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H 3081

Session 123 (2019-2020)

H 3081 General Bill, By Henderson-Myers, Cobb-Hunter, Brawley, McCoy and McDaniel

A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "MEDICAL USE OF MARIJUANA ACT"; BY ADDING ARTICLE 22 TO CHAPTER 53, TITLE 44 SO AS TO AUTHORIZE CERTIFIED PATIENTS TO USE MARIJUANA FOR MEDICAL PURPOSES, PRACTITIONERS TO RECOMMEND THE MEDICAL USE OF MARIJUANA FOR THOSE PATIENTS, AND INDIVIDUALS TO ACT AS DESIGNATED CAREGIVERS FOR THOSE PATIENTS, ALL WITH EXCEPTIONS; TO DEFINE CERTAIN TERMS, INCLUDING "CERTIFIED MEDICAL USE", "INDIVIDUAL DOSE", AND "SERIOUS CONDITION"; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO MAINTAIN A CONFIDENTIAL LIST OF ALL PERSONS TO WHOM IT HAS ISSUED A REGISTRY IDENTIFICATION CARD; TO REQUIRE PRACTITIONERS WHEN PROVIDING A CERTIFICATION TO CONSIDER, AMONG OTHER FACTORS, THE FORM OF MEDICAL MARIJUANA AND THE METHOD OF CONSUMPTION FOR THE PATIENT; TO PROVIDE CERTAIN DEFENSES AND OTHER PROTECTIONS TO CERTIFIED PATIENTS, DESIGNATED CAREGIVERS, AND PRACTITIONERS FROM CRIMINAL LIABILITY AND PROFESSIONAL DISCIPLINE FOR CONDUCT AUTHORIZED BY THIS ARTICLE; TO AUTHORIZE THE REGISTRATION OF ORGANIZATIONS TO ACQUIRE, POSSESS, MANUFACTURE, SELL, DISTRIBUTE, AND DISPENSE MARIJUANA FOR CERTIFIED MEDICAL USE, AND TO REQUIRE SUCH ORGANIZATIONS TO CONTRACT WITH LABORATORIES FOR TESTING OF MARIJUANA; TO ESTABLISH THE "EMERGENCY MEDICAL MARIJUANA ACCESS PROGRAM" AND PROVIDE FOR ITS PURPOSES; TO PROVIDE FOR THE ESTABLISHMENT OF CERTAIN FEES; TO CREATE CRIMINAL PENALTIES; TO REQUIRE THE DEPARTMENT TO PROMULGATE REGULATIONS AND TO SUBMIT CERTAIN REPORTS; AND FOR OTHER PURPOSES.

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12/18/18	House	Prefiled
12/18/18	House	Referred to Committee on Medical, Military, Public and Municipal Affairs
01/08/19	House	Introduced and read first time (House Journal-page 78)
01/08/19	House	Referred to Committee on Medical, Military, Public and Municipal Affairs (House Journal-page 78)
01/16/19	House	Member(s) request name added as sponsor: Brawley, McCoy
01/29/19	House	Member(s) request name added as sponsor: McDaniel

