chap-
44 ter, it is unlawful for a medical cannabis cardholder to sell or otherwise
45 give to another medical cannabis cardholder cannabis in a medicinal dosage
46 form, a cannabis product in a medicinal dosage form, a medical cannabis de-
47 vice, or any cannabis residue remaining in or from a medical cannabis device.

1 (2) (a) Except as provided in paragraph (b) of this subsection, a med-
 2 ical cannabis cardholder who violates the provisions of subsection (1)
 3 of this section is:

4 (i) Guilty of a misdemeanor; and

5 (ii) Subject to a fine of one thousand dollars (\$1,000).

6 (b) An individual is not guilty under paragraph (a) of this subsection
 7 if the individual is a designated caregiver and gives the product de-
 8 scribed in subsection (1) of this section to the medical cannabis card-
 9 holder who designated the individual as a designated caregiver.

10 (c) An individual who is guilty of a violation described in paragraph
 11 (a) of this subsection is not guilty of a violation of chapter 27, title
 12 37, Idaho Code, for the conduct underlying the violation.

13 (3) It is unlawful for a medical cannabis cardholder to sell or other-
 14 wise give to a nonmedical cannabis cardholder cannabis in a medicinal dosage
 15 form, a cannabis product in a medicinal dosage form, a medical cannabis de-
 16 vice, or any cannabis residue remaining in or from a medical cannabis device.
 17 A medical cannabis cardholder who violates the provisions of this subsection
 18 is subject to:

19 (a) Any applicable penalty under chapter 27, title 37, Idaho Code; and

20 (b) Upon conviction, permanent revocation of the medical cannabis
 21 card. Each medical cannabis card issued must include a warning visible
 22 on the card that permanent revocation of the card may result from a vi-
 23 olation of this subsection.

24 39-9732. ENFORCEMENT -- ADMINISTRATIVE.

25 (1) (a) The board may, for a medical cannabis pharmacy's violation of
 26 this chapter:

27 (i) Revoke the medical cannabis pharmacy license;

28 (ii) Refuse to renew the medical cannabis pharmacy license; or

29 (iii) Assess the medical cannabis pharmacy an administrative
 30 penalty.

31 (b) The board may, for a medical cannabis pharmacy agent's violation of
 32 this chapter:

33 (i) Revoke the medical cannabis pharmacy agent registration;

34 (ii) Refuse to renew the medical cannabis pharmacy agent regis-
 35 tration; or

36 (iii) Assess the medical cannabis pharmacy agent an administra-
 37 tive penalty.

38 (2) The board will deposit any administrative penalty imposed under
 39 this section in the qualified patient enterprise fund established by section
 40 39-9708, Idaho Code.

41 (3) For a person subject to an uncontested citation, a stipulated set-
 42 tlement, or a finding of a violation in an adjudicative proceeding under this
 43 section, the board may:

44 (a) For a fine amount not already specified in law, assess the person
 45 a fine of up to five thousand dollars (\$5,000) per violation, in accor-
 46 dance with a fine schedule that the board establishes by rule; or

47 (b) Order the person to cease and desist from the action that creates a
 48 violation.

1 (4) The board may not revoke a medical cannabis pharmacy's license
2 without first directing the medical cannabis pharmacy to appear before an
3 adjudicative proceeding conducted according to board rule.

4 (5) If, within twenty (20) calendar days after the day on which the
5 board issues a citation for a violation of this chapter, the person that is
6 the subject of the citation fails to request a hearing to contest the cita-
7 tion, the citation becomes the board's final order.

8 (6) The board may, for a person who fails to comply with a citation under
9 this section:

10 (a) Refuse to issue or renew the person's license or agent registra-
11 tion; or

12 (b) Suspend, revoke, or place on probation the person's license or
13 agent registration.

14 (7) (a) Except where a criminal penalty is expressly provided for a spe-
15 cific violation of this chapter, if an individual violates a provision
16 of this chapter, the individual is:

17 (i) Guilty of an infraction; and

18 (ii) Subject to a fine of one hundred dollars (\$100).

19 (b) An individual who is guilty of a violation described in paragraph
20 (a) of this subsection is not guilty of a violation of chapter 27, title
21 37, Idaho Code, for the conduct underlying the violation.

22 39-9733. SUPPLIERS. (1) The board will approve suppliers of medical
23 cannabis and medical cannabis devices and create a list of such approved sup-
24 pliers. A medical cannabis pharmacy may acquire medical cannabis and medi-
25 cal cannabis devices only from a supplier on the list of approved suppliers.

26 (2) The board will by rule establish criteria necessary for approval of
27 suppliers. Such criteria must include but are not limited to the following:

28 (a) The supplier must operate according to the laws of the state or ter-
29 ritory in which the supplier is located; and

30 (b) The supplier must conform to any applicable provisions of this
31 chapter or board rule, as determined by the board.

32 39-9734. REPORT. (1) By January 31 of each year, the board and the de-
33 partment must report to the senate and house of representatives health and
34 welfare committees on:

35 (a) The number of applications and renewal applications filed for medi-
36 cal cannabis cards;

37 (b) The number of qualifying patients and designated caregivers;

38 (c) The nature of the debilitating medical conditions of the qualifying
39 patients;

40 (d) The age and county of residence of cardholders;

41 (e) The number of medical cannabis cards revoked;

42 (f) The number of practitioners providing recommendations for qualify-
43 ing patients;

44 (g) The number of license applications and renewal license applica-
45 tions received;

46 (h) The number of licenses the board has issued in each county;

47 (i) The number of licenses the board has revoked; and

1 (j) The expenses incurred and revenues generated from the medical
2 cannabis program.

3 (2) The board and the department may not include personally identifying
4 information in the report described in this section.

5 39-9735. RULEMAKING -- TRAINING. (1) The board and the department are
6 authorized to promulgate rules as necessary to implement the provisions of
7 this chapter.

8 (2) The board must, in cooperation with the Idaho state police and other
9 relevant agencies, develop and offer training on the provisions of this
10 chapter, including training for law enforcement personnel.

11 39-9736. IMMUNITIES -- ACTIVITIES NOT PERMITTED -- PENALTIES. (1)
12 Notwithstanding any provision of law to the contrary, a person acting under
13 the authorization of and in compliance with the provisions of this chapter
14 is not subject to prosecution under state law or local ordinance for any au-
15 thorized and compliant conduct.

16 (2) The provisions of this chapter should not be construed to permit a
17 person to:

18 (a) Operate, navigate, or be in actual physical control of any vehicle,
19 aircraft, railroad train, stationary heavy equipment, or vessel while
20 under the influence of cannabis; or

21 (b) Use cannabis in any public area unless specifically permitted by
22 board rule.

23 (3) A person who commits an act described in subsection (2) of this sec-
24 tion is subject to such penalties as are provided by law.

25 39-9737. PROHIBITIONS. (1) A peace officer may not expend any state or
26 local resources, including the peace officer's time, to:

27 (a) Effect an arrest or seizure of cannabis or conduct any investiga-
28 tion on the sole basis of activity that the peace officer believes to
29 constitute a violation of federal law if the peace officer has reason to
30 believe that the activity is in compliance with this chapter;

31 (b) Enforce a law that restricts an individual's right to acquire, own,
32 or possess a firearm based solely on the individual's possession or use
33 of medical cannabis in accordance with this chapter; or

34 (c) Provide any information or logistical support related to an activ-
35 ity described in paragraph (a) of this subsection to any federal law en-
36 forcement authority or prosecuting entity.

