MISSISSIPPI LEGISLATURE REGULAR SESSION 2024

By: Senator(s) Blackwell

To: Public Health and Welfare

SENATE BILL NO. 2857

AN ACT TO AMEND SECTION 41-137-39, MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL AUTHORIZATIONS AND REQUIREMENTS RELATED TO PERFORMING BACKGROUND CHECKS AS PART OF THE MEDICAL CANNABIS ACT; TO AUTHORIZE THE DEPARTMENT OF HEALTH TO OBTAIN CRIMINAL RECORDS BACKGROUND CHECKS FROM THE MISSISSIPPI JUSTICE INFORMATION CENTER OF THE DEPARTMENT OF PUBLIC SAFETY AND THE F.B.I.; TO AUTHORIZE THE DEPARTMENT TO RECOUP ANY FEE ASSOCIATED WITH THE BACKGROUND CHECK; TO AMEND SECTION 41-137-47, MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL MEASURES RELATED TO INVESTIGATION PROCEDURES BY LICENSING AGENCIES UNDER THE MEDICAL CANNABIS ACT; TO SET CERTAIN ADMINISTRATIVE HEARING PROCEDURES; TO AUTHORIZE THE LICENSING AGENCY TO RECOUP ANY FEE ASSOCIATED WITH THE INVESTIGATION OR HEARING PROCESS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 41-137-39, Mississippi Code of 1972, is amended as follows:

41-137-39. (1) (a) *** * *** <u>The MDOH shall obtain criminal records background checks on all persons applying to become a licensee, an agent, or representative as defined herein, of a medical cannabis establishment. This shall include performing criminal records background checks on all potential employees, current employees, or representatives/agents of the MDOH Medical Cannabis Program. The required criminal history background</u>

24 includes information provided by the Federal Bureau of
25 Investigation.
26 (b) For the purposes of this section, an applicant is
27 any person who registers with or applies for an initial medical
28 cannabis work permit, or a renewal of a medical cannabis work
29 permit. Such a person or applicant may also be defined as an
30 agent, an employee, a representative, etc. as further defined and
31 sometimes used interchangeably as referenced in this section.
32 (c) For purposes of this section, an agent is a person
33 who acts for or on behalf of, or who represents a medical cannabis
34 establishment while in the course of business or employment with
35 the Mississippi Medical Cannabis Program and may also be referred
36 to as an agent, a representative, or vice versa.
37 (d) Representative means a principal officer, owner of
38 ten percent (10%) or greater economic interest in a medical
39 cannabis establishment with direct or indirect interest, officer,
40 director, manager, employee, agent, volunteer, or other type
41 representative of a registered medical cannabis licensee
42 establishment.
43 (e) Principal officer means a person(s) who has
44 ultimate responsibility for implementing the decisions of a
45 cannabis testing facility or other such medical cannabis
46 establishment and includes, but are not necessarily limited to,
47 the Chief Executive Officer (CEO), Chief Administrative Office
48 (CAO), Chief Financial Officer, (CFO), as applicable. Elected or

49 appointed, the board as a whole creates agency policies and
50 oversees the agency's managerial positions.
51 (f) Board member means an individual on a medical
52 cannabis establishment's company or agency board which serves as
53 an organization's governing body.
54 (g) Principal owner means the primary owner of a
55 medical cannabis establishment, but often may be the sole owner.
56 (h) Any and every person/applicant seeking to become an
57 owner or principal owner, principal officer, or officer, board
58 member, director, manager, agent/representative, employee, care
59 giver, or volunteer of a medical cannabis establishment shall
60 apply for, or authorize the MDOH to obtain state and national
61 criminal background checks to be conducted by the Mississippi
62 Justice Information Center of the Department of Public Safety and
63 the Federal Bureau of Investigation.
64 (i) Such criminal background checks shall conform to
65 the applicable federal standards and shall include the taking of
66 fingerprints.
67 (j) Once the Mississippi Justice Information Center of
68 the Department of Public Safety completes a state level criminal
69 history background check, they will forward the fingerprints to
70 the Federal Bureau of Investigation for a national criminal
71 history background check.
72 (k) The person seeking to become an
73 agent/representative of a medical cannabis establishment shall

authorize the release of such criminal background check to the MDOH and shall be responsible for the payment of any fee associated with the criminal background checks.