VERSIONS OF THIS BILL

12/18/2018

H. 3081

A BILL

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "MEDICAL

USE OF MARIJUANA ACT"; BY ADDING ARTICLE 22 TO CHAPTER 53, TITLE 44 SO AS TO AUTHORIZE CERTIFIED PATIENTS TO USE MARIJUANA FOR MEDICAL PURPOSES, PRACTITIONERS TO RECOMMEND THE MEDICAL USE OF MARIJUANA FOR THOSE PATIENTS, AND INDIVIDUALS TO ACT AS DESIGNATED CAREGIVERS FOR THOSE PATIENTS, ALL WITH EXCEPTIONS; TO DEFINE CERTAIN TERMS, INCLUDING "CERTIFIED MEDICAL USE", "INDIVIDUAL DOSE", AND "SERIOUS CONDITION"; TO REQUIRE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL TO MAINTAIN A CONFIDENTIAL LIST OF ALL PERSONS TO WHOM IT HAS ISSUED A REGISTRY IDENTIFICATION CARD; TO REQUIRE PRACTITIONERS WHEN PROVIDING A CERTIFICATION TO CONSIDER, AMONG OTHER FACTORS, THE FORM OF MEDICAL MARIJUANA AND THE METHOD OF CONSUMPTION FOR THE PATIENT; TO PROVIDE CERTAIN DEFENSES AND OTHER PROTECTIONS TO CERTIFIED PATIENTS, DESIGNATED CAREGIVERS, AND PRACTITIONERS FROM CRIMINAL LIABILITY AND PROFESSIONAL DISCIPLINE FOR CONDUCT AUTHORIZED BY THIS ARTICLE; TO AUTHORIZE THE REGISTRATION OF ORGANIZATIONS TO ACQUIRE, POSSESS, MANUFACTURE, SELL, DISTRIBUTE, AND DISPENSE MARIJUANA FOR CERTIFIED MEDICAL USE, AND TO REQUIRE SUCH ORGANIZATIONS TO CONTRACT WITH LABORATORIES FOR TESTING OF MARIJUANA; TO ESTABLISH THE "EMERGENCY MEDICAL MARIJUANA ACCESS PROGRAM" AND PROVIDE FOR ITS PURPOSES; TO PROVIDE FOR THE ESTABLISHMENT OF CERTAIN FEES; TO CREATE CRIMINAL PENALTIES; TO REQUIRE THE DEPARTMENT TO PROMULGATE REGULATIONS AND TO SUBMIT CERTAIN REPORTS; AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be known and cited as the "Medical Use of Marijuana Act".

SECTION 2. Chapter 53, Title 44 of the 1976 Code is amended by adding:

"Article 22

Medical Use of Marijuana

Section 44-53-2210. As used in this article:

- (1) 'Applicant' means a for-profit entity or not-for-profit corporation and includes board members, officers, managers, owners, partners, principal stakeholders, and members who submit an application to become a registered organization.
- (2) 'Caring for' means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition.
- (3) 'Certification' means a certification, made pursuant to Section 44-53-2220.
- (4) 'Certified medical use' means the acquisition, possession, use, or transportation of medical marijuana by a certified patient, or the acquisition, possession, delivery, transportation, or administration of medical marijuana by a designated caregiver, for use as part of the treatment of the patient's serious condition, as authorized in a certification pursuant to this article, including enabling the patient to tolerate treatment for the serious condition. A certified medical use does not include smoking.
- (5) 'Certified patient' means a patient who is a resident of South Carolina or receiving care and treatment in South Carolina as determined by the department in regulation, and is certified pursuant to Section 44-53-2220.
- (6) 'Department' means the South Carolina Department of Health and Environmental Control.
- (7) 'Designated caregiver' means the individual designated by a certified patient in a registry application.

A certified patient may designate up to two designated caregivers.

- (8) 'Form of medical marijuana' means characteristics of the medical marijuana recommended or limited for a particular certified patient, including the method of consumption and any particular strain, variety, and quantity or percentage of marijuana or particular active ingredient.
- (9) 'Individual dose' means a single measure of raw medical marijuana or non-infused concentrates to be determined and clearly identified by a patient's practitioner for the patient's specific certified condition. For ingestible or sublingual medical marijuana products, no individual dose may contain more than ten milligrams of tetrahydrocannabinol.
- (10) 'Medical marijuana' means marijuana as defined in Section 44-53-110, intended for a certified medical use, as determined by the department. Any form of medical marijuana not approved by the department is expressly prohibited.
- (11) 'Practitioner' means a practitioner who:
- (a) is a physician licensed in this State and practicing within the State;
 - (b) who by training or experience is qualified to treat a serious condition as defined in item (16); and
 - (c) has completed a two- to four-hour course as determined by the department in regulation and registered with the department; provided, however, a registration must not be denied without cause. Such course may count toward board certification requirements.
- (12) 'Public place' means a public place as defined in regulation by the department.
- (13) 'Registered organization' means a registered organization pursuant to Sections 44-53-2250 and 44-53-2260.
- (14) 'Registry application' means an application properly completed and filed with the department by a certified patient pursuant to Section 44-53-2240.
- (15) 'Registry identification card' means a document that identifies a certified patient or designated caregiver, as provided pursuant to Section 44-53-2240.
- (16)(a) 'Serious condition' means:
- (i) having one of the following severely debilitating or life-threatening conditions: cancer, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, post-traumatic stress disorder, pain that degrades health and functional capability where the use of medical marijuana is an alternative to **opioid** use, substance use disorder, or as added by the department; and
 - (ii) any of the following conditions where it is clinically associated with, or a complication of, a condition under this item or its treatment: cachexia or wasting syndrome, severe or chronic pain, severe nausea, seizures, severe or persistent muscle spasms, or such conditions as are added by the department.
- (b) No later than eighteen months from the effective date of this act, the department shall determine whether to add the following serious conditions: Alzheimer's, muscular dystrophy, dystonia, post-traumatic stress disorder, and rheumatoid arthritis.
- (17) 'Special certification' means a special certification made pursuant to Section 44-53-2220(I).