37 (2) A state agency or political subdivision may not take adverse action
38 against a person for providing a professional service to a medical cannabis
39 pharmacy on the sole basis that the service is a violation of federal law.

40 39-9738. PROTECTIONS. (1) A person will not be subject to arrest,
41 prosecution, or penalty in any manner or denied any right or privilege,
42 including without limitation a civil penalty or disciplinary action by a
43 business, occupational, or professional licensing board or bureau, for any
44 act authorized by this chapter.

1 (2) No landlord, school district, public charter school, state insti-
2 tution of higher education, or community college organized pursuant to chap-
3 ter 21, title 33, Idaho Code, may:

4 (a) Refuse to enroll, refuse to lease to, or otherwise penalize a per-
5 son for any act authorized by this chapter, unless failing to do so would
6 violate federal law or regulations or cause a loss of a monetary or li-
7 censing-related benefit under federal law or regulation; or

8 (b) Be penalized or denied any benefit under state law or local ordi-
9 nance for enrolling, leasing to, or employing a medical cannabis card-
10 holder.

11 (3) An employer may not:

12 (a) Discriminate against a person in hiring, termination, or any term
13 or condition of employment, or otherwise penalize a person, for any act
14 authorized by this chapter, unless compliance with this paragraph would
15 disqualify the employer from a monetary or licensing-related benefit
16 under federal law or regulation; or

17 (b) Be penalized or denied any benefit under state law or local ordi-
18 nance for employing a medical cannabis cardholder.

19 (4) A person otherwise entitled to custody of, or visitation or parent-
20 ing time with, a minor may not be denied custody or visitation or parenting
21 time solely for conduct allowed under this chapter, nor may there be:

22 (a) A finding or presumption of abuse solely for conduct allowed under
23 this chapter; or

24 (b) A finding or presumption of neglect or child endangerment solely
25 for conduct allowed under this chapter.

26 (5) A person who uses medical cannabis as authorized by this chapter
27 will be afforded all the same rights under state law and local ordinance as
28 the person would be afforded if the person were solely prescribed a pharma-
29 ceutical medication as it pertains to:

30 (a) Any interaction with a person's employer;

31 (b) Drug testing by a person's employer; or

32 (c) Drug testing required by any state law, local ordinance, state
33 agency, or state or local government official.

34 (6) Notwithstanding the provisions of subsection (3) or (5) of this
35 section, no employer is required to allow the ingestion of cannabis in any
36 workplace or to allow any employee to work while under the influence of
37 cannabis. A medical cannabis patient cardholder will not be considered to
38 be under the influence of cannabis solely because of the presence of metabo-
39 lites or components of cannabis that appear in insufficient concentration to
40 cause impairment.

41 39-9739. SEVERABILITY. The provisions of this chapter are hereby de-
42 clared to be severable and if any provision of this chapter or the applica-
43 tion of such provision to any person or circumstance is declared invalid for
44 any reason, such declaration shall not affect the validity of the remaining
45 portions of this chapter.

46 SECTION 2. That Chapter 36, Title 63, Idaho Code, be, and the same is
47 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
48 ignated as Section 63-3642, Idaho Code, and to read as follows:

1 63-3642. EXEMPTION FOR MEDICAL CANNABIS -- EXCISE TAX. (1) Except as
2 provided in subsection (2) of this section, any medical cannabis or medical
3 cannabis device sold in compliance with the provisions of chapter 97, title
4 39, Idaho Code, is exempt from a tax imposed by this chapter.

5 (2) An excise tax is hereby imposed upon each sale at retail of any medi-
6 cal cannabis or medical cannabis device at the rate of two percent (2%) of the
7 sales price of the medical cannabis or medical cannabis device. Such amount
8 will be computed monthly on all sales at retail within the preceding month.

9 (a) The tax will apply to, be computed on, and be collected at the time
10 of the sale.

11 (b) The tax hereby imposed must be collected by a medical cannabis phar-
12 macy from a medical cannabis cardholder.

13 (c) Tax collected pursuant to this subsection will be deposited in the
14 qualified patient enterprise fund pursuant to section 39-9708, Idaho
15 Code.

16 (d) Any person violating any provision of this section is guilty of a
17 misdemeanor.

18 (e) The state tax commission, in cooperation with the board of phar-
19 macy, may promulgate any rules necessary to effectuate the provisions
20 of this section.

21 SECTION 3. That Section 37-2705, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 37-2705. SCHEDULE I. (a) The controlled substances listed in this sec-
24 tion are included in schedule I.

25 (b) Any of the following opiates, including their isomers, esters,
26 ethers, salts, and salts of isomers, esters, and ethers, unless specifically
27 excepted, whenever the existence of these isomers, esters, ethers and salts
28 is possible within the specific chemical designation:

29 (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-pip-
30 eridiny]l)-N-phenylacetamide);

31 (2) Acetylmethadol;

32 (3) Acetyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylac-
33 etamide);

34 (4) Acryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylacry-
35 lamide);

36 (5) Allylprodine;

37 (6) Alphacetylmethadol (except levo-alphacetylmethadol also known as
38 levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);

39 (7) Alphameprodine;

40 (8) Alphamethadol;

41 (9) Alpha-methylfentanyl;

42 (10) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-
43 piperidiny]l)-N-phenylpropanamide);

44 (11) Benzethidine;

45 (12) Betacetylmethadol;

46 (13) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperid-
47 inyl]-N-phenylpropanamide);

48 (14) Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-
49 methyl-4-piperidiny]l)-N-phenylpropanamide);

- 1 (15) Betameprodine;
- 2 (16) Betamethadol;
- 3 (17) Betaprodine;
- 4 (18) Clonitazene;
- 5 (19) Cyclopentyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcy-
- 6 clopentanecarboxamide);
- 7 (20) Cyclopropyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylcy-
- 8 clopropanecarboxamide);
- 9 (21) Dextromoramide;
- 10 (22) Diampromide;
- 11 (23) Diethylthiambutene;
- 12 (24) Difenoxylin;
- 13 (25) Dimenoxadol;
- 14 (26) Dimepheptanol;
- 15 (27) Dimethylthiambutene;
- 16 (28) Dioxaphetyl butyrate;
- 17 (29) Dipipanone;
- 18 (30) Ethylmethylthiambutene;
- 19 (31) Etonitazene;
- 20 (32) Etoxeridine;
- 21 (33) Fentanyl-related substances. "Fentanyl-related substances"
- 22 means any substance not otherwise listed and for which no exemption or
- 23 approval is in effect under section 505 of the federal food, drug, and
- 24 cosmetic act, 21 U.S.C. 355, and that is structurally related to fen-
- 25 tanyl by one (1) or more of the following modifications:
- 26 i. Replacement of the phenyl portion of the phenethyl group by any
- 27 monocycle, whether or not further substituted in or on the monocy-
- 28 cle;
- 29 ii. Substitution in or on the phenethyl group with alkyl, alkenyl,
- 30 alkoxy, hydroxy, halo, haloalkyl, amino, or nitro groups;
- 31 iii. Substitution in or on the piperidine ring with alkyl,
- 32 alkenyl, alkoxy, ester, ether, hydroxy, halo, haloalkyl, amino,
- 33 or nitro groups;
- 34 iv. Replacement of the aniline ring with any aromatic monocycle,
- 35 whether or not further substituted in or on the aromatic monocy-
- 36 cle; and/or
- 37 v. Replacement of the N-propionyl group by another acyl group;
- 38 (34) 4-Fluoroisobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-
- 39 phenethylpiperidin-4-yl)isobutyramide);
- 40 (35) Furanyl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylfuran-
- 41 2-carboxamide);
- 42 (36) Furethidine;
- 43 (37) Hydroxypethidine;
- 44 (38) Isobutyryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-
- 45 phenylisobutyramide);
- 46 (39) Ketobemidone;
- 47 (40) Levomoramide;
- 48 (41) Levophenacymorphan;
- 49 (42) 3-Methylfentanyl;

