



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2858/2
JC/CH/MP/ES/MD:wlj/amn/cjs

2023 ASSEMBLY BILL 1040

February 1, 2024 - Introduced by Representatives SNYDER, PLUMER, MACCO, MOSES, ROZAR, SCHRAA, SORTWELL, VOS, BORN, HURD, KITCHENS, KURTZ, MELOTIK, O'CONNOR, RODRIGUEZ, SAPIK, SCHMIDT, SPIROS and SUMMERFIELD. Referred to Committee on Health, Aging and Long-Term Care.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber* 450.07 (1m) and 943.895 (4); *to renumber and amend*
2 450.071 (1), 961.385 (1) (af) and 961.385 (1) (aj); *to amend* 15.01 (6), 59.54 (25)
3 (a) (intro.), 66.0107 (1) (bm), 66.0125 (3) (a), 66.0125 (3) (c) 1. b., 66.1011 (1),
4 66.1201 (2m), 66.1213 (3), 66.1301 (2m), 66.1331 (2m), 66.1333 (3) (e) 2., 106.50
5 (1), 106.50 (1m) (h), 106.50 (1m) (nm), 106.50 (5m) (f) 1., 108.04 (5) (a) (intro.),
6 111.34 (1) (b), 175.60 (2) (b), 224.77 (1) (o), 234.29, 452.14 (3) (n), 961.38 (title),
7 961.385 (1) (ae), 961.385 (2) (intro.), 961.385 (2) (b), 961.385 (2) (cm) 3. a.,
8 961.385 (2) (f), 961.385 (3) (b), 961.385 (5) (a) 2. and 961.385 (6) (b); *to repeal*
9 **and recreate** 66.0418 (title); and *to create* 15.194 (2), 48.024, 66.0125 (1) (c),
10 66.0408 (4), 66.0418 (3), 77.54 (71), 94.57, 111.32 (9m), 111.32 (12c), 111.34 (3),
11 224.30 (6), chapter 259, 450.01 (16) (L), 450.03 (1) (eg) and (er), 450.07 (1m) (b),
12 450.071 (1) (b) 2., 450.10 (2m), 767.445, 943.895 (4) (b), 961.01 (3u), 961.01
13 (12q), 961.01 (14g), 961.01 (20hm), 961.01 (20t), 961.33, 961.38 (1p), 961.385 (1)
14 (af) 2., 961.385 (1) (aj) 2., 961.385 (2) (am), 961.385 (2) (bc), 961.385 (2) (ct),

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1 961.55 (8) (c) and 961.571 (1) (b) 4. of the statutes; **relating to:** medical
2 cannabis, granting rule-making authority, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a program that allows a registered patient to possess and use medical cannabis products; allows designated caregivers to possess medical cannabis products on behalf of registered patients; licenses and regulates medical cannabis growers, processors, and testing laboratories; and directs the state to establish state-owned dispensaries to sell medical cannabis products. No person may possess, sell, transfer, or transport cannabis or medical cannabis products unless the person is licensed or registered as provided in the bill. Under the bill, “medical cannabis products” includes products in the form of concentrates, oils, tinctures, edibles, pills, topical forms, gels, creams, vapors, patches, liquids, and forms administered by a nebulizer but excludes cannabis in a form that can be smoked. Major provisions of the bill are summarized as follows.

Office of Medical Cannabis Regulation

The bill creates the Office of Medical Cannabis Regulation to establish and manage the patient and caregiver registry (described below) and to oversee the dispensing of medical cannabis products. The office is attached to the Department of Health Services. The head of the office is a director who is appointed by the governor and confirmed by the senate to serve at the pleasure of the governor. If the position of director of the office remains vacant for a period of at least 90 days and the governor has not filled the vacancy, the bill directs the Joint Committee on Legislative Organization to appoint the director of the office.

DATCP duties

The bill requires the Department of Agriculture, Trade and Consumer Protection to oversee and regulate the growing of cannabis and the processing and testing of medical cannabis products. The bill requires DATCP to promulgate rules establishing safety and security requirements for the premises of growers, processors, and laboratories that handle cannabis or medical cannabis products.

Cannabis grower licenses

The bill requires any person operating as a cannabis grower to obtain a license from DATCP. To obtain a cannabis grower license, the applicant or at least 80 percent of the principal officers or board members of the applicant must be residents of this state. Further, neither the applicant nor any principal officer or board member of the applicant may have been convicted of any crime, unless at least 10 years have passed since the completion of any sentence imposed for the crime, including any period of incarceration, parole, or extended supervision, and any period of probation imposed for the crime.

Under the bill, a licensed cannabis grower may plant, grow, cultivate, and harvest cannabis; transport cannabis to or from any licensed grower, processor, or laboratory; transfer or sell cannabis to a processor that is contracted with and

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licensed by DATCP; and engage in any related activities that are necessary for the operation, such as possessing and storing cannabis. The applicant must also submit to an inspection by DATCP of the applicant's premises, and the premises must meet all of the requirements established by DATCP by rule. A licensed cannabis grower may not plant, grow, cultivate, or harvest cannabis for personal, family, or household use. A licensed cannabis grower may operate only within an enclosed, locked facility.

The bill requires DATCP to determine and recalculate, every year, the license fee for cannabis growers. DATCP must propose any fee adjustments to the Joint Committee on Finance, which may object to any fee changes. The initial fee for cannabis grower licenses until DATCP redetermines the license fee for cannabis growers as provided in the bill is \$10,000.

Medical cannabis processor licenses

The bill requires any person who processes cannabis into medical cannabis products to obtain a license from DATCP and to be under either a valid contract with DATCP or a valid subcontract with the party that is contracted with DATCP. The bill requires DATCP to obtain and review proposals from entities in this state to process medical cannabis products using DATCP's request-for-proposal procedures. The bill requires DATCP to license and contract with only one processor until there are at least 50,000 patients included in the patient and caregiver registry, after which DATCP may license and contract with as many processors as necessary to process an adequate supply of medical cannabis products to meet the demand of patients in this state. The bill allows the processor that is contracted with DATCP to contract with subcontractors to provide its services, but requires each subcontractor to obtain a separate license from DATCP.

To obtain a medical cannabis processor license, the applicant or at least 80 percent of the principal officers or board members of the applicant must be residents of this state. Further, neither the applicant nor any principal officer or board member of the applicant may have been convicted of any crime, unless at least 10 years have passed since the completion of any sentence imposed for the crime, including any period of incarceration, parole, or extended supervision, and any period of probation imposed for the crime. The applicant must also submit to an inspection by DATCP of the applicant's premises, and the premises must meet all of the requirements established by DATCP by rule.

A licensed processor may obtain cannabis from a licensed grower; process cannabis into medical cannabis products; package and label medical cannabis products; transport cannabis or medical cannabis products to or from any licensee; and transfer, transport, or sell medical cannabis products to dispensaries operated by the Office of Medical Cannabis Regulation. A licensed processor may operate only within an enclosed, locked facility. The bill also prohibits processors from advertising their services.

Before transferring or transporting medical cannabis products to a dispensary, a licensed processor must provide samples of each lot of medical cannabis product that it processes to a laboratory licensed by DATCP and receive certified test results of those samples showing the tetrahydrocannabinol (THC) content of the medical cannabis products and showing that the medical cannabis products do not contain

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unsafe levels of any molds, pesticides, heavy metals, or any other contaminant for which DATCP requires the medical cannabis products to be tested. Further, before selling or transferring medical cannabis products to a dispensary, a licensed processor must package the medical cannabis products in child-resistant packaging and attach a label to the medical cannabis products that identifies the THC content of the medical cannabis products and that includes any other information that DATCP requires. Under the bill, no labeling or packaging of medical cannabis may include any claim that the consumption or use of medical cannabis may cure, mitigate, treat, or prevent any disease or medical condition.

The bill requires DATCP to determine and recalculate, every year, the license fee and annual renewal fee for medical cannabis processors. DATCP must propose any fee adjustments to JCF, which may object to any fee changes. The initial fee, and renewal fee, for medical cannabis processor licenses until DATCP redetermines these fees is \$50,000.

Medical cannabis testing laboratory licenses

The bill requires any person who conducts testing on medical cannabis products to obtain a license from DATCP and to be under a valid contract with DATCP. To obtain a medical cannabis testing laboratory license, the applicant or at least 80 percent of the principal officers or board members of the applicant must be residents of this state. Further, neither the applicant nor any principal officer or board member of the applicant may have been convicted of any crime, unless at least 10 years have passed since the completion of any sentence imposed for the crime, including any period of incarceration, parole, or extended supervision, and any period of probation imposed for the crime. The applicant must also submit to an inspection by DATCP of the applicant's premises, and the premises must meet all of the requirements established by DATCP by rule.

A licensed medical cannabis testing laboratory may obtain medical cannabis products from a licensed processor and test medical cannabis products. When testing medical cannabis products, a laboratory must test the products for THC content and the presence of molds, pesticides, heavy metals, and other contaminants identified by DATCP by rule. A licensed medical cannabis testing laboratory may operate only within an enclosed, locked facility. The bill also prohibits laboratories from advertising their services.

The bill requires DATCP to determine and recalculate, every year, the license fee and annual renewal fee for medical cannabis testing laboratories. DATCP must propose any fee adjustments to JCF, which may object to any fee changes. The initial fee, and renewal fee, for medical cannabis testing laboratory licenses until DATCP redetermines these fees is \$5,000.

Confidentiality requirements for grower, processor, and laboratory licensees and applicants

The bill requires DATCP to keep certain information confidential, including information relating to the locations of proposed or existing cannabis growers, medical cannabis processors, and medical cannabis testing laboratories; personal information about grower, processor, and laboratory licensees or applicants, other than a licensee's or applicant's name; information obtained as a result of any criminal

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history search; and any other information that could create a security risk if disclosed.

DATCP enforcement and penalties

The bill authorizes DATCP to conduct investigations, hold hearings, and make findings as to whether a person has violated any provisions of this bill relating to the regulation of cannabis growing, processing, and testing. Under the bill, if DATCP determines that a licensed cannabis grower, medical cannabis processor, or medical cannabis testing laboratory has negligently violated any applicable requirements, DATCP may establish a plan to correct the violation. That plan must include a reasonable date by which the licensee must correct the negligent violation and a requirement that the licensee periodically report to DATCP on the licensee's compliance with the plan for at least the following two years.

The bill allows DATCP to suspend or revoke the license of any licensee that violates any applicable requirement under the bill. Under the bill, a person who violates any applicable requirement may be required to forfeit between \$200 and \$5,000 or, for an offense committed within five years of an offense for which a penalty has already been assessed, between \$400 and \$10,000. In addition, under the bill, any person who violates any applicable requirements by fraud must be fined between \$2,000 and \$10,000.

Patient and caregiver registry

The bill requires the Office of Medical Cannabis Regulation to create and maintain a registry that includes all patients and caregivers authorized to purchase and possess medical cannabis products. To be included on the registry as a patient, an individual must be a permanent resident of this state; must not be on parole, probation, or extended supervision; and must have written confirmation from a prescriber that the prescriber established a bona fide relationship with the patient, met with the patient in person, and determined to a reasonable degree of medical certainty that the patient has a medical condition that qualifies the patient for inclusion on the patient and caregiver registry. Conditions that qualify an individual for inclusion on the patient and caregiver registry include cancer, seizures or epilepsy, glaucoma, severe chronic pain, severe muscle spasms, severe chronic nausea, Parkinson's disease, multiple sclerosis, inflammatory bowel disease, and any terminal illness with a probable life expectancy of less than one year. Written confirmation from a prescriber that a patient has a medical condition that qualifies the patient for inclusion on the patient and caregiver registry is valid for two years from the day that the prescriber confirms that the patient has the medical condition, at which point the patient must obtain a renewed confirmation that the patient continues to have a medical condition that qualifies the patient for further inclusion on the registry.

