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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: March 28, 2024

Subject: SB 555 – Medical Cannabis Pilot Program Act.

Senate Bill No. 555 (SB 555) would create the Medical Cannabis Pilot Program Act (Act) to establish the Medical Cannabis Pilot Program. The Program would provide for a medical cannabis cultivation, processing, and dispensary program that will be administered by the Secretary of the Department of Health and Environment. The Program has a sunset on July 1, 2029.

Contracts

The Program is based on a series of contracts between the Secretary and the participating entities. Those contracts would be structured as follows:

1. The Program allows up to 4 contracts with medical cannabis operators (MCO). The MCOs would be private businesses that would meet the criteria for participating in the program.
 - Each operator would be permitted to cultivate and process medical cannabis and medical cannabis products (which are products derived from the extraction of THC).
 - Each operator would pay a privilege fee of not less than \$50,000 each year to the Secretary.
 - Each contract would have to comply with the statutory provisions of the Program.
 - A director, manager, or officer of each MCO would have to have held a hemp producer license under the Commercial Industrial Hemp Act for the previous 2 years and also have held their position as director, manager, or officer of the MCO business entity for that same period of time.
 - Each contract would be valid for 5 years.
 - The Secretary would be able to terminate a contract for breach of contract if the MCO does not timely cure the breach.
 - Cultivation of medical cannabis could begin prior to the execution of a contract if the MCO has received a letter of intent from the Secretary stating the Secretary intends to enter into a contract with the MCO.

2. The Program allows the Secretary to contract with pharmacies for the dispensing of medical cannabis and medical cannabis products. There is no limit on the number or location of such pharmacies.

- Each pharmacy would be permitted to dispense medical cannabis and medical cannabis products through a distribution hub.
- Each pharmacy would pay a privilege fee of not less than \$500 each year to the Secretary.
- Each contract would have to comply with the statutory provisions of the Program.
- Each contract would be valid for 5 years.
- Pharmacies would not be subject to any signage or advertising restrictions other than that the advertisements cannot contain false or misleading information.
- On Sept 1, 2024, if pharmacies are precluded from dispensing medical cannabis by federal regulations, then the Secretary may contract with MCOs to operate distribution hubs. Each MCO could not operate more than 7 distribution hubs.

3. The Program allows the Secretary to contract with a private laboratory to conduct the quality assurance testing for all medical cannabis and medical cannabis products that are cultivated or processed under the Program. There are standard provisions regarding development of testing standards and testing requirements concerning medical cannabis.

Facilities

Each MCO could operate one or more facilities for the cultivation of medical cannabis. Each cultivation facility would have to comply with the following:

- Limit of up to 25,000 square feet of area for cultivating mature, flowering plants. The cultivation area must be in single horizontal tiers (no vertical stacking would be permitted). The are limitations only apply to mature, flowering plants; not to seedlings, mother plants, etc.
- Facility must be completely enclosed and windowless.
- Facility can only be located on real property that is zoned industrial and must be at least 500 feet from any school, public library, or public park.
- Facility must pass an industrial safety and hygiene audit prior to beginning operation.

Each MCO could operate one or more processing facilities for the processing of medical cannabis into medical cannabis products. Each processing facility would have to comply with the following:

- Facility must be completely enclosed and secure.
- Only certain extraction methods would be permitted.
- Only those medical cannabis products that are permitted to be dispensed can be produced.
- Facility must pass an industrial safety and hygiene audit prior to beginning operation.
- MCO may contract with a licensed hemp processor for the processing of medical cannabis.

Each pharmacy may operate one or more distribution hubs. The following are conditions for dispensing medical cannabis:

- Each distribution hub may obtain medical cannabis and medical cannabis products from any MCO, including the MCO that operates the distribution hub.
- Each distribution hub may sell or sell and deliver medical cannabis and medical cannabis products to a patient or caregiver that holds a valid certificate issued by the patient's doctor.
- The patient or caregiver must show the certificate and a valid photo ID at the time of purchase.
- The distribution hub must verify the certificate matches the one sent to the distribution hub by the patient's doctor.
- The distribution hub may only dispense authorized forms of medical cannabis and only in the allowable amounts. The distribution hub must also comply with the packaging and labeling requirements, including any required warning statements.
- All transactions must be cashless, and no credit cards are permitted. Each patient must have a pre-funded account with the distribution hub and purchases will be debited from that account.
- A distribution hub must be at least 1,000 feet from any school, public library, or public park.