- 1 (43) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-pip-
2 eridinyl]-N-phenylpropanamide);
3 (44) Morpheridine;
4 (45) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
5 (46) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine);
6 (47) Noracymethadol;
7 (48) Norlevorphanol;
8 (49) Normethadone;
9 (50) Norpipanone;
10 (51) Ocfentanil (N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperi-
11 din-4-yl) acetamide);
12 (52) Para-chloroisobutyryl fentanyl (N-(4-chlorophenyl)-N-(1-
13 phenethylpiperidin-4-yl) isobutyramide);
14 (53) Para-fluorobutyryl fentanyl (N-(4-fluorophenyl)-N-(1-
15 phenethylpiperidin-4-yl) butyramide);
16 (54) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-
17 piperidinyl] propanamide);
18 (55) Para-methoxybutyryl fentanyl (N-(4-methoxyphenyl)-N-(1-
19 phenethylpiperidin-4-yl) butyramide);
20 (56) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
21 (57) Phenadoxone;
22 (58) Phenampromide;
23 (59) Phenomorphan;
24 (60) Phenoperidine;
25 (61) Piritramide;
26 (62) Proheptazine;
27 (63) Properidine;
28 (64) Propiram;
29 (65) Racemoramide;
30 (66) Tetrahydrofuranyl fentanyl (N-(1-phenethylpiperidine-4-yl)-N-
31 phenyltetrahydrofuran-2-carboxamide);
32 (67) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-
33 propanamide);
34 (68) Tilidine;
35 (69) Trimeperidine;
36 (70) u-47700 (3,4-Dichloro-N-[2-(dimethylamino)cyclohexyl]-N-
37 methylbenzamide);
38 (71) Valeryl fentanyl (N-(1-phenethylpiperidin-4-yl)-N-phenylpen-
39 tanamide).
- 40 (c) Any of the following opium derivatives, their salts, isomers and
41 salts of isomers, unless specifically excepted, whenever the existence of
42 these salts, isomers and salts of isomers is possible within the specific
43 chemical designation:
44 (1) Acetorphine;
45 (2) Acetyldihydrocodeine;
46 (3) Benzylmorphine;
47 (4) Codeine methylbromide;
48 (5) Codeine-N-Oxide;
49 (6) Cyprenorphine;
50 (7) Desomorphine;

- 1 (8) Dihydromorphine;
- 2 (9) Drotebanol;
- 3 (10) Etorphine (except hydrochloride salt);
- 4 (11) Heroin;
- 5 (12) Hydromorphinol;
- 6 (13) Methyldesorphine;
- 7 (14) Methyldihydromorphine;
- 8 (15) Morphine methylbromide;
- 9 (16) Morphine methylsulfonate;
- 10 (17) Morphine-N-Oxide;
- 11 (18) Myrophine;
- 12 (19) Nicocodeine;
- 13 (20) Nicomorphine;
- 14 (21) Normorphine;
- 15 (22) Pholcodine;
- 16 (23) Thebacon.

17 (d) Hallucinogenic substances. Any material, compound, mixture or
 18 preparation which contains any quantity of the following hallucinogenic
 19 substances, their salts, isomers and salts of isomers, unless specifically
 20 excepted, whenever the existence of these salts, isomers, and salts of iso-
 21 mers is possible within the specific chemical designation (for purposes of
 22 this paragraph only, the term "isomer" includes the optical, position and
 23 geometric isomers):

- 24 (1) Dimethoxyphenethylamine, or any compound not specifically
 25 excepted or listed in another schedule that can be formed from
 26 dimethoxyphenethylamine by replacement of one (1) or more hydrogen
 27 atoms with another atom(s), functional group(s) or substructure(s)
 28 including, but not limited to, compounds such as DOB, DOC, 2C-B,
 29 25B-NBOMe;
- 30 (2) Methoxyamphetamine or any compound not specifically excepted or
 31 listed in another schedule that can be formed from methoxyamphetamine
 32 by replacement of one (1) or more hydrogen atoms with another atom(s),
 33 functional group(s) or substructure(s) including, but not limited to,
 34 compounds such as PMA and DOM;
- 35 (3) 5-methoxy-3,4-methylenedioxy-amphetamine;
- 36 (4) 5-methoxy-N,N-diisopropyltryptamine;
- 37 (5) Amphetamine or methamphetamine with a halogen substitution on the
 38 benzyl ring, including compounds such as fluorinated amphetamine and
 39 fluorinated methamphetamine;
- 40 (6) 3,4-methylenedioxy amphetamine;
- 41 (7) 3,4-methylenedioxymethamphetamine (MDMA);
- 42 (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-et-
 43 hyl-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-et-
 44 hyl MDA, MDE, MDEA);
- 45 (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hyd-
 46 roxy-alpha-methyl-3,4 (methylenedioxy) phenethylamine, and N-hyd-
 47 roxy MDA);
- 48 (10) 3,4,5-trimethoxy amphetamine;
- 49 (11) 5-methoxy-N,N-dimethyltryptamine (also known as 5-methoxy-3-2[2-
 50 (dimethylamino)ethyl]indole and 5-MeO-DMT);

- 1 (12) Alpha-ethyltryptamine (some other names: etryptamine, 3-(2-am-
2 inobutyl) indole);
3 (13) Alpha-methyltryptamine;
4 (14) Bufotenine;
5 (15) Diethyltryptamine (DET);
6 (16) Dimethyltryptamine (DMT);
7 (17) Ibogaine;
8 (18) Lysergic acid diethylamide;
9 (19) ~~Marihuana;~~
10 ~~(20) Mescaline;~~
11 ~~(210) Parahexyl;~~
12 ~~(221) Peyote;~~
13 ~~(232) N-ethyl-3-piperidyl benzilate;~~
14 ~~(243) N-methyl-3-piperidyl benzilate;~~
15 ~~(254) Psilocybin;~~
16 ~~(265) Psilocyn;~~
17 ~~(27) Tetrahydrocannabinols or synthetic equivalents of the substances~~
18 ~~contained in the plant, or in the resinous extractives of Cannabis, sp.~~
19 ~~and/or synthetic substances, derivatives, and their isomers with simi-~~
20 ~~lar chemical structure such as the following:~~
- 21 i. ~~Tetrahydrocannabinols:~~
- 22 a. ~~Δ^1 -cis or trans tetrahydrocannabinol, and their opti-~~
23 ~~cal isomers, excluding dronabinol in sesame oil and encapsu-~~
24 ~~lated in either a soft gelatin capsule or in an oral solution~~
25 ~~in a drug product approved by the U.S. Food and Drug Adminis-~~
26 ~~tration.~~
- 27 b. ~~Δ^6 -cis or trans tetrahydrocannabinol, and their optical~~
28 ~~isomers.~~
- 29 c. ~~$\Delta^{3,4}$ -cis or trans tetrahydrocannabinol, and its optical~~
30 ~~isomers. (Since nomenclature of these substances is not in-~~
31 ~~ternationally standardized, compounds of these structures,~~
32 ~~regardless of numerical designation of atomic positions are~~
33 ~~covered.)~~
- 34 d. ~~[(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-~~
35 ~~octan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-~~
36 ~~1-ol)], also known as 6aR-trans-3-(1,1-dimethylhep-~~
37 ~~tyl)-6a,7,10,10a-tetrahydro-1-hydroxy-6,6-dimethyl-6H-~~
38 ~~dibenzo[b,d]pyran-9-methanol (HU-210) and its geometric~~
39 ~~isomers (HU211 or dexanabinol).~~
- 40 ii. ~~The following synthetic drugs:~~
- 41 a. ~~Any compound structurally derived from (1H-indole-3-~~
42 ~~yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-in-~~
43 ~~dole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or~~
44 ~~(1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl~~
45 ~~or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobu-~~
46 ~~tan-2-yl) carboxamide by substitution at the nitrogen atoms~~
47 ~~of the indole ring or carboxamide to any extent, whether or~~
48 ~~not further substituted in or on the indole ring to any ex-~~
49 ~~tent, whether or not substituted to any extent in or on the~~
50 ~~cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the~~