A patient must be 18 years of age or older. If an individual is under the age of 18, then the individual must provide written consent from all of the individual's parents or, if legal custody of the individual has been awarded by a court, all person's awarded legal custody of the individual to be included on the registry. The fee for inclusion on the patient and caregiver registry as a patient is \$100 per year. If the patient qualifies for a hardship exception, as determined by the office, the fee for

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inclusion on the patient and caregiver registry as a patient is instead \$50 per year. The office must issue a registry identification card to every patient and caregiver who is included on the registry.

A patient included on the patient and caregiver registry may designate up to three caregivers who may purchase and possess medical cannabis products on the patient's behalf. When designating caregivers for a patient, the patient must submit a complete list of caregivers with the names and addresses of each caregiver and an affirmation that each caregiver has consented to act as the patient's caregiver. No person may act as a caregiver unless the person is 21 years of age or older, is a resident of the state, and has not been convicted of any crime, unless at least 10 years have passed since the completion of any sentence imposed for the crime, including any period of incarceration, parole, or extended supervision, and any period of probation imposed for the crime. If the patient is under the age of 18, the office must designate the patient's parents or guardians as the patient's caregivers, and the patient's parents or guardians may designate one additional caregiver. No person may act as a caregiver for more than five patients, unless the individual is an employee of a residential care facility. The bill directs the office to establish reasonable limits on the number of patients for which an employee of a residential care facility may be designated as a caregiver. The bill requires the office to conduct a background check of every caregiver before adding the caregiver to the registry. The bill provides that any individual who is a caregiver may revoke his or her consent to act as a patient's caregiver at any time and remove himself or herself from the registry by submitting a written statement to the office to that effect.

A patient who holds a valid registry identification card may use medical cannabis products and possess medical cannabis products at the patient's residence, between the dispensary from which the products were purchased and the patient's residence, and between the patient's residences if the patient has more than one residence. A caregiver who holds a valid registry identification card may possess medical cannabis products at the patient's residence, between the dispensary from which the products were purchased and the caregiver's or the caregiver's patient's residence, and between the caregiver's and the caregiver's patient's residence. Under the bill, a patient's residence includes any temporary accommodation if the patient intends to or does stay at the temporary accommodation overnight.

Under the bill, the office must remove a patient from the patient and caregiver registry under certain conditions, including that the patient has not paid the annual fee; the patient fails to submit written confirmation that the patient continues to have a condition that qualifies the patient for inclusion on the registry prior to the expiration of the previous written confirmation; the patient has been convicted of a violation of certain controlled substances laws; the patient has been convicted of any felony; the patient has violated any provision of the medical cannabis laws or regulations by fraud; the patient is no longer a resident of the state; or the patient voluntarily requests to be removed from the patient and caregiver registry. Further, the office must remove a caregiver from the patient and caregiver registry if the caregiver has been convicted of any crime, the caregiver has violated any provision of the medical cannabis laws or regulations by fraud, or the caregiver is no longer a

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resident of the state. If a patient is removed from the patient and caregiver registry, the office must remove any caregivers designated for that patient from the patient and caregiver registry unless the caregiver is a caregiver for another patient who is on the patient and caregiver registry.

Medical cannabis dispensaries

Under the bill, no person other than a dispensary operated by the Office of Medical Cannabis Regulation may sell or transfer medical cannabis products to patients and caregivers. The bill directs the office to establish a total of five dispensaries in the state, with one dispensary in each of the five regions that DHS has established for data analysis and communication purposes. Each dispensary may obtain packaged and labeled medical cannabis products from licensed processors and dispense medical cannabis products to patients and caregivers who present photo identification and a valid registry identification card. The bill directs the office to set the price of medical cannabis products offered for sale at dispensaries. The office may set the price of medical cannabis products only at a level sufficient to recoup product and operational costs.

Before a dispensary may dispense medical cannabis products to a patient or a patient's caregiver, the dispensary must direct a pharmacist who is employed by the dispensary to consult with the patient or the patient's caregiver and review the patient's records under the Prescription Drug Monitoring Program. After a consultation, if the patient has never been dispensed medical cannabis products in this state, the pharmacist must recommend a daily dosage for the patient and record the recommended daily dosage in the patient and caregiver registry. A patient who has never been dispensed medical cannabis products in this state may be dispensed not more than a 30-day supply of medical cannabis products. After receiving an initial 30-day supply, a dispensary may dispense not more than a 90-day supply of medical cannabis products. If the patient has previously been recommended a daily dosage, the consulting pharmacist may update the patient's recommended daily dosage. If a pharmacist recommends a new daily dosage for a patient, the pharmacist must record the updated recommendation in the patient and caregiver registry. No dispensary may dispense any medical cannabis products to a patient or caregiver for a patient who, based on the amount of medical cannabis products previously dispensed and the patient's recommended daily dosage, has or should have a supply of medical cannabis products for more than seven days.

The bill prohibits dispensaries or dispensary employees from claiming that medical cannabis may cure, mitigate, treat, or prevent any disease or medical condition. The bill also prohibits dispensaries from advertising their services.

Prescription drug monitoring program

Current law requires the Controlled Substances Board to establish a Prescription Drug Monitoring Program (PDMP) that requires pharmacies and health care practitioners to generate records documenting the dispensing of monitored prescription drugs. Records from the PDMP may be disclosed to persons specified under current law or by the board by rule. Current law also requires that a patient's records under the PDMP be reviewed before the practitioner issues a prescription order for the patient

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The bill requires records to be generated for the PDMP documenting the dispensing of medical cannabis products and requires the review of a patient's PDMP records by a dispensary pharmacist before a medical cannabis product is dispensed to a qualifying patient. The bill also adds medical cannabis to various other PDMP provisions.

Criminal provisions

The bill decriminalizes the possession, manufacture, distribution, and delivery of medical cannabis products, if that possession, manufacture, distribution, or delivery is done in compliance with the medical cannabis program established under the bill.

Under current law, it is illegal to possess, manufacture, distribute, or deliver marijuana. The bill authorizes the possession, distribution, or delivery of medical cannabis products by a registered patient or his or her caregiver if 1) the possession, distribution, or delivery of medical cannabis products is done to facilitate a registered patient's medical use of the product; 2) the medical cannabis products are obtained from a person who is authorized to distribute or deliver medical cannabis products under the medical cannabis program; 3) the medical cannabis product is in a form authorized under the medical cannabis program and does not exceed the amount specified for the registered patient; 4) the person is carrying a registry identification card; and 5) the possession of the medical cannabis product is at the residence of a registered patient or while being transported to the residence of a registered patient. The bill authorizes a licensee or employee of a licensee to possess, manufacture, distribute, or deliver cannabis or medical cannabis products if it is done in the usual course of business or employment.

Current law also prohibits the possession, manufacture, delivery, or advertising of drug paraphernalia. The bill also excludes from the definition of drug paraphernalia any object used, designed for use, or primarily intended for use by a registered patient in compliance with the medical cannabis program established under the bill.

The bill establishes a civil penalty of \$25 if a registered patient or his or her caregiver violates either the requirement to carry the registry identification card or possess the medical cannabis products only at or in transport to the qualifying patient's residence.

The bill also clarifies that a financial institution, and a person acting on behalf of or providing services to a financial institution, does not violate the state's money laundering statute solely by receiving deposits, extending credit, conducting funds transfers, transporting cash or other financial instruments, or providing other financial services to a licensed cannabis grower, processor, or laboratory or a medical cannabis dispensary operated by the Office of Medical Cannabis Regulation.

Child placement and custody

Under the bill a court may not consider the lawful use or possession of cannabis or medical cannabis products in determining custody or placement of a child under the Children's Code or under an action affecting the family, except in cases in which a child has access to the cannabis. The bill specifies that a court may consider the

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unlawful use or possession of cannabis in determining custody and placement of a child.

Fair employment law

Under the current fair employment law, an employer may not refuse to hire or employ, bar or terminate from employment, or discriminate against any individual in promotion or compensation or in terms, conditions, or privileges of employment because the individual has a disability. Such discrimination against an individual with a disability includes refusing to reasonably accommodate an employee's or prospective employee's disability unless the employer can demonstrate that the accommodation would pose a hardship on the employer's program, enterprise, or business. Also under the fair employment law, an employer may not refuse to hire or employ, bar or terminate from employment, or discriminate against any individual in promotion or compensation or in terms, conditions, or privileges of employment because of the individual's use or nonuse of lawful products off the employer's premises during nonworking hours.

The Department of Workforce Development enforces the fair employment law, may receive and investigate complaints charging discrimination or discriminatory practices, and may, if an employer is found to have engaged in discrimination, order such action by the respondent as will effectuate the purpose of the fair employment law, including awarding back pay. Decisions of DWD hearing examiners made under the fair employment law are subject to further review by the Labor and Industry Review Commission and a court.

The bill provides that the fair employment law does not apply to, and therefore does not protect against discrimination or discriminatory practices, any act of an employer based on an individual's use of medical cannabis products, the individual's other use of cannabis, or the individual testing positive for the presence of tetrahydrocannabinols. The bill further explicitly provides that the fair employment law does not require an employer to permit, accommodate, or allow the medical use of a medical cannabis product, or to modify any job or working conditions of any employee who engages in the medical use of medical cannabis products or who for any reason seeks to engage in the medical use of medical cannabis products. The bill also further provides that the fair employment law does not prohibit an employer from refusing to hire, terminating, discharging, disciplining, or otherwise discriminating against an individual with respect to hiring, discharging, tenure, promotion, or compensation, or in terms, conditions, or privileges of employment as a result, in whole or in part, of the individual's medical use of medical cannabis products, the individual's other use of cannabis, or the individual testing positive for the presence of tetrahydrocannabinols, regardless of any impairment or lack of impairment resulting therefrom.

Unemployment insurance; worker's compensation

Currently, an individual whose work is terminated by an employer for misconduct by the employee connected with the employee's work is ineligible to receive unemployment insurance (UI) benefits until the individual satisfies certain conditions. In addition, the wages paid to the individual by that employer are excluded from the employee's base period wages for purposes of calculating the

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individual's entitlement to UI benefits. "Misconduct," for purposes of these provisions, is defined specifically as including a violation by an employee of an employer's reasonable written policy concerning the use of a controlled substance if the employee 1) had knowledge of the policy and 2) admitted to the use of a controlled substance, refused to take a test, or tested positive for the use of a controlled substance in a test used by the employer in accordance with a testing methodology approved by DWD.

Also under current law, an employer is not liable for temporary disability benefits under the worker's compensation law during an employee's healing period if the employee is suspended or terminated for misconduct as defined above.

The bill retains these provisions regarding misconduct and further provides that such a reasonable written policy may include a drug-free workplace policy and may include a policy that includes testing for the presence of tetrahydrocannabinols.

Open housing law

Under the current open housing law and other laws, it is unlawful for any person to engage in certain forms of discrimination in housing based upon certain characteristics of an individual such as sex, race, color, sexual orientation, disability, religion, national origin, marital status, and family status. The open housing law protects against evictions and other actions that are made on the aforementioned bases. The open housing law is administered by DWD and allows for enforcement through civil actions brought by or on behalf of aggrieved persons and, in cases of alleged patterns or practices of discrimination, by the attorney general.