(l) The Mississippi Justice Information Center of the Department of Public Safety shall forward to the MDOH all information obtained concerning the applicant. MDOH will not disseminate the information and will only use such information as required to fulfill the purposes of this act.

(2) A medical cannabis establishment may not employ any person who:

(a) Was convicted of a disqualifying felony offense; or

(b) Is under twenty-one (21) years of age.

(3) The operating documents of a medical cannabis establishment must include procedures for the oversight of the medical cannabis establishment and procedures to ensure accurate record keeping and adequate security measures.

(4) A medical cannabis establishment shall implement appropriate security measures designed to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

(5) All cultivation, harvesting, processing and packaging of medical cannabis must take place in an enclosed, locked and secure facility with a physical address provided to the MDOH during the licensing and registration process. The facility shall be equipped with locks or other security devices that permit access

only by agents of the medical cannabis establishment, emergency personnel or adults who are twenty-one (21) years of age and older and who are accompanied by medical cannabis establishment agents.

(6) No medical cannabis establishment other than a cannabis processing facility or cannabis research facility may produce cannabis concentrates, cannabis extractions, or other cannabis products.

(7) A medical cannabis establishment may not share office space with or refer patients to a practitioner.

(8) Medical cannabis establishments are subject to inspection by the MDOR and MDOH during business hours.

(9) Before medical cannabis may be dispensed to a cardholder, a dispensary agent must:

(a) Require that the individual present a registry identification card;

(b) Make a diligent effort to verify that the registry identification card presented to the dispensary is valid;

(c) Make a diligent effort to verify that the person presenting the registry identification card is the person identified on the registry identification card presented to the dispensary agent; and

(d) Not believe that the amount of medical cannabis dispensed would cause the person to possess more than the allowable amount of medical cannabis.

(10) A medical cannabis establishment shall not sell more than the allowable amount of medical cannabis to a cardholder. A resident cardholder shall not obtain more than a total of six (6) MMCEUs of allowable medical cannabis in a week from a dispensary or a combination of dispensaries. A resident cardholder shall not obtain more than a total of twenty-four (24) MMCEUs of allowable medical cannabis in thirty (30) days from a dispensary or a combination of dispensaries.

The possession limit for resident cardholders of the allowable amount of medical cannabis shall be a total of twenty-eight (28) MMCEUs. There shall not be a possession limit on nonconsumable medical cannabis, including, but not limited to, suppositories, ointments, soaps, and lotions or other topical agents.

(11) For purposes of this chapter, total THC is defined as THCA multiplied by .877 plus THC Delta 9 and all other psychoactive forms or isomers of THC added together. A medical cannabis establishment shall not sell cannabis flower or trim that has a potency of greater than thirty percent (30%) total THC. A medical cannabis dispensary shall not sell cannabis tinctures, oils or concentrates that have a potency of greater than sixty percent (60%) total THC. Cannabis products that have a potency of over thirty percent (30%) total THC shall be clearly labeled as "extremely potent." Edible cannabis products, including food or drink products, that have been combined with usable cannabis or

cannabis products shall be physically demarked and labeled with a clear determination of how much total THC is in a single-serving size and how much THC is in the entire package.

A medical cannabis product shall contain a notice of harm regarding the use of cannabis products. Edible cannabis products shall be homogenized to ensure uniform disbursement of cannabinoids throughout the product. All molded edible cannabis products shall be presented in the form of geometric shapes and shall not be molded to contain any images or characters designed or likely to appeal to minors, such as cartoons, toys, animals or children.

(12) A dispensary may not dispense more than the allowable amount of cannabis to a registered qualifying patient or a nonresident cardholder, directly or via a registered designated caregiver. Dispensaries shall ensure compliance with this limitation by maintaining internal, confidential records that include records specifying how much medical cannabis is being dispensed to the registered qualifying patient or nonresident cardholder and whether it was dispensed directly to a registered qualifying patient, nonresident cardholder or to the registered designated caregiver.

(13) A nonresident cardholder shall not obtain more than a total of six (6) MMCEUs of allowable medical cannabis in a week from a dispensary or a combination of dispensaries. A nonresident cardholder shall not obtain more than a total of twelve (12)

MMCEUs of allowable cannabis from a dispensary or a combination of dispensaries in a fifteen-day period.