(18) 'Terminally ill' means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.

Section 44-53-2220. (A) A patient certification only may be issued if:

- (1) a practitioner has been registered with the department to issue a certification;
- (2) the patient has a serious condition, which must be specified in the patient's health care record;
- (3) the practitioner by training or experience is qualified to treat the serious condition;
- (4) the patient is under the practitioner's continuing care for the serious condition; and
- (5) in the practitioner's professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from the primary or adjunctive treatment with medical use of marijuana for the serious condition.

(B)(1) The certification must include:

- (a) the name, date of birth, and address of the patient;
- (b) a statement that the patient has a serious condition and the patient is under the practitioner's care for the serious condition;
- (c) a statement attesting that all requirements of subsection (A) have been satisfied;
- (d) the date; and
- (e) the name, address, federal registration number, telephone number, and the handwritten signature of the certifying practitioner.

(2) The department may require by regulation that the certification be on a form provided by the department. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient would benefit from medical marijuana only until a specified date. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient is terminally ill and the certification does not expire until the patient dies.

(C) In making a certification, the practitioner shall consider the form of medical marijuana the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percentage of marijuana or particular active ingredient, and appropriate dosage. The practitioner shall state in the certification any recommendation or limitation the practitioner makes, in the practitioner's professional opinion, concerning the appropriate form or forms of medical marijuana and dosage.

(D) Every practitioner shall consult the prescription monitoring program prior to making or issuing a certification, for the purpose of reviewing a patient's controlled substance prescription history. For purposes of this subsection, a practitioner may authorize a designee to consult the prescription monitoring program on the practitioner's behalf, provided that such designation is in accordance with Section 44-53-1645.

(E) The practitioner shall give the certification to the certified patient and place a copy in the patient's health care record.

(F) No practitioner shall issue a certification under this section for himself.

(G) A registry identification card based on a certification expires one year after the date the certification is signed by the practitioner.

(H)(1) If the practitioner states in the certification that, in the practitioner's professional opinion, the patient would benefit from medical marijuana only until a specified earlier date, then the registry identification card expires on that date.

(2) If the practitioner states in the certification that in the practitioner's professional opinion the patient is terminally ill and that the certification does not expire until the patient dies, then the registry identification card must state that the patient is terminally ill and that the registration card does not expire until the patient dies.

(3) If the practitioner reissues the certification to terminate the certification on an earlier date, then the registry identification card expires on that date and must be promptly returned by the certified patient to the department.

(4) If the certification so provides, the registry identification card must state any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

(I)(1) A certification may be a special certification if, in addition to the other requirements for a certification, the practitioner certifies in the certification that the patient's serious condition is progressive and degenerative or that delay in the patient's certified medical use of marijuana poses a serious risk to the patient's life or health.

(2) The department shall create the form to be used for a special certification and shall make that form available to be downloaded from the department's website.