- 1 ring may include, but is not limited to, heteroatoms such as
2 nitrogen, sulfur and oxygen).
- 3 b. ~~N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluo-~~
4 ~~ropentyl)-1H-indazole-3-carboxamide (5F-AB-PINACA).~~
- 5 c. ~~1-(1.3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one~~
6 ~~(N-ethylpentylone, ephylone).~~
- 7 d. ~~1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1-H-inda-~~
8 ~~zole-3-carboxamide (4-en-cumyl-BUTINACA).~~
- 9 e. ~~Ethyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxam-~~
10 ~~ido)-3,3-dimethylbutanoate * (5f-edmbpinaca).~~
- 11 f. ~~(1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetram-~~
12 ~~ethylecyclopropyl)methanone (fub-144).~~
- 13 g. ~~1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-inda-~~
14 ~~zole-3-carboxamide (5f-cumyl-pinaca; sgt25).~~
- 15 h. ~~(1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1~~
16 ~~H-pyrrolo[2.3-B]pyridine-3-carboxamide (5fcumyl-P7AICA).~~
- 17 i. ~~Methyl-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxam-~~
18 ~~ido)-3-methylbutanoate (MMB-CHMICA, AMB-CHMICA).~~
- 19 j. ~~Methyl-2-(1-(5-fluoropentyl)-1H-indole-3-carboxam-~~
20 ~~ido)-3,3-dimethylbutanoate (5f-mdmbpica).~~
- 21 k. ~~N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-~~
22 ~~carboxamide (fub-akb48; fub-apinaca).~~
- 23 l. ~~Naphthalen-1-yl-1-(5-fluoropentyl)-1H-indole-3-car-~~
24 ~~boxylate (NM2201; CBL2201).~~
- 25 m. Any compound structurally derived from 3-(1-naph-
- 26 thoyl)pyrrole by substitution at the nitrogen atom of the
- 27 pyrrole ring to any extent, whether or not further sub-
- 28 stituted in the pyrrole ring to any extent, whether or not
- 29 substituted in the naphthyl ring to any extent.
- 30 n. Any compound structurally derived from 1-(1-naphthyl-
- 31 methyl)indene by substitution at the 3-position of the in-
- 32 dene ring to any extent, whether or not further substituted
- 33 in the indene ring to any extent, whether or not substituted
- 34 in the naphthyl ring to any extent.
- 35 o. Any compound structurally derived from 3-phenyl-
- 36 lacetylindole by substitution at the nitrogen atom of the
- 37 indole ring to any extent, whether or not further substi-
- 38 tuted in the indole ring to any extent, whether or not sub-
- 39 stituted in the phenyl ring to any extent.
- 40 p. Any compound structurally derived from 2-(3-hydroxycy-
- 41 clohexyl)phenol by substitution at the 5-position of the
- 42 phenolic ring to any extent, whether or not substituted in
- 43 the cyclohexyl ring to any extent.
- 44 q. Any compound structurally derived from 3-(benzoyl)in-
- 45 dole structure with substitution at the nitrogen atom of
- 46 the indole ring to any extent, whether or not further sub-
- 47 stituted in the indole ring to any extent and whether or not
- 48 substituted in the phenyl ring to any extent.

~~r. [2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrol-
o[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone
(WIN-55,212-2).~~

~~s. 3-dimethylheptyl-11-hydroxyhexahydrocannabinol (HU-
243).~~

~~t. [(6S, 6aR, 9R, 10aR)-9-hydroxy-6-methyl-3-[(2R)-
5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahy-
drophenanthridin-1-yl]acetate (CP 50,5561).~~

(286) Ethylamine analog of phencyclidine: N-ethyl-1-phenylcy-
clohexylamine (1-phenylcyclohexyl) ethylamine; N-(1-phenylcy-
clohexyl) ethylamine, cyclohexamine, PCE;

(297) Pyrrolidine analog of phencyclidine: 1-(phenylcyclohex-
yl) -pyrrolidine, PCPy, PHP;

(3028) Thiophene analog of phencyclidine 1-[1-(2-thienyl)-cy-
clohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP;

(3129) 1-[1-(2-thienyl) cyclohexyl] pyrrolidine another name: TCPy;

(320) Spores or mycelium capable of producing mushrooms that contain
psilocybin or psilocin.

(e) Unless specifically excepted or unless listed in another schedule,
any material, compound, mixture or preparation which contains any quantity
of the following substances having a depressant effect on the central ner-
vous system, including its salts, isomers, and salts of isomers whenever the
existence of such salts, isomers, and salts of isomers is possible within the
specific chemical designation:

(1) Gamma hydroxybutyric acid (some other names include GHB; gam-
ma-hydroxybutyrate, 4-hydroxybutyrate; 4-hydroxybutanoic acid; sod-
ium oxybate; sodium oxybutyrate);

(2) Flunitrazepam (also known as "R2," "Rohypnol");

(3) Mecloqualone;

(4) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in an-
other schedule, any material, compound, mixture, or preparation which con-
tains any quantity of the following substances having a stimulant effect on
the central nervous system, including its salts, isomers, and salts of iso-
mers:

(1) Aminorex (some other names: aminoxaphen, 2-amino-5-phenyl-2-ox-
azoline, or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some other names: 2-amino-1-phenol-1-propanone, alp-
ha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

(3) Substituted cathinones. Any compound, except bupropion or com-
pounds listed under a different schedule, structurally derived from
2-aminopropan-1-one by substitution at the 1-position with either
phenyl, naphthyl or thiophene ring systems, whether or not the compound
is further modified in any of the following ways:

i. By substitution in the ring system to any extent with alkyl,
alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide sub-
stituents, whether or not further substituted in the ring system
by one (1) or more other univalent substituents;

ii. By substitution at the 3-position with an acyclic alkyl sub-
stituent;

- 1 iii. By substitution at the 2-amino nitrogen atom with alkyl,
2 dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the
3 2-amino nitrogen atom in a cyclic structure.
- 4 (4) Alpha-pyrrolidinoheptaphenone* (PV8);
5 (5) Alpha-pyrrolidinohexanophenone* (a-php);
6 (6) 4-chloro-alpha-pyrrolidinovalerophenone* (4chloro-a-pvp);
7 (7) Fenethylamine;
8 (8) Methcathinone (some other names: 2-(methyl-amino)-propioph-
9 enone, alpha-(methylamino)-propiophenone, N-methylcathinone, AL-
10 464, AL-422, AL-463 and UR1423);
11 (9) (+/-)cis-4-methylaminorex [(+/-) cis-4,5-dihydro-4-methyl-5-
12 phenyl-2-oxazolamine];
13 (10) 4-methyl-alpha-ethylaminopentiophenone* (4meap);
14 (11) 4'-methyl-alpha-pyrrolidinohexiophenone* (mphp);
15 (12) N-benzylpiperazine (also known as: BZP, 1-benzylpiperazine);
16 (13) N-ethylamphetamine;
17 (14) N-ethylhexedrone*;
18 (15) N,N-dimethylamphetamine (also known as: N,N-alpha-trimethyl-
19 benzeneethanamine).