(14) A nonresident may apply to receive a nonresident registry identification card up to thirty (30) days before arriving in Mississippi. A nonresident registry identification card shall be valid for fifteen (15) days. After the expiration of the card, a nonresident may apply for a renewal of the card and may be granted another card which shall be valid for another fifteen-day period. A nonresident registry identification card shall only be valid, at a maximum, for two (2) separate periods of fifteen (15) days in a three-hundred-sixty-five-day period. An applicant may indicate on his or her application the specific time period that he or she wishes for the card to be valid. The possession limit of the allowable amount of medical cannabis for nonresident cardholders shall be fourteen (14) MMCEUs.

(15) A medical cannabis dispensary agent or employee shall not issue a written certification. Employees and agents of a medical cannabis dispensary shall complete at least eight (8) hours of continuing education in medical cannabis as regulated by the MDOR in order to be certified to work at a medical cannabis dispensary. After the first year of employment, these employees shall complete five (5) hours of continuing education in medical cannabis annually to maintain this certification.

(16) Notwithstanding any other provision to the contrary, a patient with a debilitating medical condition who is between

eighteen (18) years to twenty-five (25) years of age is not eligible for a medical cannabis registry identification card unless two (2) practitioners from separate medical practices have diagnosed the patient as having a debilitating medical condition after an in-person consultation. One (1) of these practitioners must be a physician or doctor of osteopathic medicine.

If one (1) of the recommending practitioners is not the patient's primary care practitioner, the recommending practitioner shall review the records of a diagnosing practitioner. The requirement that the two (2) practitioners be from separate medical practices does not apply if the patient is homebound or if the patient had a registry identification card before the age of eighteen (18).

(17) Except as otherwise provided in this section, a medical cannabis establishment shall not allow an individual who is younger than twenty-one (21) years old to enter the premises of the establishment unless the individual possesses a registry identification card and is accompanied by his or her legal guardian.

(18) A medical cannabis establishment shall only purchase, grow, cultivate, and use cannabis that is grown and cultivated in this state. Any medical cannabis that is grown and cultivated in this state shall not be transported outside of this state.

(19) Employees of all medical cannabis establishments shall apply for a work permit with the MDOH and MDOR, as applicable,

before beginning employment with any establishment. The licensing agency for the respective medical cannabis establishment may issue work permits to these individuals. These licensing agencies shall maintain a work registry of all applicants and work permits issued. The fee for a work permit shall be Twenty-five Dollars ($25.00) and the permit shall be valid for five (5) years. Work permits shall be the property of the employee and shall not be transferable to other employees.

(20) For purposes of this subsection, "plant growth regulator cannabis" shall mean a cannabis plant whose growth and structure has been modified using plant growth hormones. A cannabis cultivation facility shall not cultivate and a cannabis dispensary shall not sell, transfer or provide for consumption plant growth regulator cannabis.

(21) A medical cannabis dispensary shall only make sales to cardholders inside the dispensary. A medical cannabis dispensary shall not sell or otherwise convey medical cannabis to a cardholder through the means of a drive-through, curbside delivery or other delivery outside the premises of the dispensary. Any topical cannabis product that is purchased by a dispensary from a licensed processor, and that is not ingested by the liver, may be sold to a cardholder or any person over the age of twenty-one (21) years old who is not a cardholder. Such products shall be placed in an area of the dispensary that does not require access with a registry identification card.

(22) Any and all contracts or agreements entered into by the MDOH and MDOR for information technology software, hardware, and/or services for the purpose of implementing and/or operating under the Mississippi Medical Cannabis Act shall include language reasonably limiting the ability of the vendor to escalate the ongoing cost of such software, hardware, and/or services during the term of the contract, including any amendments and/or extensions.

(23) The MDOR and MDOH shall not share the name, address or personal data of a registry identification cardholder to any federal government entity.