Section 44-53-2230. (A) The possession, acquisition, use, delivery, transfer, transportation, or administration of medical marijuana by a certified patient or designated caregiver possessing a valid registry identification card, for certified medical use, is lawful under this article, provided that:

(1) the marijuana that may be possessed by a certified patient may not exceed a thirty-day supply of the dosage as determined by the practitioner, consistent with any guidance issued and regulations promulgated by the department, provided that during the last seven days of any thirty-day period, the certified patient also may possess up to such amount for the next thirty-day period;

(2) the marijuana that may be possessed by designated caregivers does not exceed the quantities in item (1) for each certified patient for whom the caregiver possesses a valid registry identification card, up to five certified patients;

(3) the form or forms of medical marijuana that may be possessed by the certified patient or designated caregiver pursuant to a certification must be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient in the certification; and

(4) the medical marijuana must be kept in the original package in which it was dispensed pursuant to this article, except for the portion removed for immediate consumption for certified medical use by the certified patient.

(B) Notwithstanding subsection (A):

(1) Possession of medical marijuana is not lawful pursuant to this article if it is smoked, consumed, vaporized, or grown in a public place, regardless of the form of medical marijuana stated in the patient's certification.

(2) A person possessing medical marijuana pursuant to this article must possess a valid registry identification card at all times when in immediate possession of medical marijuana.

Section 44-53-2240. (A) Upon approval of the certification, the department shall issue registry identification cards for certified patients and designated caregivers. A registry identification card expires as provided in Section 44-53-2220, or as otherwise provided in that section. The department may specify a form for a registry application, in which case the department shall provide the form on request. Reproductions of the form may be used, and the form must be available for downloading from the department's website.

(B) To obtain, amend, or renew a registry identification card, a certified patient or designated caregiver shall file a registry application with the department. The registry application or renewal application must include:

(1) in the case of a certified patient:

(a) the patient's certification, provided that a new written certification must be provided with a renewal application;

(b) the name, address, and date of birth of the patient;

(c) the date of the certification;

(d) if the patient has a registry identification card based on a current valid certification, the registry identification number and expiration date of that registry identification card;

(e) the specified date until which the patient would benefit from medical marijuana, if the certification states such a date;

(f) the name, address, federal registration number, and telephone number of the certifying practitioner;

(g) any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient; and

(h) other individual identifying information required by the department;

(2) in the case of a certified patient, if the patient designates a designated caregiver, the name, address, and date of birth of the designated caregiver, and other individual identifying information required by the department;

(3) in the case of a designated caregiver:

(a) the name, address, and date of birth of the designated caregiver;

(b) if the designated caregiver has a registry identification card, the registry identification number and expiration date of that registry identification card; and

(c) other individual identifying information required by the department;

(4) a statement that a false statement made in the application is punishable as perjury under the laws of this State;

(5) the date of the application and the signature of the certified patient or designated caregiver, as the case may be;

(6) a fifty-dollar application fee, provided, that the department may waive or reduce the fee in cases of financial hardship; and

(7) any other requirements determined by the department.

(C) If a certified patient is under the age of eighteen:

(1) The application for a registry identification card must be made by an appropriate person over twenty-one years of age. The application must state facts demonstrating that the person is appropriate.

(2) The designated caregiver must be:

(a) a parent or legal guardian of the certified patient;

(b) a person designated by a parent or legal guardian; or

(c) an appropriate person approved by the department upon a sufficient showing that no parent or legal guardian is appropriate or available.

(D) No person may be a designated caregiver if the person is under twenty-one years of age unless a sufficient showing is made to the department that the person should be permitted to serve as a designated caregiver. The requirements for such a showing must be determined by the department.

(E) No person may be a designated caregiver for more than five certified patients at one time.

(F) If a certified patient wishes to change or terminate the designated caregiver, for whatever reason, the certified patient shall notify the department as soon as practicable. The department shall issue a notification to the designated caregiver that his registration card is invalid and must be promptly returned to the department. The newly designated caregiver shall comply with all requirements set forth in this section.

(G) If the certification so provides, the registry identification card must contain any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

(H) The department shall issue separate registry identification cards for certified patients and designated caregivers as soon as reasonably practicable after receiving a complete application in accordance with this section, unless it determines that the application is incomplete or factually inaccurate, in which case the department shall promptly notify the applicant.

