

HOUSE  
AMENDMENT

THIS AMENDMENT  
ADOPTED

RAVENEL/CHARLTON  
APRIL 18, 2018

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CLERK OF THE HOUSE

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REP. HILL PROPOSES THE FOLLOWING AMENDMENT NO. TO  
H. 3521 (COUNCIL\VR\3521C004.CC.VR18):

REFERENCE IS TO PRINTER'S DATE 1/18/17-H.

**AMEND THE BILL, AS AND IF AMENDED, BY  
STRIKING ALL AFTER THE ENACTING WORDS AND  
INSERTING:**

/ SECTION 1. Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Article 20  
South Carolina Compassionate Care Act

Section 44-53-2000. The General Assembly finds that:

(1) Cannabis's recorded use as a medicine goes back nearly five thousand years. Modern medical research has confirmed the beneficial uses of cannabis, which is also called marijuana, in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer and multiple sclerosis, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

(2) Studies published since the 1999 Institute of Medicine report continue to show the therapeutic value of cannabis in treating a wide array of debilitating medical conditions. These include relief of the neuropathic pain that often fails to respond to conventional treatments; reduction in patients' reliance on opiate-based painkillers; and relief of severe nausea and hepatitis C, thereby increasing the chances of patients continuing on life-saving treatment regimens.

(3) Cannabis has many accepted medical uses in the United States, having been recommended by thousands of licensed physicians to more than one million patients in states with medical cannabis laws. A wide range of medical and public health organizations, including the American Academy of HIV Medicine, the American College of Physicians, the American

Nurses Association, the American Public Health Association, the Leukemia & Lymphoma Society, the Epilepsy Foundation, and many others, have recognized the medical utility of cannabis.

(4) In recent years, Congress has signaled its support for allowing states to set their own medical cannabis policies by approving budgets that restricted the Department of Justice from interfering in such programs.

(5) Twenty-nine states and the District of Columbia have removed state-level criminal penalties from the medical use and cultivation of cannabis. South Carolina joins in this effort for the health and welfare of its citizens.

Section 44-53-2010. As used in this article:

(1) ‘Allowable amount of medical cannabis’ means:

(a) two ounces of cannabis;

(b) the cannabinoid equivalent of two ounces of cannabis in a cannabis product based on the laboratory test for each specific cannabis product by batch; or

(c) a combined total of cannabinoids equivalent of two ounces of cannabis and cannabis products.

(2) ‘Bona fide physician-patient relationship’ has the meaning established in Section 40-47-113(A) and Section 44-53-2140.

(3) ‘Cannabis’ means all parts of any plant of the cannabis genus of plants, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ does not mean the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of a mature stalk, except the resin extracted from the plant; and the fiber, oil, or cake; or the sterilized seeds of the plant which are incapable of germination.

(4) ‘Cannabis products’ means concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption by humans. The term includes, but is not limited to, edible cannabis products, beverages, topical products, ointments, oils, patches, sprays, suppositories, and tinctures.

(5) ‘Cardholder’ means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card by the department.

(6) ‘Child-resistant packaging’ means packaging that is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995); opaque so that the packaging does not allow the product to be seen without opening the packaging material; and resealable for any product intended for more than a single use or containing multiple servings.

(7) ‘Cultivation center’ means a facility operated by an organization or business that is licensed by the department pursuant to this article to cultivate, possess, and distribute cannabis to state-licensed processing facilities, dispensaries, and independent testing laboratories.

(8) ‘Debilitating medical condition’ means:

(a) one or more of the following: cancer currently requiring treatment; multiple sclerosis; a neurological disease or disorder; glaucoma; post-traumatic stress disorder (PTSD); Crohn’s disease; sickle cell anemia; ulcerative colitis; cachexia or wasting syndrome; severe or persistent nausea in a person who is not pregnant that is related to end of life or hospice care, or who is bedridden or home bound because of the condition; a chronic medical condition causing severe and persistent muscle spasms; or any chronic or debilitating disease or medical condition for which an opioid is currently or could be prescribed by a physician based on generally accepted standards of care. ‘Opioid’ means a narcotic drug or substance that is a Schedule II controlled substance defined in Section 44-53-210(b) or (c);

(b) a terminal illness with a life expectancy of less than one year in the opinion of the person’s treating physician; or

(c) any other serious medical condition or its treatment added by the Medical Cannabis Advisory Board, as provided for in Section 44-53-2450;

(9) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(10) ‘Designated caregiver’ means a person who possesses a valid registry identification card issued by the department authorizing the person to assist a qualifying patient with the medical use of cannabis. A designated caregiver must be at least twenty-one years of age unless the person is the parent or legal guardian of each qualifying patient the person assists.