20 SECTION 4. That Section 37-2707, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 37-2707. SCHEDULE II. (a) Schedule II shall consist of the drugs and
23 other substances, by whatever official name, common or usual name, chemical
24 name, or brand name designated, listed in this section.

25 (b) Substances, vegetable origin or chemical synthesis. Unless
26 specifically excepted or unless listed in another schedule, any of the fol-
27 lowing substances whether produced directly or indirectly by extraction
28 from substances of vegetable origin, or independently by means of chemical
29 synthesis, or by a combination of extraction and chemical synthesis:

30 (1) Opium and opiate, and any salt, compound, derivative, or prepa-
31 ration of opium or opiate, excluding apomorphine, dextrorphan, nal-
32 buphine, nalmeferne, naloxone, naltrexone and their respective salts,
33 but including the following:

- 34 1. Raw opium;
35 2. Opium extracts;
36 3. Opium fluid extracts;
37 4. Powdered opium;
38 5. Granulated opium;
39 6. Tincture of opium;
40 7. Codeine;
41 8. Dihydroetorphine;
42 9. Diprenorphine;
43 10. Ethylmorphine;
44 11. Etorphine hydrochloride;
45 12. Hydrocodone;
46 13. Hydromorphone;
47 14. Metopon;
48 15. Morphine;
49 16. Oripavine;

- 1 17. Oxycodone;
- 2 18. Oxymorphone;
- 3 19. Tapentadol;
- 4 20. Thebaine.
- 5 (2) Any salt, compound, derivative, or preparation thereof which is
- 6 chemically equivalent or identical with any of the substances referred
- 7 to in paragraph (b) (1) of this section, except that these substances
- 8 shall not include the isoquinoline alkaloids of opium.
- 9 (3) Opium poppy and poppy straw.
- 10 (4) Coca leaves and any salt, compound, derivative, or preparation
- 11 of coca leaves, and any salt, compound, derivative, or preparation
- 12 thereof which is chemically equivalent or identical with any of these
- 13 substances, but shall not include the following:
- 14 1. Decocainized coca leaves or extractions of coca leaves, which
- 15 extractions do not contain cocaine; or ecgonine; or
- 16 2. [¹²³I]ioflupane.
- 17 (5) Benzoyllecgonine.
- 18 (6) Methylbenzoyllecgonine (Cocaine - its salts, optical isomers, and
- 19 salts of optical isomers).
- 20 (7) Concentrate of poppy straw (the crude extract of poppy straw in ei-
- 21 ther liquid, solid or powder form which contains the phenanthrine alka-
- 22 loids of the opium poppy).
- 23 (c) Any of the following opiates, including their isomers, esters,
- 24 ethers, salts, and salts of isomers, whenever the existence of these iso-
- 25 mers, esters, ethers and salts is possible within the specific chemical
- 26 designation, unless specifically excepted or unless listed in another
- 27 schedule:
- 28 (1) Alfentanil;
- 29 (2) Alphaprodine;
- 30 (3) Anileridine;
- 31 (4) Bezitramide;
- 32 (5) Bulk Dextropropoxyphene (nondosage forms);
- 33 (6) Carfentanil;
- 34 (7) Dihydrocodeine;
- 35 (8) Diphenoxylate;
- 36 (9) Fentanyl;
- 37 (10) Isomethadone;
- 38 (11) Levo-alphaacetylmethadol (also known as levo-alpha-acetylmet-
- 39 hadol, levomethadyl acetate, LAAM);
- 40 (12) Levomethorphan;
- 41 (13) Levorphanol;
- 42 (14) Metazocine;
- 43 (15) Methadone;
- 44 (16) Methadone -- Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl
- 45 butane;
- 46 (17) Moramide -- Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl
- 47 propane-carboxylic acid;
- 48 (18) Pethidine (meperidine);
- 49 (19) Pethidine -- Intermediate -- A, 4-cyano-1-methyl-4-phenyl-
- 50 piperidine;

- 1 (20) Pethidine -- Intermediate -- B, ethyl-4-phenylpiperidine-4-car-
2 boxylate;
- 3 (21) Pethidine -- Intermediate -- C, 1-methyl-4-phenylpiperid-
4 ine-4-carboxylic acid;
- 5 (22) Phenazocine;
- 6 (23) Piminodine;
- 7 (24) Racemethorphan;
- 8 (25) Racemorphan;
- 9 (26) Remifentanil;
- 10 (27) Sufentanil.
- 11 (d) Stimulants. Unless specifically excepted or unless listed in an-
12 other schedule, any material, compound, mixture, or preparation which con-
13 tains any quantity of the following substances having a stimulant effect on
14 the central nervous system:
- 15 (1) Amphetamine, its salts, optical isomers, and salts of its optical
16 isomers;
- 17 (2) Lisdexamfetamine;
- 18 (3) Methamphetamine, its salts, isomers, and salts of its isomers;
- 19 (4) Phenmetrazine and its salts;
- 20 (5) Methylphenidate.
- 21 (e) Depressants. Unless specifically excepted or unless listed in an-
22 other schedule, any material, compound, mixture, or preparation which con-
23 tains any quantity of the following substances having a depressant effect on
24 the central nervous system, including its salts, isomers, and salts of iso-
25 mers, whenever the existence of such salts, isomers, and salts of isomers is
26 possible within the specific chemical designation:
- 27 (1) Amobarbital;
- 28 (2) Glutethimide;
- 29 (3) Pentobarbital;
- 30 (4) Phencyclidine;
- 31 (5) Secobarbital.
- 32 (f) Hallucinogenic substances.
- 33 (1) Nabilone (another name for nabilone:
34 (+/-)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hy-
35 droxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one) (21 CFR 1308.12 (f)).
- 36 (g) Immediate precursors. Unless specifically excepted or unless
37 listed in another schedule, any material, compound, mixture, or preparation
38 which contains any quantity of the following substances:
- 39 (1) Immediate precursor to amphetamine and methamphetamine:
- 40 (a) Anthranilic acid;
- 41 (b) Ephedrine;
- 42 (c) Lead acetate;
- 43 (d) Methylamine;
- 44 (e) Methyl formamide;
- 45 (f) N-methylephedrine;
- 46 (g) Phenylacetic acid;
- 47 (h) Phenylacetone;
- 48 (i) Phenylpropanolamine;
- 49 (j) Pseudoephedrine.