The bill adds use of medical cannabis products to the list of characteristics on which it is unlawful to discriminate in housing.

Limitation of local regulation

The bill prohibits political subdivisions from 1) regulating a medical cannabis grower, processor, testing laboratory, or dispensary; 2) regulating the lawful recommendation or delivery of medical cannabis products; 3) regulating the lawful use or possession of medical cannabis products; and 4) restricting in a zoning ordinance the location or operation of medical cannabis growing, processing, testing, or dispensing.

Sales tax exemption

The bill creates a sales tax exemption for the sale of a medical cannabis product sold by a dispensary to a person who holds a valid registry identification card.

Because this bill may increase or decrease, directly or indirectly, the cost of the development, construction, financing, purchasing, sale, ownership, or availability of housing in this state, the Department of Administration, as required by law, will prepare a report to be printed as an appendix to this bill.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report.

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For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.01 (6) of the statutes, as affected by 2023 Wisconsin Act 20, is
2 amended to read:

3 15.01 (6) “Division,” “bureau,” “section,” and “unit” means the subunits of a
4 department or an independent agency, whether specifically created by law or created
5 by the head of the department or the independent agency for the more economic and
6 efficient administration and operation of the programs assigned to the department
7 or independent agency. The office of credit unions in the department of financial
8 institutions, the office of the inspector general in the department of children and
9 families, the office of the inspector general in the department of health services, the
10 office of medical cannabis regulation in the department of health services, and the
11 office of children’s mental health in the department of health services have the
12 meaning of “division” under this subsection. The office of the long-term care
13 ombudsman under the board on aging and long-term care and the office of
14 educational accountability and the office of literacy in the department of public
15 instruction have the meaning of “bureau” under this subsection.

16 **SECTION 2.** 15.194 (2) of the statutes is created to read:

17 15.194 (2) **OFFICE OF MEDICAL CANNABIS REGULATION.** There is created an office
18 of medical cannabis regulation in the department of health services. The director of
19 the office shall be appointed by the governor, and with the advice and consent of the
20 senate appointed, to serve at the pleasure of the governor. If the position of director
21 of the office remains vacant for a period of at least 90 days and the governor has not

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1 filled the vacancy, then the director of the office shall be appointed by a majority of
2 the members of the joint committee on legislative organization.

3 **SECTION 3.** 48.024 of the statutes is created to read:

4 **48.024 Medical cannabis. (1)** In this section:

5 (a) “Cannabis” has the meaning given for “marijuana” in s. 961.01 (14).

6 (b) “Medical cannabis product” has the meaning given in s. 94.57 (1) (f).

7 **(2)** A court may not consider the lawful use or possession of medical cannabis
8 products under ch. 94 or 259 in determining custody or placement of a child under
9 this chapter, except in cases in which a child has access to the medical cannabis
10 products. A court may consider the unlawful use or possession of cannabis in
11 determining custody or placement of a child under this chapter.

12 **SECTION 4.** 59.54 (25) (a) (intro.) of the statutes is amended to read:

13 59.54 **(25)** (a) (intro.) The board may enact and enforce an ordinance to prohibit
14 the any possession of marijuana, as defined in s. 961.01 (14), ~~subject to the exceptions~~
15 ~~in s. 961.41 (3g) (intro.), that is unlawful under state law~~ and provide a forfeiture for
16 a violation of the ordinance; except that if a complaint is issued regarding an
17 allegation of unlawful possession of more than 25 grams of marijuana, or unlawful
18 possession of any amount of marijuana following a conviction in this state for
19 possession of marijuana, the subject of the complaint may not be prosecuted under
20 this subsection for the same action that is the subject of the complaint unless all of
21 the following occur:

22 **SECTION 5.** 66.0107 (1) (bm) of the statutes is amended to read:

23 66.0107 **(1)** (bm) Enact and enforce an ordinance to prohibit the any possession
24 of marijuana, as defined in s. 961.01 (14), ~~subject to the exceptions in s. 961.41 (3g)~~
25 ~~(intro.), that is unlawful under state law~~ and provide a forfeiture for a violation of

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1 the ordinance; except that if a complaint is issued regarding an allegation of unlawful
2 possession of more than 25 grams of marijuana, or unlawful possession of any
3 amount of marijuana following a conviction in this state for possession of marijuana,
4 the subject of the complaint may not be prosecuted under this paragraph for the same
5 action that is the subject of the complaint unless the charges are dismissed or the
6 district attorney declines to prosecute the case.

7 **SECTION 6.** 66.0125 (1) (c) of the statutes is created to read:

8 66.0125 (1) (c) “Medical cannabis product” has the meaning given in s. 94.57
9 (1) (f).

10 **SECTION 7.** 66.0125 (3) (a) of the statutes is amended to read:

11 66.0125 (3) (a) The purpose of the commission is to study, analyze, and
12 recommend solutions for the major social, economic, and cultural problems that
13 affect people residing or working within the local governmental unit, including
14 problems of the family, youth, education, the aging, juvenile delinquency, health and
15 zoning standards, discrimination in employment and public accommodations and
16 facilities on the basis of sex, class, race, religion, sexual orientation, or ethnic or
17 minority status and discrimination in housing on the basis of sex, class, race, use of
18 medical cannabis products, religion, sexual orientation, ethnic or minority status, or
19 status as a victim of domestic abuse, sexual assault, or stalking.

20 **SECTION 8.** 66.0125 (3) (c) 1. b. of the statutes is amended to read:

21 66.0125 (3) (c) 1. b. To ensure to all residents of a local governmental unit,
22 regardless of sex, race, sexual orientation, or color, the right to enjoy equal
23 employment opportunities and to ensure to those residents, regardless of sex, race,
24 use of medical cannabis products, sexual orientation, color, or status as a victim of

ASSEMBLY BILL 1040**SECTION 8**

1 domestic abuse, sexual assault, or stalking, the right to possess equal housing
2 opportunities.

3 **SECTION 9.** 66.0408 (4) of the statutes is created to read:

4 66.0408 (4) CANNABIS-RELATED BUSINESS. (a) No political subdivision may
5 regulate a medical cannabis grower, processor, or laboratory licensed under s. 94.57
6 or a medical cannabis dispensary operating pursuant to s. 259.10.

7 (b) No political subdivision may regulate the lawful recommendation or
8 delivery of medical cannabis products, as defined in s. 94.57 (1) (f).

9 (c) A political subdivision may not restrict, in a zoning ordinance under s. 59.69,
10 60.61, or 62.23, the location or operation of medical cannabis growing, processing,
11 testing, or dispensing.

12 **SECTION 10.** 66.0418 (title) of the statutes is repealed and recreated to read:

13 **66.0418 (title) Local food and drug regulation.**

14 **SECTION 11.** 66.0418 (3) of the statutes is created to read:

15 66.0418 (3) No political subdivision may regulate the lawful use or possession
16 of cannabis or medical cannabis products under s. 94.57 or ch. 259.

17 **SECTION 12.** 66.1011 (1) of the statutes is amended to read:

18 66.1011 (1) DECLARATION OF POLICY. The right of all persons to have equal
19 opportunities for housing regardless of their sex, race, color, disability, as defined in
20 s. 106.50 (1m) (g), sexual orientation, as defined in s. 111.32 (13m), religion, national
21 origin, use of medical cannabis products, as defined in s. 94.57 (1) (f), marital status,
22 family status, as defined in s. 106.50 (1m) (k), status as a victim of domestic abuse,
23 sexual assault, or stalking, as defined in s. 106.50 (1m) (u), lawful source of income,
24 age, or ancestry is a matter both of statewide concern under ss. 101.132 and 106.50
25 and also of local interest under this section and s. 66.0125. The enactment of ss.

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1 101.132 and 106.50 by the legislature does not preempt the subject matter of equal
2 opportunities in housing from consideration by political subdivisions, and does not
3 exempt political subdivisions from their duty, nor deprive them of their right, to enact
4 ordinances that prohibit discrimination in any type of housing solely on the basis of
5 an individual being a member of a protected class.

6 **SECTION 13.** 66.1201 (2m) of the statutes is amended to read:

7 66.1201 **(2m)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
8 facility, or privilege under ss. 66.1201 to 66.1211 may not be denied the right, benefit,
9 facility, or privilege in any manner for any purpose nor be discriminated against
10 because of sex, race, color, creed, sexual orientation, status as a victim of domestic
11 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), ~~or~~ national origin,
12 or use of medical cannabis products, as defined in s. 94.57 (1) (f).

13 **SECTION 14.** 66.1213 (3) of the statutes is amended to read:

14 66.1213 **(3)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
15 facility, or privilege under this section may not be denied the right, benefit, facility,
16 or privilege in any manner for any purpose nor be discriminated against because of
17 sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual
18 assault, or stalking, as defined in s. 106.50 (1m) (u), ~~or~~ national origin, or use of
19 medical cannabis products, as defined in s. 94.57 (1) (f).

20 **SECTION 15.** 66.1301 (2m) of the statutes is amended to read:

21 66.1301 **(2m)** DISCRIMINATION. Persons entitled to any right, benefit, facility,
22 or privilege under ss. 66.1301 to 66.1329 may not be denied the right, benefit, facility,
23 or privilege in any manner for any purpose nor be discriminated against because of
24 sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual

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1 assault, or stalking, as defined in s. 106.50 (1m) (u), ~~or~~ national origin, or use of
2 medical cannabis products, as defined in s. 94.57 (1) (f).

3 **SECTION 16.** 66.1331 (2m) of the statutes is amended to read:

4 66.1331 **(2m)** DISCRIMINATION. Persons otherwise entitled to any right, benefit,
5 facility, or privilege under this section may not be denied the right, benefit, facility,
6 or privilege in any manner for any purpose nor be discriminated against because of
7 sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual
8 assault, or stalking, as defined in s. 106.50 (1m) (u), ~~or~~ national origin, or use of
9 medical cannabis products, as defined in s. 94.57 (1) (f).

10 **SECTION 17.** 66.1333 (3) (e) 2. of the statutes is amended to read:

11 66.1333 **(3)** (e) 2. Persons otherwise entitled to any right, benefit, facility, or
12 privilege under this section may not be denied the right, benefit, facility, or privilege
13 in any manner for any purpose nor be discriminated against because of sex, race,
14 color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault,
15 or stalking, as defined in s. 106.50 (1m) (u), ~~or~~ national origin, or use of medical
16 cannabis products, as defined in s. 94.57 (1) (f).

17 **SECTION 18.** 77.54 (71) of the statutes is created to read:

18 77.54 **(71)** The sales price from the sale of a medical cannabis product, as
19 defined in s. 94.57 (1) (f), sold by a dispensary, as defined in s. 259.01 (2), to a person
20 who holds a valid registry identification card, as provided under s. 259.04.

21 **SECTION 19.** 94.57 of the statutes is created to read:

22 **94.57 Cannabis growers, medical cannabis processors, and medical**
23 **cannabis testing laboratories. (1) DEFINITIONS.** In this section:

24 (a) "Cannabis" has the meaning given for "marijuana" in s. 961.01 (14).

25 (am) "Dispensary" has the meaning given in s. 259.01 (2).

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1 (b) “Grower” means a person that plants, grows, cultivates, or harvests
2 cannabis.