(I) If the application of a certified patient designates an individual as a designated caregiver who is not authorized to be a designated caregiver, that portion of the application must be denied by the department but denial of a designated caregiver must not affect the approval of the balance of the application.

(J) A registry identification card must:

(1) contain the name of the certified patient or the designated caregiver;

(2) contain the date of issuance and expiration date of the registry identification card;

(3) contain a registry identification number for the certified patient or designated caregiver, as the case may be and a registry identification number;

(4) contain a photograph of the individual to whom the registry identification card is being issued, which must be obtained by the department in a manner specified by regulation; provided, however, that if the department requires certified patients to submit photographs for this purpose, there must be a reasonable accommodation of certified patients who are confined to their homes due to their medical conditions and may therefore have difficulty procuring photographs;

(5) be a secure document as determined by the department;

(6) plainly state any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient; and

(7) any other requirements determined by the department.

(K) A certified patient or designated caregiver who has been issued a registry identification card shall notify the department of any change in name or address or, with respect to the patient, if the patient ceases to have the serious condition noted on the certification within ten days of such change. The certified patient's or designated caregiver's registry identification card must be deemed invalid and must be returned promptly to the department.

(L) If a certified patient or designated caregiver loses his registry identification card, he shall notify the department and submit a twenty-five-dollar fee within ten days of losing the card to maintain the registration. The department may establish higher fees for issuing a new registry identification card for second and subsequent replacements for a lost card, provided, that the department may waive or reduce the fee in cases of financial hardship. The department shall issue a new registry identification card as soon as practicable, which may contain a new registry identification number, to the certified patient or designated caregiver, as the case may be. The certified patient or designated caregiver may not obtain medical marijuana until the certified patient receives a new card.

(M) The department shall maintain a confidential list of the persons to whom it has issued registry identification cards. Individual identifying information obtained by the department pursuant to this article is confidential and exempt from disclosure under the Freedom of Information Act. Notwithstanding this subsection, the department may notify any appropriate law enforcement agency of information relating to any violation or suspected violation of this article.

(N) The department shall verify to law enforcement personnel in an appropriate case whether a registry identification card is valid.

(O) If a certified patient or designated caregiver wilfully violates any provision of this article as determined by the department, his registry identification card may be suspended or revoked, in addition to any other penalty that may apply.

(P) The department shall promulgate regulations for special certifications, which must include expedited procedures and which may require the applicant to submit additional documentation establishing the clinical basis for the special certification. If the department has not established and made available a form for a registry application or renewal application and determined the application fee if any, or established and made available a form for a registry application or renewal application and determined the application fee for a special certification, then in the case of a special certification, a registry application or renewal application that otherwise conforms with the requirements of this section may not require the use of a form or the payment of an application fee.

Section 44-53-2250. (A) A registered organization must be a for-profit business entity or nonprofit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing, or dispensing marijuana for certified medical use.

(B) The acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing of marijuana by a registered organization pursuant to this article, and in accordance with its registration pursuant to Section 44-53-2260 or a renewal thereof, is lawful pursuant to this article.

(C) Each registered organization shall contract with an independent laboratory to test the medical marijuana produced by the registered organization. The department shall approve the laboratory and require that the laboratory report testing results in a manner determined by regulations promulgated by the department.

(D)(1) A registered organization may lawfully, in good faith, sell, deliver, distribute, or dispense medical marijuana to a certified patient or designated caregiver upon presentation to the registered organization of a valid registry identification card for that certified patient or designated caregiver. When presented with the

registry identification card, the registered organization shall provide to the certified patient or designated caregiver a receipt, which shall state: the name, address, and registry identification number of the registered organization; the name and registry identification number of the certified patient and the designated caregiver, if any; the date the marijuana was sold; any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient; and the form and the quantity of medical marijuana sold. The registered organization shall retain a copy of the registry identification card and the receipt for six years.

(2) The proprietor of a registered organization shall file or cause to be filed any receipt and certification information with the department by electronic means on a real time basis as the department requires by regulation. When filing receipt and certification information electronically pursuant to this item, the proprietor of the registered organization shall dispose of any electronically recorded prescription information in such manner as the department shall by regulation require.