1 Except that any combination or compound containing ephedrine, or any of
 2 its salts and isomers, or phenylpropanolamine or its salts and isomers, or
 3 pseudoephedrine, or any of its salts and isomers which is prepared for dis-
 4 pensing or over-the-counter distribution is not a controlled substance for
 5 the purpose of this section, unless such substance is possessed, delivered,
 6 or possessed with intent to deliver to another with the intent to manufac-
 7 ture methamphetamine, amphetamine or any other controlled substance in vio-
 8 lation of section 37-2732, Idaho Code. For purposes of this provision, the
 9 requirements of the uniform controlled substances act shall not apply to a
 10 manufacturer, wholesaler or retailer of over-the-counter products contain-
 11 ing the listed substances unless such person possesses, delivers, or pos-
 12 sesses with intent to deliver to another the over-the-counter product with
 13 intent to manufacture a controlled substance.

14 (2) Immediate precursors to phencyclidine (PCP):

15 (a) 1-phenylcyclohexylamine;

16 (b) 1-piperidinocyclohexanecarbonitrile (PCC).

17 (3) Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperi-
 18 dine (ANPP).

19 (h) Marijuana.

20 (i) Tetrahydrocannabinols or synthetic equivalents of the substances
 21 contained in the plant, or in the resinous extractives of Cannabis, sp.
 22 and/or synthetic substances, derivatives, and their isomers with similar
 23 chemical structure such as the following:

24 (1) Tetrahydrocannabinols:

25 (a) Δ^1 cis or trans tetrahydrocannabinol, and their optical iso-
 26 mers, excluding dronabinol in sesame oil and encapsulated in ei-
 27 ther a soft gelatin capsule or in an oral solution in a drug product
 28 approved by the U.S. Food and Drug Administration.

29 (b) Δ^6 cis or trans tetrahydrocannabinol, and their optical iso-
 30 mers.

31 (c) $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and its optical iso-
 32 mers. (Since nomenclature of these substances is not internation-
 33 ally standardized, compounds of these structures, regardless of
 34 numerical designation of atomic positions are covered.)

35 (d) [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2methyl-oc-
 36 tan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol], also
 37 known as 6aR-trans-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahy-
 38 dro-1-hydroxy-6,6-dimethyl-6H-dibenzo[b,d]pyran-9-methanol
 39 (HU-210) and its geometric isomers (HU211 or dexanabinol).

40 (2) The following synthetic drugs:

41 (a) Any compound structurally derived from (1H-indole-3-
 42 yl)(cycloalkyl, cycloalkenyl, aryl)methanone, or (1H-in-
 43 dole-3-yl)(cycloalkyl, cycloalkenyl, aryl)methane, or
 44 (1H-indole-3-yl)(cycloalkyl, cycloalkenyl, aryl), methyl
 45 or dimethyl butanoate, amino-methyl (or dimethyl)-1-oxobu-
 46 tan-2-yl) carboxamide by substitution at the nitrogen atoms
 47 of the indole ring or carboxamide to any extent, whether or
 48 not further substituted in or on the indole ring to any ex-
 49 tent, whether or not substituted to any extent in or on the
 50 cycloalkyl, cycloalkenyl, aryl ring(s) (substitution in the

1 ring may include, but is not limited to, heteroatoms such as
2 nitrogen, sulfur and oxygen).

3 (b) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoro-
4 ropentyl)-1H-indazole-3-carboxamide (5F-AB-PINACA).

5 (c) 1-(1.3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one
6 (N-ethylpentylone, ephylone).

7 (d) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-inda-
8 zole-3-carboxamide (4-cn-cumyl-BUTINACA).

9 (e) Ethyl 2-(1-(5-fluoropentyl)-1H-indazole-3carboxam-
10 ido)-3,3-dimethylbutanoate * (5f-edmbpinaca).

11 (f) (1-(4-fluorobenzyl)-1H-indol-3-yl)(2,2,3,3-tetram-
12 ethylcyclopropyl)methanone (fub-144).

13 (g) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-inda-
14 zole-3-carboxamide (5f-cumyl-pinaca; sgt25).

15 (h) (1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1
16 H-pyrrolo[2.3-B]pyridine-3-carboxamide (5fcumyl-P7AICA).

17 (i) Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxam-
18 ido)-3-methylbutanoate (MMB-CHMICA, AMB-CHMICA).

19 (j) Methyl 2-(1-(5-fluoropentyl)-1H-indole-3-carboxam-
20 ido)-3,3-dimethylbutanoate (5f-mdmbpica).

21 (k) N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-inda-
22 zole-3-carboxamide (fub-akb48; fub-apinaca).

23 (l) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-car-
24 boxylate (NM2201; CBL2201).

25 (m) Any compound structurally derived from 3-(1-naph-
26 thoyl)pyrrole by substitution at the nitrogen atom of the
27 pyrrole ring to any extent, whether or not further sub-
28 stituted in the pyrrole ring to any extent, whether or not
29 substituted in the naphthyl ring to any extent.

30 (n) Any compound structurally derived from 1-(1-naphthyl-
31 methyl)indene by substitution at the 3-position of the in-
32 dene ring to any extent, whether or not further substituted
33 in the indene ring to any extent, whether or not substituted
34 in the naphthyl ring to any extent.

35 (o) Any compound structurally derived from 3-phenyl-
36 lacetylindole by substitution at the nitrogen atom of the
37 indole ring to any extent, whether or not further substi-
38 tuted in the indole ring to any extent, whether or not sub-
39 stituted in the phenyl ring to any extent.

40 (p) Any compound structurally derived from 2-(3-hydroxy-
41 cyclohexyl)phenol by substitution at the 5-position of the
42 phenolic ring to any extent, whether or not substituted in
43 the cyclohexyl ring to any extent.

44 (q) Any compound structurally derived from 3-(benzoyl)in-
45 dole structure with substitution at the nitrogen atom of
46 the indole ring to any extent, whether or not further sub-
47 stituted in the indole ring to any extent and whether or not
48 substituted in the phenyl ring to any extent.

1 (C) A counterfeit substance classified in schedule IV~~7~~ is guilty
2 of a felony and upon conviction may be imprisoned for not more
3 than three (3) years, fined not more than ten thousand dollars
4 (\$10,000), or both;

5 (D) A counterfeit substance classified in schedules V and VI or a
6 noncontrolled counterfeit substance~~7~~ is guilty of a misdemeanor
7 and upon conviction may be imprisoned for not more than one (1)
8 year, fined not more than five thousand dollars (\$5,000), or both.

9 (c) It is unlawful for any person to possess a controlled substance
10 unless the substance was obtained directly from, or pursuant to, a valid
11 prescription or order of a practitioner while acting in the course of his
12 professional practice, or except as otherwise authorized by this chapter or
13 chapter 97, title 39, Idaho Code.

14 (1) Any person who violates this subsection and has in his possession
15 a controlled substance classified in schedule I which is a narcotic
16 drug or a controlled substance classified in schedule II~~7~~ is guilty of
17 a felony and upon conviction may be imprisoned for not more than seven
18 (7) years, or fined not more than fifteen thousand dollars (\$15,000), or
19 both.

20 (2) Any person who violates this subsection and has in his possession
21 lysergic acid diethylamide is guilty of a felony and upon conviction may
22 be imprisoned for not more than three (3) years, or fined not more than
23 five thousand dollars (\$5,000), or both.