3 (c) “Laboratory” means a person that obtains medical cannabis products or
4 samples of such products from a licensed processor and conducts testing on those
5 products or samples.

6 (d) “Licensee” means a grower, processor, or laboratory that holds a valid
7 license from the department under this section.

8 (f) “Medical cannabis product” means a product that contains cannabinoids
9 that have been extracted from cannabis plant material, that is intended for use by
10 a patient, as defined in s. 259.01 (9), to alleviate the symptoms of a medical condition
11 or to alleviate the symptoms of treatment for a medical condition, and that is
12 processed for human consumption in the form of concentrates, oils, tinctures, edibles,
13 pills, topical forms, gels, creams, vapors, patches, liquids, or forms administered by
14 a nebulizer. “Medical cannabis product” does not include cannabis in a form that can
15 be smoked.

16 (g) “Processor” means a person that obtains cannabis from a licensed grower,
17 processes the cannabis into medical cannabis products, and packages and labels the
18 medical cannabis products.

19 (h) “Resident” means an individual who maintains his or her place of
20 permanent abode in this state. Domiciliary intent is required to establish that a
21 person is maintaining his or her place of permanent abode in this state. Mere
22 ownership of property is not sufficient to establish domiciliary intent. Evidence of
23 domiciliary intent includes the location where the individual votes, pays personal
24 income taxes, or obtains a driver’s license.

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1 **(2) DEPARTMENT DUTIES.** (a) The department shall oversee and regulate the
2 growing of cannabis and the processing and testing of medical cannabis products.

3 (b) The department shall promulgate rules establishing safety and security
4 requirements for the premises of growers, processors, and laboratories that handle
5 cannabis or medical cannabis products.

6 (c) Annually, no later than October 15, the department shall submit a report
7 to the chief clerk of each house of the legislature for distribution to the legislature
8 under s. 13.172 (2) on the status of medical cannabis regulation under this section.

9 The report shall include information on all of the following:

10 1. The number of current licensees.

11 2. The location by county of each licensee.

12 3. The number of applications for licenses under this section received over the
13 previous year and the number of applications approved.

14 4. The expenses and revenues of the program over the previous year, all funds
15 held in reserve for the program, and an estimation of the expenses and revenues of
16 the program over the following year.

17 **(3) LICENSE REQUIRED.** No person may operate in this state as a grower,
18 processor, or laboratory without a license issued by the department under this
19 section. A person who is an employee of a licensee is not required to obtain a separate
20 license.

21 **(4) CANNABIS GROWER LICENSES.** (a) *License criteria.* The department may issue
22 a grower license to an applicant only if the department determines that all of the
23 following requirements are met:

24 1. The applicant, or each principal officer or board member of the applicant, has
25 not been convicted of any crime, unless at least 10 years have passed since the

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1 completion of any sentence imposed for the crime, including any period of
2 incarceration, parole, or extended supervision, and any period of probation imposed
3 for the crime. The department, with the assistance of the department of justice, shall
4 conduct a background investigation of any applicant or each principal officer or board
5 member of any applicant who applies for a grower license under this section, which
6 shall include requiring all such persons to be fingerprinted on 2 fingerprint cards
7 each bearing a complete set of the person's fingerprints, or by other technologies
8 approved by law enforcement agencies. The department of justice shall submit any
9 such fingerprint cards to the federal bureau of investigation for the purposes of
10 verifying the identity of the person fingerprinted and obtaining records of his or her
11 criminal arrests and convictions.

12 2. The applicant pays the annual fee for growers established by the department
13 under sub. (7).

14 3. The applicant is a resident, or at least 80 percent of the principal officers or
15 board members of the applicant are residents.

16 4. The applicant submits to an inspection of the premises by the department,
17 and the premises meets all requirements established by the department under sub.
18 (2).

19 (b) *Authorized activities.* 1. A licensed grower may plant, grow, cultivate, and
20 harvest cannabis; transport cannabis to or from any licensee; transfer or sell
21 cannabis to a licensed processor that is contracted with the department under sub.
22 (5); and engage in any related activities that are necessary for the operation, such
23 as possessing and storing cannabis.

24 2. A licensed grower may operate only within an enclosed, locked facility.

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1 3. A licensed grower may not plant, grow, cultivate, or harvest cannabis for
2 personal, family, or household use.

3 (c) *License renewal.* A licensed grower shall annually renew the license issued
4 under this section by applying to the department and paying the annual fee for
5 growers established by the department under sub. (7).

6 **(5) MEDICAL CANNABIS PROCESSOR CONTRACT, LICENSES.** (a) *Request for proposals;*
7 *number of licenses, contracts limited.* 1. The department shall obtain and review
8 proposals from entities in this state to process medical cannabis products under this
9 section in accordance with the department's request-for-proposal procedures.
10 Except as provided under subd. 2., the department shall enter into a contract with
11 only one processor to process medical cannabis products in this state until there are
12 at least 50,000 patients included in the patient and caregiver registry under s.
13 259.04, after which the department may license and contract with as many
14 additional processors as necessary to process an adequate supply of medical
15 cannabis products to meet the demand of patients in this state.

16 2. A processor with which the department contracts under subd. 1. may
17 contract with one or more subcontractors to provide the processor's services. Each
18 subcontractor shall obtain a separate license under this subsection.

19 (b) *License criteria.* The department may issue a processor license to an
20 applicant only if the department determines that all of the following requirements
21 are met:

22 1. The applicant, or each principal officer or board member of the applicant, has
23 not been convicted of any crime, unless at least 10 years have passed since the
24 completion of any sentence imposed for the crime, including any period of
25 incarceration, parole, or extended supervision, and any period of probation imposed

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1 for the crime. The department, with the assistance of the department of justice, shall
2 conduct a background investigation of any applicant or each principal officer or board
3 member of any applicant who applies for a processor license under this subsection,
4 which shall include requiring all such persons to be fingerprinted on 2 fingerprint
5 cards each bearing a complete set of the person's fingerprints, or by other
6 technologies approved by law enforcement agencies. The department of justice shall
7 submit any such fingerprint cards to the federal bureau of investigation for the
8 purposes of verifying the identity of the person fingerprinted and obtaining records
9 of his or her criminal arrests and convictions.

10 2. The applicant, or each principal officer or board member of the applicant, is
11 at least 21 years of age.

12 3. The applicant pays the annual fee for processors established by the
13 department under sub. (7).

14 4. The applicant is a resident, or at least 80 percent of the principal officers or
15 board members of the applicant are residents.

16 5. The applicant submits to an inspection of the premises by the department,
17 and the premises meets all requirements established by the department under sub.
18 (2).

19 6. The applicant has entered into a contract under par. (a) 1. or 2.

20 (c) *Authorized activities and requirements.* 1. A licensed processor may obtain
21 cannabis from a licensed grower, process cannabis into medical cannabis products,
22 package and label medical cannabis products, transport cannabis or medical
23 cannabis products to or from any licensee, and transfer, transport, or sell medical
24 cannabis products to dispensaries.

25 2. A licensed processor may operate only within an enclosed, locked facility.

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1 3. A licensed processor shall process cannabis into medical cannabis products
2 in a manner that minimizes the products' appeal to individuals under the age of 18.
3 The department may establish, by rule, additional processing requirements.

4 4. Before selling, transferring, or transporting medical cannabis products to
5 any dispensary, a licensed processor shall do all of the following:

6 a. Provide samples of each lot of medical cannabis product that it processes to
7 a licensed laboratory and receive certified test results of those samples showing the
8 tetrahydrocannabinol content of the medical cannabis products and showing that
9 the medical cannabis products do not contain unsafe levels of any molds, pesticides,
10 heavy metals, or any other contaminant for which the department requires, by rule,
11 the medical cannabis products to be tested.

12 b. Package the medical cannabis products in child-resistant packaging and in
13 a manner that minimizes its appeal to individuals under the age of 18. The
14 department may establish, by rule, additional packaging requirements.

15 c. Attach a label to the packaging that identifies the tetrahydrocannabinol
16 content of the medical cannabis product and any other information required to be
17 included by the department by rule.

18 5. The packaging of medical cannabis products, and the labels attached to such
19 packaging, may not include any statement or other indication that the consumption
20 or use of medical cannabis may cure, mitigate, treat, or prevent any disease or
21 medical condition.

22 (d) *License renewal.* A licensed processor shall annually renew the license
23 issued under this section by applying to the department and paying the annual fee
24 for processors established by the department under sub. (7).

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1 **(6) MEDICAL CANNABIS TESTING LABORATORY CONTRACT, LICENSES.** (a) *Request for*
2 *proposals; contract required.* The department shall obtain and review proposals
3 from entities in this state to test medical cannabis products under this section in
4 accordance with the department's request-for-proposal procedures. The
5 department shall enter into contracts with a sufficient number of laboratories under
6 this section to assure the safety of medical cannabis products in this state.

7 (b) *License criteria.* The department shall issue a laboratory license to an
8 applicant if the department determines that all of the following requirements are
9 met:

10 1. The applicant, or each principal officer or board member of the applicant, has
11 not been convicted of any crime, unless at least 10 years have passed since the
12 completion of any sentence imposed for the crime, including any period of
13 incarceration, parole, or extended supervision, and any period of probation imposed
14 for the crime. The department, with the assistance of the department of justice, shall
15 conduct a background investigation of any applicant or each principal officer or board
16 member of any applicant who applies for a laboratory license under this section,
17 which shall include requiring all such persons to be fingerprinted on 2 fingerprint
18 cards each bearing a complete set of the person's fingerprints, or by other
19 technologies approved by law enforcement agencies. The department of justice shall
20 submit any such fingerprint cards to the federal bureau of investigation for the
21 purposes of verifying the identity of the person fingerprinted and obtaining records
22 of his or her criminal arrests and convictions.

23 2. The applicant, or each principal officer or board member of the applicant, is
24 at least 21 years of age.

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1 3. The applicant pays the annual fee for laboratories established by the
2 department under sub. (7).

3 4. The applicant is a resident, or at least 80 percent of the principal officers or
4 board members of the applicant are residents.

5 5. The applicant submits to an inspection of the premises by the department,
6 and the premises meets all requirements established by the department under sub.
7 (2).

8 6. The applicant has entered into a contract under par. (a).

9 (c) *Authorized activities and requirements.* 1. A licensed laboratory may obtain
10 medical cannabis products from a licensed processor, conduct testing on medical
11 cannabis products, and transport medical cannabis products to or from any licensee
12 or dispensary.

13 2. A licensed laboratory may operate only within an enclosed, locked facility.

14 3. When testing medical cannabis products, a licensed laboratory shall test the
15 products for tetrahydrocannabinol content and the levels of any molds, pesticides,
16 heavy metals, and any other contaminant for which the department requires, by
17 rule, the medical cannabis products to be tested.

18 (d) *License renewal.* A licensed laboratory shall annually renew the license
19 issued under this section by applying to the department and paying the annual fee
20 for laboratories established by the department under sub. (7).

21 **(7) LICENSE FEES.** (a) The department shall, not later than January 31 of each
22 year, propose an update to the fees required under subs. (4) (a) 2. and (c), (5) (b) 3.
23 and (d), and (6) (b) 3. and (d) to provide sufficient moneys to pay for the operations
24 of the department required under this section.