(E)(1) No registered organization may sell, deliver, distribute or dispense to any certified patient or designated caregiver a quantity of medical marijuana larger than that individual would be allowed to possess under this article.

(2) When dispensing medical marijuana to a certified patient or designated caregiver, the registered organization:

(a) may not dispense an amount greater than a thirty-day supply to a certified patient until the certified patient has exhausted all but a seven-day supply provided pursuant to a previously issued certification; and

(b) shall verify the information in subitem (a) by consulting the prescription monitoring program pursuant to Section 44-53-1645.

(3) Medical marijuana dispensed to a certified patient or designated caregiver by a registered organization must conform to any recommendation or limitation by the practitioner as to the form or forms of medical marijuana or dosage for the certified patient.

(F) When a registered organization sells, delivers, distributes, or dispenses medical marijuana to a certified patient or designated caregiver, it shall provide to that individual a safety insert, which must be developed and approved by the department and include, but not be limited to, information on:

(1) methods for administering medical marijuana in individual doses;

(2) any potential dangers stemming from the use of medical marijuana;

(3) how to recognize what may be problematic usage of medical marijuana and obtain appropriate services or treatment for problematic usage; and

(4) other information as determined by the department.

(G) A registered organization must not be managed by or employ anyone who has been convicted of any felony of sale or possession of drugs, narcotics, or controlled substances.

(H) Manufacturing of medical marijuana by a registered organization only may be done in an indoor, enclosed, secure facility located in this State, which may include a greenhouse. The department shall promulgate regulations establishing requirements for such facilities.

(I) Dispensing of medical marijuana by a registered organization only may be done in an indoor, enclosed, secure facility located in this State, which may include a greenhouse. The department shall promulgate regulations establishing requirements for such facilities.

(J) A registered organization shall determine the quality, safety, and clinical strength of medical marijuana manufactured or dispensed by the registered organization, and shall provide documentation of that quality, safety and clinical strength to the department and to any person or entity to which the medical marijuana is sold or dispensed.

(K) Medical marijuana must be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package. The labeling must contain:

(1) the information required to be included in the receipt provided to the certified patient or designated caregiver by the registered organization;

(2) the packaging date;

(3) any applicable date by which the medical marijuana should be used;

(4) a warning stating, 'This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner, and in the case of breastfeeding mothers, including the infant's pediatrician. This product might impair the ability to drive. Keep out of reach of children.';

(5) the amount of individual doses contained within; and

(6) a warning that the medical marijuana must be kept in the original container in which it was dispensed.

(L) The department may promulgate regulations restricting the advertising and marketing of medical marijuana, which must be consistent with the federal regulations governing prescription drug advertising and marketing.

Section 44-53-2260. (A) An applicant for registration as a registered organization pursuant to Section 44-53-2250 shall include such information prepared in such manner and detail as the department may require, including but not limited to:

(1) a description of the activities in which it intends to engage as a registered organization;

(2) that the applicant:

(a) is of good moral character;

(b) possesses or has the right to use sufficient land, buildings, and other premises, which must be specified in the application, and equipment to properly carry on the activity described in the application, or in the alternative posts a bond of not less than two million dollars;

(c) is able to maintain effective security and control to prevent diversion, abuse, and other illegal conduct relating to the marijuana; and

(d) is able to comply with all applicable state laws and regulations relating to the activities in which it intends to engage under the registration;

(3) the applicant's status pursuant to Section 44-53-2250; and

(4) the name, residence address, and title of each of the officers and directors and the name and residence address of any person or entity that is a member of the applicant. Each such person, if an individual, or each such lawful representative if a legal entity, shall submit an affidavit with the application setting forth:

(a) any position of management or ownership during the preceding ten years of a ten percent or greater

interest in any other business, located in or outside this State, manufacturing or distributing drugs;

(b) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding; and

(c) such other information as the department may reasonably require.