SECTION 2. Section 41-137-47, Mississippi Code of 1972, is amended as follows:

41-137-47. (1) The licensing agency is authorized to investigate, either on the basis of complaints filed with it or on its own initiative through compliance visits, reviews or audits, instances of suspected violations of any nature, including, but not limited to:

(a) Performing the duties and requirements set forth for licensees within the relevant statute and regulations;

(b) The providing of false information on an application or renewal for a license, incident to a hearing, or otherwise;

(c) The conviction of a licensee of a felony;

(d) The misappropriation of funds; and

273 (e) The inversion or diversion of medical cannabis or
274 medical cannabis products, or of any other matter reflecting
275 unfavorably upon the holder of a license under the act.
276 (2) On the basis of information developed during such an
277 investigation, the licensing agency may exercise any number of
278 compliance actions including:
279 (a) To revoke, suspend or refuse to renew any license
280 issued by the licensing agency;
281 (b) Deny an application for a license; or
282 (c) Reprimand, fine and/or take any other actions in
283 relation to a license, as the licensing agency may deem proper
284 under the circumstances.
285 * * *
286 (3) The licensing agency may deny the application of any
287 applicant who fails to meet the qualifications for obtaining such
288 license under this chapter or any rules and regulations under this
289 chapter.
290 (4) Whenever the results of such an investigation are filed,
291 the licensee may request an administrative hearing on the matter.
292 If a licensee or applicant wishes to appeal the licensing agency's
293 decision, the licensee or applicant shall file its administrative
294 appeal within twenty (20) days of receipt of the initial notice.
295 If such a hearing is requested, the licensing agency shall set a
296 day for a hearing and shall notify the licensee that on the day
297 fixed for hearing he or she may appear so that an administrative

298 hearing may take place. The licensing agency shall then conduct a
299 hearing on the record pursuant to the licensing agency's rules and
300 regulations governing such hearings, at which time the burden
301 shall be on the licensee or applicant to prove that the agency's
302 decision was:
303 (a) Unsupported by substantial evidence;
304 (b) Arbitrary or capricious;
305 (c) Beyond the power of the administrative agency to
306 make; or
307 (d) Violated some statutory or constitutional right of
308 the aggrieved party.
309 If the licensee or applicant fails to appeal the initial
310 notice within the prescribed time, the decision becomes final and
311 cannot be further appealed.
312 (5) In cases where violations of this chapter have been
313 substantiated, the licensing agency may assess a monetary penalty
314 or recoupment of costs for those reasonable costs that are
315 expended by the licensing agency in the investigation and conduct
316 of a proceeding for the compliance issue that is the subject
317 matter of the hearing, including, but not limited to, the costs of
318 process service, court reporters, expert witnesses and
319 investigations. The licensing agency shall determine the amount
320 of investigative fees and costs owed by a licensee based on an
321 itemized accounting after the investigation has been officially
322 completed and a final determination or action has been determined.

Upon final determination or action, the licensing agency shall give to the licensee an itemized accounting of the investigative fees and costs incurred. The licensing agency may recommend denial of, or refusal to take final action to approve the renewal of a licensee unless all investigative fees and costs have been paid in full by the licensee.

(* * *6) The licensing agency shall provide its initial notice of suspension, revocation, fine or other sanction by personal delivery or mailing by certified mail, signature required, to the medical cannabis establishment at the address on the registration certificate. A suspension shall not be for a longer period than six (6) months. The licensing agency shall provide its initial notice of denial by personal delivery, mailing by certified mail, signature required, or by electronic mail to the applicant at the physical or electronic address listed in its application.

(* * *7) A medical cannabis establishment may continue to possess and cultivate cannabis as otherwise authorized to do so under its license during a suspension, but it may not dispense, transfer or sell cannabis.

(* * *8) The MDOH shall immediately revoke the registry identification card of any cardholder who sells or otherwise transfers medical cannabis to a person or other entity, and the cardholder shall be disqualified from further participation in the medical cannabis program under this chapter.

(* * *9) Except as otherwise provided in subsection (* * *8) of this section, the MDOH may revoke the registry identification card of any cardholder who knowingly commits a violation of this chapter.

(* * *10) The hearing decision of the agency on a denial, revocation, suspension or fine is a final decision of the applicable agency subject to judicial review in accordance with Section 41-137-59.

(* * *11) No license issued by the MDOH or MDOR shall be transferred by the license holder to any other person or entity except with the written consent of the applicable licensing agency.

(* * *12) Any ongoing investigation by a licensing agency under this section shall be considered confidential and exempt from disclosure under the Mississippi Public Records Act of 1983, Sections 25-61-1 through 25-61-17.

SECTION 3. This act shall take effect and be in force from and after July 1, 2024.