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1 (b) Not later than 14 days after proposing updated fees under par. (a), the
2 department shall send a report detailing the proposed fee adjustments to the
3 cochairpersons of the joint committee on finance. If, within 14 working days after
4 the date that the department submits the report, the cochairpersons of the
5 committee notify the secretary that the committee has scheduled a meeting for the
6 purpose of reviewing the proposed adjustments, the department may not impose the
7 fee adjustments unless the committee approves the report. If the cochairpersons of
8 the committee do not notify the secretary, the department may impose the fee
9 adjustments and shall notify licensees of the fee adjustments by posting the fee
10 adjustments on the department's website.

11 (c) If the joint committee on finance schedules a meeting for the purpose of
12 reviewing the proposed fee adjustments under par. (b) and disapproves the proposed
13 fee adjustments, the department may resubmit, no later than 60 days after the
14 committee disapproves the proposed adjustments and using the process described
15 under par. (b), proposed adjustments to the fees required under subs. (4) (a) 2. and
16 (c), (5) (b) 3. and (d), and (6) (b) 3. and (d) if necessary to provide sufficient moneys
17 to pay for the operations of the department required under this section. If the joint
18 committee on finance schedules a meeting for purposes of reviewing the resubmitted
19 proposed fee adjustments under this paragraph and disapproves the resubmitted
20 proposed fee adjustments, the department may not impose the fee adjustments and
21 may not resubmit further proposed fee adjustments until the department proposes
22 an update to the fees the following year as provided under par. (a).

23 **(8) CONFIDENTIALITY.** The department shall ensure that any of the following
24 information that is in the department's possession is confidential and not open to

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1 public inspection or copying under s. 19.35 (1), except that it shall be made available
2 to a law enforcement agency or law enforcement officer:

3 (a) Information relating to the locations of proposed or existing growers,
4 processors, and laboratories.

5 (b) Personal information relating to a licensee or applicant under this section,
6 other than the licensee's or applicant's name.

7 (c) Information obtained about a licensee or applicant as a result of any
8 criminal history search performed under this section.

9 (d) Any other information that could create a security risk if disclosed.

10 **(9) ADVERTISING PROHIBITED.** No licensed processor or laboratory may advertise
11 its services.

12 **(10) ENFORCEMENT AND PENALTIES.** (a) *Enforcement.* The department may
13 conduct investigations, hold hearings, and make findings as to whether a person has
14 violated any provisions of this section or any rule promulgated under this section.
15 If, after holding a public hearing, the department determines that a person has
16 violated any provision of this section or any rule promulgated under this section, the
17 department may impose a penalty pursuant to par. (b). If the department has reason
18 to believe that a person has engaged in activities for which a license is required under
19 this section without a license issued by the department, the department may petition
20 the circuit court for a temporary restraining order or an injunction as provided in ch.
21 813. The enforcement actions authorized under this paragraph are cumulative. The
22 imposition of an enforcement action does not bar the imposition of any other
23 enforcement action.

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1 (b) *Penalties.* 1. If the department determines that a licensee has negligently
2 violated this section, the department may establish, and the licensee shall comply
3 with, a plan to correct the negligent violation, which shall include all of the following:

4 a. A reasonable date by which the licensee is required to correct the negligent
5 violation.

6 b. A requirement that the licensee periodically report to the department on the
7 compliance of the licensee with the department's plan for a period of not less than the
8 following 2 years.

9 2. The department may suspend or revoke the license of any licensee that
10 violates any provision of this section or rules promulgated under this section.

11 3. a. Except as provided in subd. 3. b., any person who violates any provision
12 of this section or any rules promulgated under this section may be required to forfeit
13 not less than \$200 nor more than \$5,000 or, for an offense committed within 5 years
14 of an offense for which a penalty has been assessed under this section, may be
15 required to forfeit not less than \$400 nor more than \$10,000.

16 b. Any person who violates any provision of this section or any rules
17 promulgated under this section by fraud shall be fined not less than \$2,000 nor more
18 than \$10,000.

19 4. All of the remedies and penalties under this section shall be cumulative. No
20 action for recovery of one penalty shall be a bar to or affect the recovery of any other
21 penalty or be a bar to any criminal prosecution.

22 **SECTION 20.** 106.50 (1) of the statutes is amended to read:

23 106.50 (1) **INTENT.** It is the intent of this section to render unlawful
24 discrimination in housing. It is the declared policy of this state that all persons shall
25 have an equal opportunity for housing regardless of sex, race, color, sexual

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1 orientation, disability, religion, national origin, use of medical cannabis products, as
2 defined in s. 94.57 (1) (f), marital status, family status, status as a victim of domestic
3 abuse, sexual assault, or stalking, lawful source of income, age, or ancestry and it is
4 the duty of the political subdivisions to assist in the orderly prevention or removal
5 of all discrimination in housing through the powers granted under ss. 66.0125 and
6 66.1011. The legislature hereby extends the state law governing equal housing
7 opportunities to cover single-family residences that are owner-occupied. The
8 legislature finds that the sale and rental of single-family residences constitute a
9 significant portion of the housing business in this state and should be regulated.
10 This section shall be considered an exercise of the police powers of the state for the
11 protection of the welfare, health, peace, dignity, and human rights of the people of
12 this state.

13 **SECTION 21.** 106.50 (1m) (h) of the statutes is amended to read:

14 106.50 (1m) (h) “Discriminate” means to segregate, separate, exclude, or treat
15 a person or class of persons unequally in a manner described in sub. (2), (2m), or (2r)
16 because of sex, race, color, sexual orientation, disability, religion, national origin,
17 marital status, or family status; status as a victim of domestic abuse, sexual assault,
18 or stalking; whether the person is included on the patient and caregiver registry
19 under s. 259.04 or possesses or uses medical cannabis products in accordance with
20 ch. 259; lawful source of income; age; or ancestry.

21 **SECTION 22.** 106.50 (1m) (nm) of the statutes is amended to read:

22 106.50 (1m) (nm) “Member of a protected class” means a group of natural
23 persons, or a natural person, who may be categorized because of sex, race, color,
24 disability, sexual orientation, religion, national origin, use of medical cannabis

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1 products, as defined in s. 94.57 (1) (f), marital status, family status, status as a victim
2 of domestic abuse, sexual abuse, or stalking, lawful source of income, age, or ancestry.

3 **SECTION 23.** 106.50 (5m) (f) 1. of the statutes is amended to read:

4 106.50 (5m) (f) 1. Nothing in this section prohibits an owner or agent from
5 requiring that a person who seeks to buy or rent housing supply information
6 concerning family status, and marital, financial, and business status but not
7 concerning race, color, disability, sexual orientation, ancestry, national origin, use of
8 medical cannabis products, as defined in s. 94.57 (1) (f), religion, creed, status as a
9 victim of domestic abuse, sexual assault, or stalking, or, subject to subd. 2., age.

10 **SECTION 24.** 108.04 (5) (a) (intro.) of the statutes is amended to read:

11 108.04 (5) (a) (intro.) A violation by an employee of an employer's reasonable
12 written policy concerning the use of alcohol beverages, or use of a controlled
13 substance or a controlled substance analog, including a drug-free workplace policy
14 and a policy that includes testing for the presence of tetrahydrocannabinols, if the
15 employee:

16 **SECTION 25.** 111.32 (9m) of the statutes is created to read:

17 111.32 (9m) "Lawful product" does not include a medical cannabis product.

18 **SECTION 26.** 111.32 (12c) of the statutes is created to read:

19 111.32 (12c) "Medical cannabis product" has the meaning given in s. 94.57 (1)
20 (f).

21 **SECTION 27.** 111.34 (1) (b) of the statutes is amended to read:

22 111.34 (1) (b) ~~Refusing~~ Subject to sub. (3), refusing to reasonably accommodate
23 an employee's or prospective employee's disability unless the employer can
24 demonstrate that the accommodation would pose a hardship on the employer's
25 program, enterprise or business.

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1 **SECTION 28.** 111.34 (3) of the statutes is created to read:

2 111.34 (3) (a) Notwithstanding s. 111.322, this subchapter does not apply with
3 respect to any act of an employer based upon an individual's use of a medical
4 cannabis product, the individual's other use of cannabis, as defined in s. 94.57 (1) (a),
5 or the individual testing positive for the presence of tetrahydrocannabinols.

6 (b) Nothing in this subchapter requires an employer to permit, accommodate,
7 or allow the medical use of a medical cannabis product, or to modify any job or
8 working conditions of any employee who engages in the medical use of medical
9 cannabis products or who for any reason seeks to engage in the medical use of
10 medical cannabis products.

11 (c) Nothing in this subchapter prohibits an employer from refusing to hire,
12 terminating, discharging, disciplining, or otherwise discriminating against an
13 individual with respect to hiring, discharging, tenure, promotion, or compensation,
14 or in terms, conditions, or privileges of employment as a result, in whole or in part,
15 of the individual's medical use of a medical cannabis product, the individual's other
16 use of cannabis, as defined in s. 94.57 (1) (a), or the individual testing positive for the
17 presence of tetrahydrocannabinols, regardless of any impairment or lack of
18 impairment resulting therefrom.

19 **SECTION 29.** 175.60 (2) (b) of the statutes is amended to read:

20 175.60 (2) (b) The department may not impose conditions, limitations, or
21 requirements that are not expressly provided for in this section on the issuance,
22 scope, effect, or content of a license. The department may not refuse to issue or renew
23 a license, or may not suspend or revoke a license, solely because of an individual's
24 lawful use or possession of a medical cannabis product under s. 94.57 or ch. 259 or
25 because the individual is a registered patient, as defined in s. 961.01 (20hm).

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1 **SECTION 30.** 224.30 (6) of the statutes is created to read:

2 224.30 (6) PROVIDING FINANCIAL SERVICES TO LAWFUL CANNABIS-RELATED
3 BUSINESSES. (a) In this subsection, “financial institution” has the meaning given in
4 s. 943.80 (2).

5 (b) Neither the division nor the office of credit unions may take adverse action
6 against a financial institution or person acting on behalf of or providing services to
7 a financial institution solely on the basis that the financial institution or person
8 receives deposits, extends credit, conducts funds transfers, transports cash or other
9 financial instruments, or provides other financial services to a cannabis grower,
10 processor, or laboratory licensed under s. 94.57 or a medical cannabis dispensary
11 operating pursuant to s. 259.10.

12 **SECTION 31.** 224.77 (1) (o) of the statutes is amended to read:

13 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan
14 originator, or mortgage broker, except in relation to housing designed to meet the
15 needs of elderly individuals, treat a person unequally solely because of sex, race,
16 color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national
17 origin, use of medical cannabis products, as defined in s. 94.57 (1) (f), age, or ancestry,
18 the person’s lawful source of income, or the sex, marital status, or status as a victim
19 of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), of the
20 person maintaining a household.

21 **SECTION 32.** 234.29 of the statutes is amended to read:

22 **234.29 Equality of occupancy and employment.** The authority shall
23 require that occupancy of housing projects assisted under this chapter be open to all
24 regardless of sex, race, use of medical cannabis products, as defined in s. 94.57 (1)
25 (f), religion, sexual orientation, status as a victim of domestic abuse, sexual assault,

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1 or stalking, as defined in s. 106.50 (1m) (u), or creed, and that contractors and
2 subcontractors engaged in the construction of economic development or housing
3 projects, shall provide an equal opportunity for employment, without discrimination
4 as to sex, race, religion, sexual orientation, or creed.

5 **SECTION 33.** Chapter 259 of the statutes is created to read:

6 **CHAPTER 259**

7 **MEDICAL CANNABIS**

8 **259.01 Definitions.** In this chapter:

9 (1) “Cannabis” has the meaning given for “marijuana” in s. 961.01 (14).