(B) The applicant is under a continuing duty to report to the department any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

(C)(1) The department shall grant a registration or amendment to a registration pursuant to this section if it is satisfied that:

(a) the applicant is able to maintain effective control against diversion of marijuana;

(b) the applicant is able to comply with all applicable state laws;

(c) the applicant and its officers are ready, willing and able to properly carry on the manufacturing or distributing activity for which a registration is sought;

(d) the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application;

(e) it is in the public interest that such registration be granted; in making that determination, the department may consider whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area;

(f) the applicant and its managing officers are of good moral character; and

(g) the applicant satisfies any other conditions as determined by the department.

(2) If the department is not satisfied that the applicant should be issued a registration, it shall notify the applicant in writing of those factors upon which further evidence is required. Within thirty days of the receipt of such notification, the applicant may submit additional material to the department or request a hearing, or both.

(3) The fee for a registration under this section must be a reasonable amount determined by the department in regulations; provided, however, if the registration is issued for a period greater than two years the fee must be increased, pro rata, for each additional month of validity.

(4) A registration issued under this section is effective only for the registered organization and must specify:

(a) the name and address of the registered organization;

(b) which activities of a registered organization are permitted by the registration;

(c) the land, buildings, and facilities that may be used for the permitted activities of the registered organization; and

(d) such other information as the department requires to assure compliance with this article.

(5) Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the State or to add or delete permitted registered organization activities or facilities. The fee for such amendment is two hundred fifty dollars.

(D) A registration issued pursuant to this section is valid for two years from the date of issue, except that in order to facilitate the renewals of such registrations, the department may upon the initial application for a registration, issue some registrations which may remain valid for a period of time greater than two years but not exceeding an additional eleven months.

(E)(1) An application for the renewal of any registration issued pursuant to this section must be filed with the department not more than six months nor less than four months prior to the expiration of the registration. A late-filed application for the renewal of a registration may, in the discretion of the department be treated as an application for an initial license.

(2) The application for renewal must include information prepared in the manner and detail as the department may require including, but not limited to:

(a) any material change in the circumstances or factors listed in subsection (A); and

(b) every known charge or investigation, pending or concluded during the period of the registration, by any governmental or administrative agency with respect to:

(i) each incident or alleged incident involving the theft, loss, or possible diversion of marijuana manufactured or distributed by the applicant; and

(ii) compliance by the applicant with the laws of the State with respect to any substance listed in Section 44-53-2240.

(3) An applicant for renewal is under a continuing duty to report to the department any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

(4) If the department is not satisfied that the applicant is entitled to a renewal of the registration, it shall within a reasonably practicable time, serve upon the applicant or his attorney of record in person or by registered or certified mail an order directing the applicant to show cause why the application for renewal should not be denied. The order must specify in detail the respects in which the applicant has not satisfied the department that the registration should be renewed.

(5) Within a reasonably practicable time of such order, the applicant may submit additional material to the department or request a hearing, or both. If a hearing is requested, the department shall fix a date as soon as reasonably practicable.

(F)(1) The department shall renew a registration unless the department, or a designee, determines and finds that:

(a) the applicant is unlikely to maintain or be able to maintain effective control against diversion; or

(b) the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage under the registration; or

(c) it is not in the public interest to renew the registration because the number of registered organizations in an area is excessive to reasonably serve the area.

(2) For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this article, or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages under the registration, constitutes grounds for suspension or termination of the registered organization's registration as determined by the department. The registered organization is under a continuing duty to report to the department any material change or fact or circumstance to the information

provided in the registered organization's application.

(G) The department may suspend or terminate the registration of a registered organization on grounds and using the procedures under this article relating to issuance of a license. Conduct in compliance with this article which may violate conflicting federal law is grounds to suspend or terminate a registration.

(H) The department shall begin issuing registrations for registered organizations as soon as practicable after the certifications required by Section 44-53-2330 are given.

(I) The department shall register no more than five registered organizations that manufacture medical marijuana with no more than four dispensing sites wholly owned and operated by such registered organization. The department shall ensure that such registered organizations and dispensing sites are geographically distributed across the State. The commission may register additional registered organizations.