24 (3) Any person who violates this subsection and has in his possession a
25 controlled substance which is a nonnarcotic drug classified in schedule
26 I except lysergic acid diethylamide, or a controlled substance classi-
27 fied in schedules III, IV, V and VI is guilty of a misdemeanor and upon
28 conviction thereof may be imprisoned for not more than one (1) year, or
29 fined not more than one thousand dollars (\$1,000), or both.

30 (d) It shall be unlawful for any person to be present at or on premises
31 of any place where he knows illegal controlled substances are being manufac-
32 tured or cultivated, or are being held for distribution, transportation, de-
33 livery, administration, use, or to be given away. A violation of this sec-
34 tion shall deem those persons guilty of a misdemeanor and upon conviction
35 shall be punished by a fine of not more than three hundred dollars (\$300) and
36 not more than ninety (90) days in the county jail, or both.

37 (e) If any person is found to possess marijuana, which for the purposes
38 of this subsection shall be restricted to all parts of the plants of the
39 genus Cannabis, including the extract or any preparation of cannabis which
40 contains tetrahydrocannabinol, in an amount greater than three (3) ounces
41 net weight, it shall be a felony and upon conviction may be imprisoned for
42 not more than five (5) years, or fined not more than ten thousand dollars
43 (\$10,000), or both. The provisions of this subsection do not apply to a per-
44 son acting according to and in compliance with the provisions of chapter 97,
45 title 39, Idaho Code.

46 (f) If two (2) or more persons conspire to commit any offense defined in
47 this act, said persons shall be ~~punishable~~ punished by a fine or imprison-
48 ment, or both, which may not exceed the maximum punishment prescribed for the
49 offense, the commission of which was the object of the conspiracy.

1 (g) (1) It is unlawful for any person to manufacture or distribute a
2 "simulated controlled substance," or to possess with intent to distrib-
3 ute, a "simulated controlled substance." Any person who violates this
4 subsection shall, upon conviction, be guilty of a misdemeanor and upon
5 conviction thereof shall be punished by a fine of not more than one thou-
6 sand dollars (\$1,000) and not more than one (1) year in the county jail,
7 or both.

8 (2) It is unlawful for any person to possess a "simulated controlled
9 substance." Any person who violates this subsection shall, upon convic-
10 tion, be guilty of a misdemeanor and upon conviction thereof shall be
11 punished by a fine of not more than three hundred dollars (\$300) and not
12 more than six (6) months in the county jail, or both.

13 (h) It is unlawful for any person to cause to be placed in any newspaper,
14 magazine, handbill, or other publication, or to post or distribute in any
15 public place, any advertisement or solicitation offering for sale simulated
16 controlled substances. Any person who violates this subsection is guilty of
17 a misdemeanor and shall be punished in the same manner as prescribed in sub-
18 section (g) (1) of this section.

19 (i) No civil or criminal liability shall be imposed by virtue of this
20 chapter on any person registered under the Uniform Controlled Substances
21 Act who manufactures, distributes, or possesses an imitation controlled
22 substance for use as a placebo or other use by a registered practitioner, as
23 defined in section 37-2701(aa), Idaho Code, in the course of professional
24 practice or research.

25 (j) No prosecution under this chapter shall be dismissed solely by rea-
26 son of the fact that the dosage units were contained in a bottle or other con-
27 tainer with a label accurately describing the ingredients of the imitation
28 controlled substance dosage units. The good faith of the defendant shall be
29 an issue of fact for the trier of fact.

30 (k) Upon conviction of a felony or misdemeanor violation under this
31 chapter or upon conviction of a felony pursuant to the "racketeering act,"
32 section 18-7804, Idaho Code, or the money laundering and illegal investment
33 provisions of section 18-8201, Idaho Code, the court may order restitution
34 for costs incurred by law enforcement agencies in investigating the viola-
35 tion. Law enforcement agencies shall include, but not be limited to, the
36 Idaho state police, county and city law enforcement agencies, the office
37 of the attorney general and county and city prosecuting attorney offices.
38 Costs shall include, but not be limited to, those incurred for the purchase
39 of evidence, travel and per diem for law enforcement officers and witnesses
40 throughout the course of the investigation, hearings and trials, and any
41 other investigative or prosecution expenses actually incurred, including
42 regular salaries of employees. In the case of reimbursement to the Idaho
43 state police, those moneys shall be paid to the Idaho state police for
44 deposit into the drug and driving while under the influence enforcement
45 donation fund created in section 57-816, Idaho Code. In the case of reim-
46 bursement to the office of the attorney general, those moneys shall be paid
47 to the general fund. A conviction for the purposes of this section means that
48 the person has pled guilty or has been found guilty, notwithstanding the form
49 of the judgment (s) or withheld judgment (s).

1 SECTION 6. That Section 37-2732B, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 37-2732B. TRAFFICKING -- MANDATORY SENTENCES. (a) Except as autho-
4 rized in this chapter or chapter 97, title 39, Idaho Code, and notwithstand-
5 ing the provisions of section 37-2732, Idaho Code:

6 (1) Any person who knowingly manufactures, delivers, or brings into
7 this state, or who is knowingly in actual or constructive possession
8 of, one (1) pound of marijuana or more, or twenty-five (25) marijuana
9 plants or more, as defined in section 37-2701, Idaho Code, is guilty of
10 a felony, which felony shall be known as "trafficking in marijuana." If
11 the quantity of marijuana involved:

12 (A) Is one (1) pound or more, but less than five (5) pounds, or con-
13 sists of twenty-five (25) marijuana plants or more but fewer than
14 fifty (50) marijuana plants, regardless of the size or weight of
15 the plants, such person shall be sentenced to a mandatory minimum
16 fixed term of imprisonment of one (1) year and fined not less than
17 five thousand dollars (\$5,000);

18 (B) Is five (5) pounds or more, but less than twenty-five (25)
19 pounds, or consists of fifty (50) marijuana plants or more but
20 fewer than one hundred (100) marijuana plants, regardless of the
21 size or weight of the plants, such person shall be sentenced to a
22 mandatory minimum fixed term of imprisonment of three (3) years
23 and fined not less than ten thousand dollars (\$10,000);

24 (C) Is twenty-five (25) pounds or more, or consists of one hundred
25 (100) marijuana plants or more, regardless of the size or weight
26 of the plants, such person shall be sentenced to a mandatory mini-
27 mum fixed term of imprisonment of five (5) years and fined not less
28 than fifteen thousand dollars (\$15,000).

29 (D) The maximum number of years of imprisonment for trafficking in
30 marijuana shall be fifteen (15) years, and the maximum fine shall
31 be fifty thousand dollars (\$50,000).

32 (E) For the purposes of this section, the weight of the marijuana
33 is its weight when seized or as determined as soon as practica-
34 ble after seizure, unless the provisions of subsection (c) of this
35 section apply.

36 (2) Any person who knowingly manufactures, delivers, or brings into
37 this state, or who is knowingly in actual or constructive possession
38 of, twenty-eight (28) grams or more of cocaine or of any mixture or sub-
39 stance containing a detectable amount of cocaine is guilty of a felony,
40 which felony shall be known as "trafficking in cocaine." If the quantity
41 involved:

42 (A) Is twenty-eight (28) grams or more, but less than two hundred
43 (200) grams, such person shall be sentenced to a mandatory minimum
44 fixed term of imprisonment of three (3) years and fined not less
45 than ten thousand dollars (\$10,000);

46 (B) Is two hundred (200) grams or more, but less than four hundred
47 (400) grams, such person shall be sentenced to a mandatory mini-
48 mum fixed term of imprisonment of five (5) years and fined not less
49 than fifteen thousand dollars (\$15,000);

1 (C) Is four hundred (400) grams or more, such person shall be sen-
2 tenced to a mandatory minimum fixed term of imprisonment of ten
3 (10) years and fined not less than twenty-five thousand dollars
4 (\$25,000).