10 (1m) “Department” means the department of health services.

11 (2) “Dispensary” means an entity operated by the office to purchase packaged
12 and labeled medical cannabis products from a processor licensed under s. 94.57 (5)
13 and to sell medical cannabis products to patients and caregivers who hold a valid
14 registry identification card issued by the office.

15 (3) “Grower” has the meaning given in s. 94.57 (1) (b).

16 (4) “Laboratory” has the meaning given in s. 94.57 (1) (c).

17 (5) “Legal custody” has the meaning given in s. 767.001 (2).

18 (7) “Medical cannabis product” has the meaning given in s. 94.57 (1) (f).

19 (8) “Office” means the office of medical cannabis regulation.

20 (9) “Patient” means an individual who holds a valid registry identification card
21 under s. 259.04 to use medical cannabis products.

22 (10) “Pharmacist” has the meaning given in s. 450.01 (15).

23 (11) “Prescriber” means all of the following:

24 (a) An advanced practice nurse prescriber certified under s. 441.16 (2).

25 (b) A physician licensed under s. 448.02.

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1 (c) A physician assistant licensed under s. 448.974.

2 (12) "Processor" has the meaning given in s. 94.57 (1) (g).

3 (13) "Resident" means an individual who maintains his or her place of
4 permanent abode in this state. Domiciliary intent is required to establish that a
5 person is maintaining his or her place of permanent abode in this state. Mere
6 ownership of property is not sufficient to establish domiciliary intent. Evidence of
7 domiciliary intent includes the location where the individual votes, pays personal
8 income taxes, or obtains a driver's license.

9 (14) "Residential care facility" means all of the following:

10 (a) A nursing home, as defined in s. 50.01 (3).

11 (b) An adult family home, as defined in s. 50.01 (1).

12 (c) A community-based residential facility, as defined in s. 50.01 (1g).

13 (d) A residential care apartment complex, as defined in s. 50.01 (6d).

14 (e) A hospice, as defined in s. 50.90 (1).

15 (f) A facility, as defined in s. 647.01 (4).

16 (g) A swing bed in an acute care facility or extended care facility, as specified
17 in 42 USC 1395tt.

18 (15) "Severe chronic pain" means pain that dominates the senses, that
19 interferes with the essential activities for daily living, that has persisted for at least
20 3 months, and that is not responsive to or appropriate for other therapies.

21 **259.02 Possession and sale prohibited.** No person may possess, sell,
22 transfer, or transport cannabis or medical cannabis products unless the person is
23 licensed under s. 94.57, the person holds a valid registry identification card issued
24 by the office under s. 259.04, or the person is an agent or employee of a dispensary
25 operating pursuant to s. 259.10.

ASSEMBLY BILL 1040**SECTION 33**

1 **259.03 Office of medical cannabis regulation. (1)** The office shall oversee
2 and regulate the dispensing of medical cannabis products.

3 **(2)** The office shall promulgate rules establishing safety and security
4 requirements for the premises of dispensaries that handle cannabis or medical
5 cannabis products.

6 **(3)** Annually, no later than October 15, the office shall submit a report to the
7 chief clerk of each house of the legislature for distribution to the legislature under
8 s. 13.172 (2) on the performance of the medical cannabis program under this chapter.
9 The report shall include information on all of the following:

10 (a) The number of patients included in the patient and caregiver registry under
11 s. 259.04.

12 (b) The medical conditions that have qualified patients for inclusion in the
13 patient and caregiver registry under s. 259.04 expressed as a total number and a
14 percentage of all the patients included on the patient and caregiver registry.

15 (c) The number of doses and type of medical cannabis products dispensed.

16 (d) The residency by county of patients who possess a valid patient registry
17 identification card under s. 259.04.

18 (e) The expenses and revenues of the program over the previous year, all funds
19 held in reserve for the program, and an estimation of the expenses and revenues of
20 the program over the following year.

21 **(4)** The office shall ensure that any information that is in the office's possession
22 and that could create a security risk if disclosed is confidential and not open to public
23 inspection or copying under s. 19.35 (1), except that it shall be made available to a
24 law enforcement agency or law enforcement officer.

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1 **259.04 Patient and caregiver registry.** (1) The office shall create and
2 maintain a registry that includes all patients and caregivers authorized to possess
3 medical cannabis products pursuant to this chapter. The registry shall be an
4 electronic system accessible online by authorized users. The office shall add an
5 individual as a patient to the registry, and issue the individual a registry
6 identification card and unique identification code, if the individual submits all of the
7 following:

8 (a) The individual's name, address, and contact information.

9 (b) Proof that the individual is a resident.

10 (c) Proof that the individual is at least 18 years of age or, if the individual is
11 under the age of 18, written consent from all parents or, if legal custody of the
12 individual has been awarded by a court, from all persons awarded legal custody of
13 the individual to be included in the patient and caregiver registry.

14 (d) If the individual has previously been convicted of a crime, proof that the
15 individual is not on parole, probation, or extended supervision.

16 (e) A written confirmation from a prescriber that the prescriber has established
17 a bona fide relationship with the individual, met with the individual in person,
18 reviewed the individual's health care records, performed any tests to identify the
19 presence of a medical condition to a reasonable degree of medical certainty, and
20 determined that the individual has at least one of the following medical conditions:

21 1. Cancer.

22 2. HIV or AIDS.

23 3. Seizures and epilepsy.

24 4. Post-traumatic stress disorder.

25 5. Alzheimer's disease.

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- 1 6. Glaucoma.
- 2 7. Severe chronic pain.
- 3 8. Severe chronic nausea.
- 4 9. Severe muscle spasms.
- 5 10. Parkinson's disease.
- 6 11. Multiple sclerosis.
- 7 12. Amyotrophic lateral sclerosis.
- 8 13. Chronic motor or vocal tic disorder.
- 9 14. Tourette syndrome.
- 10 15. Inflammatory bowel disease.
- 11 16. Any terminal illness with a probable life expectancy of less than one year.
- 12 **(2)** (a) Written confirmation from a prescriber under par. (b) or sub. (1) (e) is
- 13 valid for 2 years from the day that the prescriber determines the patient has or
- 14 continues to have at least one of the conditions described under sub. (1) (e).
- 15 (b) No earlier than 90 days prior to the expiration of the written confirmation
- 16 from a prescriber under this paragraph or sub. (1) (e), a patient may obtain and
- 17 submit written confirmation from a prescriber consistent with sub. (1) (e) that the
- 18 patient continues to have at least one of the conditions described under sub. (1) (e).
- 19 **(3)** At the time a patient applies to the office for inclusion on the patient and
- 20 caregiver registry under this section and annually thereafter, a patient shall pay a
- 21 fee of \$100 or, if the patient qualifies for a hardship exception as determined by the
- 22 office, a fee of \$50.
- 23 **(4)** If a patient is added to the registry under sub. (1) or submits written
- 24 confirmation that the patient continues to have at least one of the conditions
- 25 described under sub. (1) (e) consistent with sub. (2), the office shall record on the

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1 registry the prescriber who determined that the patient has or continues to have at
2 least one of the conditions described under sub. (1) (e) and the condition under sub.
3 (1) (e) that qualifies the patient for inclusion on the patient and caregiver registry.

4 (5) If an individual under the age of 18 is added to the registry and legal custody
5 of the individual has been awarded by a court, all person's awarded legal custody of
6 the individual shall inform any noncustodial parent of the individual that the
7 individual is included on the registry.

8 (6) (a) A patient included in the patient and caregiver registry under this
9 section may designate up to 3 caregivers who may purchase and possess medical
10 cannabis products on the patient's behalf, except as provided in par. (b). A caregiver
11 designated by a patient shall be included in the patient and caregiver registry under
12 this section and shall be issued a registry identification card that evidences their
13 inclusion as a caregiver in the registry.

14 (b) If a patient is under the age of 18, the office shall designate the patient's
15 parents or guardians as the patient's caregivers. The minor patient's parents or
16 guardians may designate one additional caregiver who may purchase and possess
17 medical cannabis products on the minor patient's behalf.

18 (c) No individual may act as a caregiver under this subsection unless the
19 individual is 21 years of age or older, is a resident, and has not been convicted of a
20 crime, unless at least 10 years have passed since the completion of any sentence
21 imposed for the crime, including any period of incarceration, parole, or extended
22 supervision, and any period of probation imposed for the crime.

23 (d) No individual may act as a caregiver under this section for more than 5
24 patients, except as provided in par. (e).

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1 (e) A patient who resides in a residential care facility may designate an
2 employee of the residential care facility as the patient's caregiver. The office shall
3 promulgate rules to establish reasonable limits on the number of patients for which
4 an employee of a residential care facility may be designated as a caregiver.

5 (f) Neither a patient nor any parent or guardian of a minor patient may
6 designate an individual as a caregiver for the patient unless the caregiver
7 affirmatively consents to act as the patient's caregiver and to be included on the
8 patient and caregiver registry.

9 (g) At the time a patient applies to the office for inclusion on the patient and
10 caregiver registry under this section and at any time that a patient submits written
11 confirmation from a prescriber consistent with sub. (1) (e) that the patient continues
12 to have at least one of the conditions described under sub. (1) (e), the patient shall
13 provide a complete list of caregivers designated by the patient. A complete list of
14 caregivers under this paragraph shall include the names and addresses of each
15 caregiver designated by the patient or, if the patient is a minor, a parent or guardian
16 of the patient and an affirmation that each caregiver has consented to act as the
17 patient's caregiver.

18 (h) A patient or, if the patient is a minor, a parent or guardian of a patient may
19 update the designated caregivers for the patient at any time by submitting to the
20 office an updated list of caregivers designated by the patient or, if the patient is a
21 minor, a parent or guardian of the patient. An updated list of caregivers under this
22 paragraph shall include the names and addresses of each caregiver designated by the
23 patient or, if the patient is a minor, a parent or guardian of the patient and an
24 affirmation that each caregiver has consented to act as the patient's caregiver.

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1 (i) Before any caregiver is added to the patient and caregiver registry under this
2 subsection, the office, with the assistance of the department of justice, shall conduct
3 a background investigation of the caregiver. If the office determines that any
4 information obtained as a result of the background investigation provides a
5 reasonable basis for further investigation, the office may require the caregiver to be
6 fingerprinted on 2 fingerprint cards, each bearing a complete set of the applicant's
7 fingerprints, or by other technologies approved by law enforcement agencies. The
8 department of justice shall submit any such fingerprint cards to the federal bureau
9 of investigation for the purposes of verifying the identity of the caregiver and
10 obtaining records of his or her criminal arrests and convictions.

11 (j) Any individual who is a caregiver included on the patient and caregiver
12 registry under this subsection may revoke his or her consent to act as a patient's
13 caregiver at any time and remove himself or herself from the patient and caregiver
14 registry by submitting a written statement to the office that the individual no longer
15 consents to act as a caregiver for a patient under this subsection and wishes to be
16 removed from the patient and caregiver registry.

17 **(7)** (a) For purposes of this subsection, "patient's residence" includes a
18 temporary accommodation if the patient intends to or did stay at the temporary
19 accommodation overnight.

20 (b) A patient who holds a valid registry identification card under this section
21 may use medical cannabis products and may possess medical cannabis products only
22 at the patient's residence, between the dispensary from which the products were
23 purchased and the patient's residence, and between the patient's residences if the
24 patient has more than one residence.