Distribution hubs may delivery to patients and caregivers under the following conditions:

- Each delivery driver must pass a criminal history record check and have no felony convictions.
- Each vehicle must have GPS tracking and the required camera system to record activities.
- Each distribution hub may contract with a third-party delivery service.

Each facility would be required to comply with security requirements. This includes proper lighting, video monitoring, secured entrances and windows, alarm systems, and training of staff.

Medical Cannabis and Medical Cannabis Products

Only the following forms would be permitted to be dispensed: Pills or tablets; tinctures; patches; ointments; and cannabis flower. Smoking and vaporization are prohibited. Medical cannabis could not have a THC content of more than 35%.

Advertising

No advertisements or signage of any kind are permitted on the premises of any cultivation or processing facility. Pharmacies operating distribution hubs may have exterior signage and broadcast advertisements. The standard advertising provisions prohibiting false or misleading information would apply to distribution hub advertising.

Patients and Caregivers

Each patient and caregiver must possess a valid medical cannabis certificate issued by the patient's doctor. Patients and caregivers must be at least 21. The doctor must review the patient's medical records and determine the patient suffers from one of the qualifying medical conditions.

The caregiver must be designated on the certificate. The patient's primary distribution hub must also be designated on the certificate. The patient and their caregiver must use the designated distribution hub unless the patient's certificate is transmitted to an alternate distribution hub, the patient does not purchase in the aggregate more than what is allowed when looking at all purchases, and the alternate distribution hub notifies the designated distribution hub of the amount purchased.

For each 30-day period, each patient and caregiver would be limited to not more than 200 grams of medical cannabis or the aggregate of 3.47 grams of THC in all medical cannabis products purchased.

The Secretary is directed to appoint five doctors who would be available to patients to issue certificates if the patient's primary care physician is unwilling to issue a certificate. The same standards for issuing a certificate would apply.

Doctors who issue a certificate would be immune from any liability arising out of the issuance of a certificate.

Reporting

Each year, each MCO and pharmacy must submit a report to the Secretary on the amounts of medical cannabis and products handled by the contractor, a description of the impact the requirements of the Program had on business operations, and recommendations for improving the Program.

Each year, the Secretary must submit a report to the Governor and the Legislature that includes the information reported by the contractors, and information and recommendations on the Program from the Secretary.

Taxation

Sales of medical cannabis and medical cannabis products to patients and caregivers would be subject to an 8% excise tax. 20% of the excise tax revenues would be spent by the Secretary for medical cannabis research and education. The remainder would go into the State General Fund.

Criminal Code Provisions

The bill amends the Kansas Criminal Code to exempt MCOs, pharmacies, patients, caregivers, and doctors from criminal liability when acting in accordance with the Program.

Other Provisions

Each distribution hub would collaborate with the Secretary to conduct voluntary patient surveys for purposes of studying medical cannabis use.

Each MCO must track cultivated medical cannabis from seed to sale through a uniform tracking system. Each pharmacy must also participate in the tracking system.

Criminal history record checks are required for all owners, directors, officers, managers, and employees for each MCO and pharmacy.

The bill includes exemptions from criminal liability for financial institutions.

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Law enforcement agencies may verify the validity of a medical cannabis certificate from the patient's doctor or a distribution hub.

The bill exempts academic research centers from the requirements of the Program.

An employer would not be prohibited from implementing or enforcing a work-place drug policy.

The bill creates the new crime of unlawful storage of medical cannabis with access by a minor.

The bill provides that patients and caregivers are not to be prosecuted for federal firearm violations if the illegal substance is medical cannabis.

The bill also prohibits discrimination for organ transplants, child custody or support orders, and workers' compensation benefits for patients that use medical cannabis.

Medical providers that work with patients to obtain a certificate to use medical cannabis are exempt from administrative discipline for such conduct.

Effective Date

If enacted, SB 555 would become effective on July 1, 2024.