5 (D) The maximum number of years of imprisonment for trafficking
6 in cocaine shall be life, and the maximum fine shall be one hundred
7 thousand dollars (\$100,000).

8 (3) Any person who knowingly manufactures or attempts to manufacture
9 methamphetamine and/or amphetamine is guilty of a felony which shall
10 be known as "trafficking in methamphetamine and/or amphetamine by man-
11 ufacturing." Any person convicted of trafficking in methamphetamine
12 and/or amphetamine by attempted manufacturing shall be sentenced to
13 a mandatory minimum fixed term of imprisonment of two (2) years and
14 not to exceed fifteen (15) years imprisonment and fined not less than
15 ten thousand dollars (\$10,000). Any person convicted of traffick-
16 ing in methamphetamine and/or amphetamine by manufacturing shall be
17 sentenced to a mandatory minimum fixed term of imprisonment of five
18 (5) years and not to exceed life imprisonment and fined not less than
19 twenty-five thousand dollars (\$25,000). The maximum number of years of
20 imprisonment for trafficking in methamphetamine and/or amphetamine by
21 manufacturing shall be life, and the maximum fine shall be one hundred
22 thousand dollars (\$100,000).

23 (4) Any person who knowingly delivers, or brings into this state, or
24 who is knowingly in actual or constructive possession of, twenty-eight
25 (28) grams or more of methamphetamine or amphetamine or of any mixture
26 or substance containing a detectable amount of methamphetamine or am-
27 phetamine is guilty of a felony, which felony shall be known as "traf-
28 ficking in methamphetamine or amphetamine." If the quantity involved:

29 (A) Is twenty-eight (28) grams or more, but less than two hundred
30 (200) grams, such person shall be sentenced to a mandatory minimum
31 fixed term of imprisonment of three (3) years and fined not less
32 than ten thousand dollars (\$10,000);

33 (B) Is two hundred (200) grams or more, but less than four hundred
34 (400) grams, such person shall be sentenced to a mandatory mini-
35 mum fixed term of imprisonment of five (5) years and fined not less
36 than fifteen thousand dollars (\$15,000);

37 (C) Is four hundred (400) grams or more, such person shall be sen-
38 tenced to a mandatory minimum fixed term of imprisonment of ten
39 (10) years and fined not less than twenty-five thousand dollars
40 (\$25,000).

41 (D) The maximum number of years of imprisonment for trafficking in
42 methamphetamine or amphetamine shall be life, and the maximum fine
43 shall be one hundred thousand dollars (\$100,000).

44 (5) Any person who knowingly manufactures, delivers, brings into
45 this state, or who is knowingly in actual or constructive possession
46 of the below-specified quantities of any of the following immediate
47 precursors to methamphetamine or amphetamine (namely ephedrine, methy-
48 lamine, methyl formamide, phenylacetic acid, phenylacetone, or pseu-
49 doephedrine) as defined in section 37-2707(g)(1), Idaho Code, or any
50 compound, mixture or preparation which contains a detectable quantity

1 of these substances, is guilty of a felony which shall be known as "trafficking in immediate precursors of methamphetamine or amphetamine." If
2 the quantity:
3

- 4 (A) Of ephedrine is five hundred (500) grams or more;
5 (B) Of methylamine is one-half (1/2) pint or more;
6 (C) Of methyl formamide is one-quarter (1/4) pint or more;
7 (D) Of phenylacetic acid is five hundred (500) grams or more;
8 (E) Of phenylacetone is four hundred (400) grams or more;
9 (F) Of pseudoephedrine is five hundred (500) grams or more;

10 such person shall be sentenced to a mandatory minimum fixed term of
11 imprisonment of ten (10) years and fined not less than twenty-five thousand
12 dollars (\$25,000). The maximum number of years of imprisonment
13 for trafficking in immediate precursors of methamphetamine or am-
14 phetamine in the quantities specified in paragraphs (A) through (F) of
15 this subsection (5) shall be life, and the maximum fine shall be one hundred
16 thousand dollars (\$100,000). If the quantity of pseudoephedrine
17 is twenty-five (25) grams or more, but less than five hundred (500)
18 grams, such person shall be sentenced to a term of imprisonment of up
19 to ten (10) years and fined not more than twenty-five thousand dollars
20 (\$25,000).

21 (6) Any person who knowingly manufactures, delivers or brings into this
22 state, or who is knowingly in actual or constructive possession of, two
23 (2) grams or more of heroin or any salt, isomer, or salt of an isomer
24 thereof, or two (2) grams or more of any mixture or substance containing
25 a detectable amount of any such substance is guilty of a felony, which
26 felony shall be known as "trafficking in heroin." If the quantity in-
27 volved:

- 28 (A) Is two (2) grams or more, but less than seven (7) grams, such
29 person shall be sentenced to a mandatory minimum fixed term of im-
30 prisonment of three (3) years and fined not less than ten thousand
31 dollars (\$10,000);
32 (B) Is seven (7) grams or more, but less than twenty-eight (28)
33 grams, such person shall be sentenced to a mandatory minimum fixed
34 term of imprisonment of ten (10) years and fined not less than fif-
35 teen thousand dollars (\$15,000);
36 (C) Is twenty-eight (28) grams or more, such person shall be sen-
37 tenced to a mandatory minimum fixed term of imprisonment of fif-
38 teen (15) years and fined not less than twenty-five thousand dol-
39 lars (\$25,000).
40 (D) The maximum number of years of imprisonment for trafficking
41 in heroin shall be life, and the maximum fine shall be one hundred
42 thousand dollars (\$100,000).

43 (7) A second conviction for any trafficking offense as defined in sub-
44 section (a) of this section shall result in a mandatory minimum fixed
45 term that is twice that otherwise required under this section.

46 (8) Notwithstanding any other provision of law, with respect to any
47 person who is found to have violated the provisions of this section, ad-
48 judication of guilt or the imposition or execution of sentence shall not
49 be suspended, deferred, or withheld, nor shall such person be eligible
50 for parole prior to serving the mandatory minimum fixed term of impris-

1 onment prescribed in this section. Further, the court shall not retain
2 jurisdiction.

3 (b) Any person who agrees, conspires, combines or confederates with an-
4 other person or solicits another person to commit any act prohibited in sub-
5 section (a) of this section is guilty of a felony and is punishable as if he
6 had actually committed such prohibited act.

7 (c) For the purposes of subsections (a) and (b) of this section the
8 weight of the controlled substance as represented by the person selling or
9 delivering it is determinative if the weight as represented is greater than
10 the actual weight of the controlled substance.

11 SECTION 7. SEVERABILITY. The provisions of this act are hereby declared
12 to be severable and if any provision of this act or the application of such
13 provision to any person or circumstance is declared invalid for any reason,
14 such declaration shall not affect the validity of the remaining portions of
15 this act.

16 SECTION 8. An emergency existing therefor, which emergency is hereby
17 declared to exist, this act shall be in full force and effect on and after its
18 passage and approval.