Section 44-53-2270. (A) There is hereby established in the department the 'Emergency Medical Marijuana Access Program'. The purpose of the program is to expedite the availability of medical marijuana to avoid suffering and loss of life, during the period before full implementation of and production under this article, especially in the case of patients whose serious condition is progressive and degenerative or is such that delay in the patient's medical use of marijuana poses a serious risk to the patient's life or health. The department shall implement the program as expeditiously as practicable, including by emergency regulation.

(B) The department shall begin accepting and acting on applications under this section for registered organizations as soon as practicable after the effective date of this section.

(C) In considering an application for registration as a registered organization under this section, the department shall give preference to the following:

(1) an applicant that is currently producing or providing or has a history of producing or providing medical marijuana in another jurisdiction in full compliance with the laws of the jurisdiction;

(2) an applicant that is able and qualified to produce, distribute, and dispense medical marijuana to patients expeditiously; and

(3) an applicant that proposes a location or locations for dispensing by the registered organization, which ensure, to the greatest extent possible, that certified patients with a special certification have access to a registered organization.

(D) The department may promulgate regulations to:

(1) limit registered organizations registered under this section to serving patients with special certifications; and

(2) limit the allowable levels of cannabidiol and tetrahydrocannabinol that may be contained in medical marijuana authorized under the program, based on therapeutics and patient safety.

(E) A registered organization under this section may apply pursuant to Section 44-53-2260 to receive or renew registration.

Section 44-53-2280. (A) The department shall require each registered organization to file reports during a particular period. The department shall determine the information to be reported and the forms, time, and manner of the reporting.

(B) The department shall, by regulation, require each registered organization to adopt and maintain

security, tracking, record keeping, record retention, and surveillance systems, relating to all medical marijuana at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization.

Section 44-53-2290. (A) The department may provide for the analysis and evaluation of the operation of this article. The department may enter into agreements with one or more persons, nonprofit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this article.

(B) The department may develop, seek any necessary federal approval for, and carry out research programs relating to medical use of marijuana. Participation in any such research program must be voluntary on the part of practitioners, patients, and designated caregivers.

(C) The department shall report every two years, beginning two years after the effective date of this article, to the Governor and the General Assembly on the medical use of marijuana pursuant to this article with recommendations.

Section 44-53-2300. Nothing in this article may be construed to require a private or public insurer or health plan to provide coverage for medical marijuana.

Section 44-53-2310. (A) Certified patients, designated caregivers, practitioners, registered organizations, and the employees of registered organizations are not subject to arrest, prosecution, or penalty in any manner, or to denial of any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of marijuana, or for any other action or conduct in accordance with this article.

(B) The fact that a person is a certified patient and acting in accordance with this article must not be a consideration in a domestic relations or child protection action or proceeding.

(C)(1) Certification applications, certification forms, any certified patient information contained within a database, and copies of registry identification cards must be deemed exempt from public disclosure under the Freedom of Information Act.

(2) The name, contact information, and other information relating to practitioners registered with the department under this article is public information and must be maintained on the department's website and be accessible to the public in searchable form. However, if a practitioner notifies the department in writing that he does not want his name and other information disclosed, that practitioner's name and other information must thereafter not be public information or maintained on the department's website, unless the practitioner cancels the request.

Section 44-53-2320. The department shall promulgate regulations to implement the provisions of this article.

Section 44-53-2330. Registry identification cards or registered organization registrations shall be issued or become effective no later than eighteen months from the effective date of this article or until such time as the director of the department and the Chief of the South Carolina Law Enforcement Division certify that this article can be implemented in accordance with public health and safety interests, whichever event comes later. Prior to making a general certification under this section, the department and SLED may make a certification limited to accommodating expedited access for patients with special certifications and for registered organizations under the Emergency Medical Marijuana Access Program pursuant to Section 44-53-2270.

Section 44-53-2340. (A) Every sale of medical marijuana must be at the price determined by the department. Every charge made or demanded for medical marijuana not in accordance with the price

determined by the department, is prohibited.

(B) The department is hereby authorized to set the per dose price of each form of medical marijuana sold by any registered organization. In setting the per dose price of each form of medical marijuana, the department shall consider the fixed and variable costs of producing the form of marijuana and any other factor the department, in its discretion, deems relevant to determining the per dose price of each form of medical marijuana."

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor.

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