



2024 South Dakota Legislature

Senate Bill 11

Introduced by: **Senator Tobin**

1 **An Act to prohibit a practitioner from referring a patient to a medical cannabis clinic**
 2 **with which the practitioner or an immediate family member has a financial**
 3 **relationship and to provide a penalty therefor.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That chapter 34-20G be amended with a NEW SECTION:**

6 If a practitioner or an immediate family member of the practitioner has a financial
 7 relationship with a medical cannabis clinic, the practitioner may not refer a patient to that
 8 clinic for the purpose of receiving a written certification under this chapter.

9 For purposes of this section, a "financial relationship" means an ownership or
 10 investment interest in the medical cannabis clinic, or a compensation arrangement
 11 between the practitioner or the practitioner's immediate family member and the clinic.

12 An ownership or investment interest may be through equity, debt, or other means
 13 and includes an interest in an entity that holds an ownership or investment interest in the
 14 medical cannabis clinic.

15 The prohibition of this section does not apply:

16 (1) If the services offered at the medical cannabis clinic are being provided by another
 17 practitioner in the same group practice as the referring practitioner;

18 (2) To a compensation arrangement, between the practitioner or the practitioner's
 19 immediate family member and the medical cannabis clinic, consisting of payments
 20 under the terms of a written lease that:

21 (a) Is signed by all the parties;

22 (b) Specifies the premises covered by the lease, provided the premises do not
 23 exceed the space that is reasonable and necessary for the legitimate
 24 business purposes of the lease and further provided that the premises, aside
 25 from common areas, are used exclusively by the lessee;

26 (c) Has a duration of at least twelve months; and

- 1 (d) Specifies the rental charges over the term of the lease, provided the charges
- 2 are consistent with fair market value, and are not determined in a manner
- 3 that takes into account the volume or value of any referrals or other
- 4 business generated between the parties;
- 5 (3) To a bona fide employment relationship under which an immediate family member
- 6 of the practitioner is employed by the clinic for identifiable services, and receives
- 7 remuneration for those services in an amount that:
- 8 (a) Is consistent with the fair market value of the services; and
- 9 (b) Is not determined in a manner that takes into account, directly or indirectly,
- 10 the volume or value of any referrals by the referring practitioner; and
- 11 (4) To an isolated transaction, such as a one-time sale of property.
- 12 Any practitioner who refers a patient to a medical cannabis clinic, with which the
- 13 practitioner or an immediate family member of the practitioner has a financial relationship,
- 14 is guilty of a Class 2 misdemeanor.