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1 (c) A caregiver who holds a valid registry identification card under this section
2 may possess untampered and unopened medical cannabis products only at the
3 caregiver's residence, between the dispensary from which the products were
4 purchased and the caregiver's or the caregiver's patient's residence, and between the
5 caregiver's and the caregiver's patient's residence.

6 (d) A patient or caregiver who holds a valid registry identification card under
7 this section may acquire medical cannabis products only from a dispensary operating
8 pursuant to this chapter, and only in the amounts specified under s. 259.10 (5).

9 **(8)** The office shall remove a patient from the patient and caregiver registry
10 under this section if the office finds that any of the following has occurred:

11 (a) The patient has not paid the annual fee required under sub. (3).

12 (b) The patient fails to submit written confirmation that the patient continues
13 to have at least one of the conditions described under sub. (1) (e) prior to the
14 expiration of the written confirmation consistent with sub. (2).

15 (c) The patient has been convicted for a violation of the federal Controlled
16 Substances Act under 21 USC 801 to 971, the Uniform Controlled Substances Act
17 under ch. 961, or any controlled substances law of another state.

18 (d) The patient has been convicted of any felony.

19 (e) The patient has been found to have violated any provision of this chapter
20 or any rules promulgated under this chapter by fraud.

21 (f) The patient is no longer a resident.

22 (g) The patient voluntarily requests to be removed from the patient and
23 caregiver registry.

24 **(9)** The office shall remove a caregiver from the patient and caregiver registry
25 under this section if the office finds that any of the following has occurred:

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1 (a) The caregiver has been convicted of any crime.

2 (b) The caregiver has been found to have violated any provision of this chapter
3 or any rules promulgated under this chapter by fraud.

4 (c) The caregiver is no longer a resident.

5 **(10)** If a patient is removed from the patient and caregiver registry under this
6 section, the office shall remove any caregivers designated for that patient from the
7 patient and caregiver registry unless the caregiver is a caregiver for another patient
8 who is on the patient and caregiver registry under this section.

9 **259.10 Medical cannabis dispensaries. (1)** No person may sell or transfer
10 medical cannabis products to patients and caregivers except for a dispensary
11 operated by the office.

12 **(2)** The office shall establish 5 dispensaries in the state. In establishing
13 dispensaries in the state, the office shall place one dispensary in each of the 5 regions
14 that the department has established for data analysis and communication purposes.

15 **(3)** (a) Each dispensary may obtain packaged and labeled medical cannabis
16 products from processors licensed under s. 94.57 (5) and dispense medical cannabis
17 products consistent with this section.

18 (b) No dispensary may dispense medical cannabis products to any person
19 except for a patient or caregiver who presents photo identification and a valid
20 registry identification card issued by the office under s. 259.04. Before a dispensary
21 may dispense medical cannabis products to a patient or caregiver, the dispensary
22 shall confirm the patient or caregiver is included on the patient and caregiver
23 registry under s. 259.04 by searching the registry for the patient's or caregiver's
24 unique identification code.

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1 (4) Each dispensary shall be adequately staffed to advise patients and
2 caregivers on appropriate medical cannabis products to use or consume and
3 appropriate dosages. At a minimum, each dispensary shall have on staff at all times
4 at least one pharmacist who is qualified to advise patients and caregivers on
5 appropriate uses and dosages of medical cannabis products and potential
6 interactions between medical cannabis products and other drugs, as defined in s.
7 450.01 (10), that the patient uses.

8 (5) (a) Before a dispensary may dispense medical cannabis products to a
9 patient or the patient's caregiver, the dispensary shall direct a qualified pharmacist
10 who is employed by the dispensary to consult with the patient or the patient's
11 caregiver and review the patient's records under the prescription drug monitoring
12 program under s. 961.385. After consulting with the patient or the patient's
13 caregiver and reviewing the patient's records under the prescription drug
14 monitoring program, if the patient has never been dispensed medical cannabis
15 products in this state, the pharmacist shall recommend a daily dosage for the patient
16 and record the recommended daily dosage in the patient and caregiver registry
17 under s. 259.04. If the patient has previously been recommended a daily dosage, the
18 consulting pharmacist may update the patient's recommended daily dosage. If the
19 consulting pharmacist recommends an updated daily dosage for the patient, the
20 pharmacist shall record that updated recommendation in the patient and caregiver
21 registry under s. 259.04.

22 (b) A dispensary may dispense to a patient who has never been dispensed
23 medical cannabis products in this state or the patient's caregiver not more than a
24 30-day supply of medical cannabis products based on the dosage recommendation
25 made by a qualified pharmacist employed by a dispensary and recorded in the

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1 patient and caregiver registry under s. 259.04. After dispensing to a patient an
2 initial 30-day supply of medical cannabis products, a dispensary may dispense not
3 more than a 90-day supply of medical cannabis products based on the most recent
4 dosage recommendation made by a qualified pharmacist employed by a dispensary
5 and recorded in the patient and caregiver registry under s. 259.04.

6 (c) No dispensary may dispense any medical cannabis products to a patient or
7 to a caregiver for a patient who, based on the amount of medical cannabis products
8 previously dispensed and the patient's recommended daily dosage, has or should
9 have more than a 7-day supply of medical cannabis products.

10 (d) A dispensary shall designate one or more employees to generate records for
11 the prescription drug monitoring program under s. 961.385 when a medical cannabis
12 product is dispensed to a patient or caregiver and to record the following information
13 in the registry when a medical cannabis product is dispensed to a patient or
14 caregiver:

- 15 1. The form and quantity of medical cannabis products dispensed.
- 16 2. The pharmacist who consulted with the patient or caregiver prior to
17 dispensing.
- 18 3. The individual to whom the medical cannabis products are dispensed.
- 19 4. The date the medical cannabis products are dispensed.
- 20 5. The estimated number of days of therapy that the dispensed medical
21 cannabis products may be used by the patient.

22 (6) The office shall promulgate rules to establish qualifications for pharmacists
23 to advise patients and caregivers at dispensaries under this section on appropriate
24 uses and dosages of medical cannabis products and potential interactions between
25 medical cannabis products and other drugs that the patient uses.

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1 (7) A dispensary, and any employee of a dispensary, may not make any
2 statement or other indication that the consumption or use of medical cannabis may
3 cure, mitigate, treat, or prevent any disease or medical condition.

4 **259.15 Advertising prohibited.** (1) No dispensary may advertise its
5 services.

6 (2) No prescriber may advertise that he or she may provide a written
7 confirmation under s. 259.04 (1) (e).

8 **259.20 Sales prices.** The office shall set the price of medical cannabis
9 products offered for sale at dispensaries. The office may set the price of medical
10 cannabis products only at a level sufficient to recoup product and operational costs.
11 The office may update prices under this subsection whenever the office determines
12 it is necessary.

13 **259.25 Enforcement.** (1) The office may conduct investigations, hold
14 hearings, and make findings as to whether a person has violated any provision of this
15 chapter or any rule promulgated under this chapter.

16 (2) If, after holding a public hearing, the office determines that a person has
17 violated any provision of this chapter or any rule promulgated under this chapter,
18 the office may impose a penalty pursuant to s. 259.30.

19 (3) If the office has reason to believe that a person has engaged in activities for
20 which a license is required without a license, the office may petition the circuit court
21 for a temporary restraining order or an injunction as provided in ch. 813.

22 (4) The enforcement actions permitted under this section are cumulative. The
23 imposition of an enforcement action may not bar the imposition of any other
24 enforcement action.

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1 **259.30 Penalties. (1)** The office may remove a patient or caregiver from the
2 patient and caregiver registry if the office determines that the patient or caregiver
3 has intentionally possessed, used, sold, or transferred cannabis or medical cannabis
4 products in violation of this chapter or any rules promulgated under this chapter.

5 **(2) (a)** Any person who violates any provision of this chapter or any rules
6 promulgated under this chapter by fraud shall be fined not less than \$2,000 nor more
7 than \$10,000.

8 **(b)** Except as provided in par. (a), any person who violates any provision of this
9 chapter or any rules promulgated under this chapter may be required to forfeit not
10 less than \$200 nor more than \$5,000 or, for an offense committed within 5 years of
11 an offense for which a penalty has been assessed under this section, may be required
12 to forfeit not less than \$400 nor more than \$10,000.

13 **(3)** All of the remedies and penalties under this chapter shall be cumulative.
14 No action for recovery of one penalty shall be a bar to or affect the recovery of any
15 other penalty or be a bar to any criminal prosecution.

16 **SECTION 34.** 450.01 (16) (L) of the statutes is created to read:

17 450.01 **(16)** (L) Performing the duties specified in s. 259.10 as an employed
18 pharmacist of a medical cannabis dispensary.

19 **SECTION 35.** 450.03 (1) (eg) and (er) of the statutes are created to read:

20 450.03 **(1)** (eg) Any person acting within the scope of a valid grower license
21 under s. 94.57 (4), a valid processor license under s. 94.57 (5), or a valid laboratory
22 license under s. 94.57 (6).

23 (er) A medical cannabis dispensary operating pursuant to s. 259.10. This
24 paragraph does not apply to a person serving as a pharmacist in a medical cannabis
25 dispensary operating pursuant to s. 259.10.

ASSEMBLY BILL 1040**SECTION 36**

1 **SECTION 36.** 450.07 (1m) of the statutes is renumbered 450.07 (1m) (a).

2 **SECTION 37.** 450.07 (1m) (b) of the statutes is created to read:

3 450.07 (**1m**) (b) No license under this section is required for a dispensary
4 operating pursuant to s. 259.10 or a person acting within the scope of a valid grower
5 license under s. 94.57 (4), a valid processor license under s. 94.57 (5), or a valid
6 laboratory license under s. 94.57 (6).

7 **SECTION 38.** 450.071 (1) of the statutes is renumbered 450.071 (1) (a) and
8 amended to read:

9 450.071 (**1**) (a) ~~No~~ Except as provided in par. (b), no person may engage in the
10 wholesale distribution of a prescription drug in this state without obtaining a license
11 from the board for each facility from which the person distributes prescription drugs.

12 **(b) 1.** The board shall exempt from the licensure requirement under this section
13 a manufacturer that distributes prescription drugs or devices manufactured by the
14 manufacturer from licensing and other requirements under this section to the extent
15 the license or requirement is not required under federal law or regulation, unless the
16 board determines that it is necessary to apply a requirement to a manufacturer.

17 **SECTION 39.** 450.071 (1) (b) 2. of the statutes is created to read:

18 450.071 (**1**) (b) 2. No license under this section is required for a dispensary
19 operating pursuant to s. 259.10 or a person acting within the scope of a valid grower
20 license under s. 94.57 (4), a valid processor license under s. 94.57 (5), or a valid
21 laboratory license under s. 94.57 (6).

22 **SECTION 40.** 450.10 (2m) of the statutes is created to read:

23 450.10 (**2m**) No pharmacist may be found guilty of unprofessional conduct for
24 performing the duties specified in s. 259.10 as an employed pharmacist of a medical
25 cannabis dispensary.

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1 **SECTION 41.** 452.14 (3) (n) of the statutes is amended to read:

2 452.14 (3) (n) Treated any person unequally solely because of sex, race, color,
3 handicap, national origin, use of medical cannabis products, as defined in s. 94.57 (1)
4 (f), ancestry, marital status, lawful source of income, or status as a victim of domestic
5 abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u).

6 **SECTION 42.** 767.445 of the statutes is created to read:

7 **767.445 Medical cannabis. (1)** In this section, “medical cannabis product”
8 has the meaning given in s. 94.57 (1) (f).

9 **(2)** A court may not consider lawful use or possession of medical cannabis
10 products under s. 94.57 or ch. 259 in determining custody or placement of a child
11 under this chapter, except in cases in which a child has access to the medical cannabis
12 products. A court may consider the unlawful use or possession of cannabis, as
13 defined in s. 94.57 (1) (a), in determining custody or placement of a child under this
14 chapter.

15 **SECTION 43.** 943.895 (4) of the statutes is renumbered 943.895 (4) (a).

16 **SECTION 44.** 943.895 (4) (b) of the statutes is created to read:

17 943.895 (4) (b) A financial institution or person acting on behalf of or providing
18 services to a financial institution does not violate this section solely by receiving
19 deposits, extending credit, conducting funds transfers, transporting cash or other
20 financial instruments, or providing other financial services to a cannabis grower,
21 processor, or laboratory licensed under s. 94.57 or a medical cannabis dispensary
22 operating pursuant to s. 259.10.

23 **SECTION 45.** 961.01 (3u) of the statutes is created to read:

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1 961.01 **(3u)** “Caregiver” means an individual who holds a valid registry
2 identification card under s. 259.04 to help a registered patient in his or her use or
3 acquisition of medical cannabis products.

4 **SECTION 46.** 961.01 (12q) of the statutes is created to read:

5 961.01 **(12q)** “Licensed entity” means a grower licensed under s. 94.57 (4), a
6 processor licensed under s. 94.57 (5), a laboratory licensed under s. 94.57 (6), or a
7 dispensary that is operating pursuant to s. 259.10.

8 **SECTION 47.** 961.01 (14g) of the statutes is created to read:

9 961.01 **(14g)** “Medical cannabis product” has the meaning given in s. 94.57 (1)
10 (f).

11 **SECTION 48.** 961.01 (20hm) of the statutes is created to read:

12 961.01 **(20hm)** “Registered patient” means an individual who holds a valid
13 registry identification card under s. 259.04 to use medical cannabis products.

14 **SECTION 49.** 961.01 (20t) of the statutes is created to read:

15 961.01 **(20t)** “Treatment team” means a registered patient and the registered
16 patient’s caregivers if any.

17 **SECTION 50.** 961.33 of the statutes is created to read:

18 **961.33 Medical cannabis. (1) POSSESSION, DISTRIBUTION, AND DELIVERY BY**
19 **TREATMENT TEAM.** Notwithstanding s. 961.41 (1) (h), (1m) (h), or (3g) (e), a member
20 of a treatment team may possess medical cannabis products or distribute, deliver, or
21 possess with the intent to deliver medical cannabis products to another member of
22 the same registered patient’s treatment team if all of the following apply:

23 (a) The possession, distribution, or delivery of the medical cannabis product is
24 for the use of a registered patient in accordance with ch. 259.

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1 (b) The medical cannabis product is obtained from a dispensary operating
2 pursuant to s. 259.10.

3 (c) The amount of medical cannabis product does not exceed the amount
4 specified under s. 259.10 (5) for each registered patient.

5 (d) The member of the treatment team has in the member's possession a valid
6 registry identification card issued under s. 259.04.

7 (e) The medical cannabis product is possessed at the residence of the registered
8 patient or possessed while the medical cannabis product is being transported to the
9 residence of the registered patient. Under this paragraph, "residence" includes a
10 temporary accommodation if the registered patient intends to or did stay overnight.

11 **(2) LICENSED ENTITIES; AUTHORIZED ACTS.** Notwithstanding s. 961.41 (1) (h), (1m)
12 (h), or (3g) (e), a licensed entity or an agent or employee of a licensed entity may
13 possess, manufacture, distribute, or deliver marijuana or medical cannabis products
14 or possess with the intent to manufacture, distribute, or deliver marijuana or
15 medical cannabis products if the licensed entity, agent, or employee is acting in the
16 usual course of his or her business or employment.

17 **(3) PROSECUTION.** (a) A member of a treatment team may not be prosecuted for
18 an offense under this chapter, or under an ordinance described in s. 59.54 (25) (a) or
19 66.0107 (1) (bm), for any of the following:

20 1. The possession, manufacture, distribution, or delivery of medical cannabis
21 products or possession with the intent to manufacture, distribute, or deliver medical
22 cannabis products if the person is acting in accordance with this section.

23 2. A violation of sub. (1) (d) or (e).

24 (b) A licensed entity or an agent or employee of a licensed entity may not be
25 prosecuted for a criminal offense under this chapter, or under an ordinance described

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1 in s. 59.54 (25) (a) or 66.0107 (1) (bm), for the possession, manufacture, distribution,
2 or delivery of marijuana or medical cannabis products or possession with the intent
3 to manufacture, distribute, or deliver marijuana or medical cannabis products if the
4 entity, agent, or employee is acting in the usual course of his or her business or
5 employment.

6 (c) A member of a treatment team who fails to comply with sub. (1) (d) is subject
7 to a forfeiture of \$25, except that, if the member produces a registry identification
8 card within 72 hours after failing to comply, the member is not subject to the
9 forfeiture under this paragraph. No other penalty applies to a member of a
10 treatment team solely because of the member's failure to comply with sub. (1) (d).

11 (d) A member of a treatment team who fails to comply with sub. (1) (e) is subject
12 to a forfeiture of \$25.

13 **(4) EVIDENCE OF OTHER CRIMES NOT SUBJECT TO SUPPRESSION.** If a search based
14 on probable cause of a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), or an ordinance
15 described in s. 59.54 (25) (a) or 66.0107 (1) (bm), yields evidence of a crime other than
16 a violation of s. 961.41 (1) (h), (1m) (h), or (3g) (e), suppression of that evidence is not
17 required if the only grounds for suppression is the immunity granted under this
18 section.

19 **SECTION 51.** 961.38 (title) of the statutes is amended to read:

20 **961.38** (title) **Prescriptions and recommendations for medical use.**

21 **SECTION 52.** 961.38 (1p) of the statutes is created to read:

22 961.38 **(1p)** A dispensary operating pursuant to s. 259.10 may dispense
23 medical cannabis products, as defined in s. 94.57 (1) (f), to registered patients and
24 caregivers in accordance with s. 259.10.

25 **SECTION 53.** 961.385 (1) (ae) of the statutes is amended to read:

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1 961.385 (1) (ae) “Deliver” or “delivery” means the actual, constructive, or
2 attempted transfer of a monitored prescription drug or a medical cannabis product
3 from one person to another.

4 **SECTION 54.** 961.385 (1) (af) of the statutes is renumbered 961.385 (1) (af)
5 (intro.) and amended to read:

6 961.385 (1) (af) (intro.) “Dispense” means to deliver do any of the following:

7 1. Deliver a monitored prescription drug pursuant to the lawful prescription
8 order of a practitioner, including the compounding, packaging, or labeling necessary
9 to prepare the monitored prescription drug for delivery.

10 **SECTION 55.** 961.385 (1) (af) 2. of the statutes is created to read:

11 961.385 (1) (af) 2. Deliver a medical cannabis product to a registered patient
12 or caregiver under s. 259.10.

13 **SECTION 56.** 961.385 (1) (aj) of the statutes is renumbered 961.385 (1) (aj)
14 (intro.) and amended to read:

15 961.385 (1) (aj) (intro.) “Patient” means ~~an~~ any of the following:

16 1. An individual or animal for whom a monitored prescription drug is
17 prescribed or to whom a monitored prescription drug is dispensed or administered.

18 **SECTION 57.** 961.385 (1) (aj) 2. of the statutes is created to read:

19 961.385 (1) (aj) 2. A registered patient.

20 **SECTION 58.** 961.385 (2) (intro.) of the statutes is amended to read:

21 961.385 (2) (intro.) The board shall establish by rule a program for monitoring
22 the dispensing of monitored prescription drugs and the dispensing of medical
23 cannabis products. The program shall do all of the following:

24 **SECTION 59.** 961.385 (2) (am) of the statutes is created to read:

ASSEMBLY BILL 1040**SECTION 59**

1 961.385 (2) (am) Require an individual designated under s. 259.10 (5) (d) to
2 generate a record documenting each dispensing of a medical cannabis product to a
3 registered patient or caregiver under s. 259.10.

4 **SECTION 60.** 961.385 (2) (b) of the statutes is amended to read:

5 961.385 (2) (b) Identify specific data elements to be contained in a record
6 documenting the dispensing of a monitored prescription drug, including the method
7 of payment and, subject to sub. (2m), the name recorded under s. 450.11 (1b) (bm).

8 (bm) In identifying specific data elements, ~~the board shall~~ under pars. (b) and
9 (bc), consider data elements identified by similar programs in other states and shall
10 ensure, to the extent possible, that records generated by the program are easily
11 shared with other states.

12 **SECTION 61.** 961.385 (2) (bc) of the statutes is created to read:

13 961.385 (2) (bc) Identify specific data elements to be contained in a record
14 documenting the dispensing of a medical cannabis product under s. 259.10.

15 **SECTION 62.** 961.385 (2) (cm) 3. a. of the statutes is amended to read:

16 961.385 (2) (cm) 3. a. The state board or agency, agency of another state, law
17 enforcement agency, or prosecutorial unit makes a written request for the record and
18 is engaged in an active and specific investigation or prosecution of a violation of any
19 state or federal law involving a monitored prescription drug or any state or federal
20 law involving marijuana, and the record being requested is reasonably related to
21 that investigation or prosecution.

22 **SECTION 63.** 961.385 (2) (ct) of the statutes is created to read:

23 961.385 (2) (ct) Require that a patient's records under the program be reviewed
24 before a medical cannabis product is dispensed under s. 259.10. The review required
25 under this paragraph shall be performed by a pharmacist described in s. 259.10.

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1 **SECTION 64.** 961.385 (2) (f) of the statutes is amended to read:

2 961.385 (2) (f) Permit the board to refer to the appropriate licensing or
3 regulatory board for discipline a pharmacist, pharmacy, or practitioner, or to the
4 office of medical cannabis regulation or the department of health services an
5 individual for purposes of enforcement of ch. 259, that fails to comply with rules
6 promulgated under this subsection, including by failure to generate a record that is
7 required by the program.

8 **SECTION 65.** 961.385 (3) (b) of the statutes is amended to read:

9 961.385 (3) (b) Nothing in this section may be construed to require a pharmacy
10 or pharmacist to obtain, before dispensing a monitored prescription drug or medical
11 cannabis product to a patient, information about the patient that has been collected
12 pursuant to the program established under sub. (2).

13 **SECTION 66.** 961.385 (5) (a) 2. of the statutes is amended to read:

14 961.385 (5) (a) 2. The program's impact on referrals of pharmacists,
15 pharmacies, and practitioners to licensing or regulatory boards, or to the office of
16 medical cannabis regulation or the department for discipline, for enforcement of ch.
17 259, and to law enforcement agencies for investigation and possible prosecution.

18 **SECTION 67.** 961.385 (6) (b) of the statutes is amended to read:

19 961.385 (6) (b) An assessment of the trends and changes in the use of monitored
20 prescription drugs and medical cannabis products in this state.

21 **SECTION 68.** 961.55 (8) (c) of the statutes is created to read:

22 961.55 (8) (c) A license described in s. 961.01 (12q).

23 **SECTION 69.** 961.571 (1) (b) 4. of the statutes is created to read:

24 961.571 (1) (b) 4. Objects used, designed for use, or primarily intended for use
25 by a registered patient in accordance with ch. 259.