(11) ‘Dispensary’ means a facility operated by an organization or business licensed by the department pursuant to this article from or at which cannabis, cannabis products, or paraphernalia for medical use are possessed and dispensed to a cardholder.

(12) ‘Diversion’ means the obtaining or transferring of cannabis from a legal possession or use to an illegal use or to a person not authorized to use or obtain cannabis or cannabis products pursuant to this article.

(13) ‘Edible cannabis product’ means a food or potable liquid into which has been incorporated a cannabinoid concentrate or extract or the dried leaves or flowers of marijuana with a tetrahydrocannabinol (THC) concentration of not more than ten milligrams per edible cannabis serving.

(14) ‘Independent testing laboratory’ means a facility, entity, or site licensed by the department pursuant to this article to offer or perform testing related to cannabis and cannabis products to identify the content of the cannabis or cannabis products and to detect the presence of any pesticides, bacteria, or other contaminants, and for any other purposes determined by the department and is independent of any entity that cultivates, processes or dispenses cannabis and cannabis products.

(15) ‘Medical use’ means the acquisition, administration, possession, preparation, transportation, or use of cannabis, cannabis products, or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition and includes the transfer of cannabis from a designated caregiver to a qualifying patient the caregiver is registered to assist. ‘Medical use’ does not include the extraction of resin from cannabis by solvent extraction other than water, glycerin, propylene glycol, vegetable oil, or food grade ethanol (ethyl alcohol), unless the extraction is done by a processing facility.

(16) ‘Medical cannabis establishment’ means a licensed cultivation center, dispensary, independent testing laboratory, or processing facility licensed by the department pursuant to this article.

(17) ‘Medical cannabis establishment agent’ means a board member, employee, or volunteer of a medical cannabis establishment.

(18) ‘Medical cannabis establishment principal’ means a person who is designated as having responsibility over the actions of a board member, owner, officer, employee, volunteer, or agency of a medical cannabis establishment and also who has the responsibility and control over any liability for any financial accounts.

(19) ‘Nonresident cardholder’ means a person who:

(a) has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;

(b) is not a resident of South Carolina or who has been a resident of South Carolina for less than sixty days; and

(c) is in compliance with Section 44-53-2050.

(20) ‘Paraphernalia’ means paraphernalia as defined in Section 44-53-110, if it is used or intended for use with cannabis.

(21) ‘Physician’ means a doctor as defined in Section 40-47-20, and who is authorized to prescribe medication under state law and the requirements of the South Carolina Board of Medical Examiners, except that in relation to a nonresident cardholder, ‘physician’ means a medical practitioner who is allowed to certify patients to use medical cannabis in the state of the patient’s residence.

(22) ‘Processing facility’ means a facility licensed by the department pursuant to this article that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to medical cannabis dispensaries.

(23) ‘Qualifying patient’ means a person with a debilitating medical condition who possesses a valid registry identification card issued by the department.

(24) ‘Smoking’ or ‘smoke’ means the inhalation of smoke caused by the combustion of cannabis that causes burning.

(25) ‘Verification system’ means a secure, confidential, and web-based system established and maintained by the department that is available to authorized department personnel, law enforcement personnel under specific circumstances, and dispensary agents for the verification of registry identification cards, the tracking of the delivery of medical cannabis and cannabis products to dispensaries, and the tracking of the date of sale, amount, and price of cannabis and cannabis products.

(26) ‘Written certification’ means a document dated and signed by a physician, on a form developed by the department, stating that the patient has been diagnosed with a debilitating medical condition and could benefit from the use of medical cannabis. The certification may be made only in the course of a bona fide physician-patient relationship, must specify the qualifying patient’s debilitating medical condition, and must be updated annually for each qualifying patient by the certifying physician. If the qualifying patient is expected to recover from the debilitating medical condition within a year of the written certification, not including if the patient may go into remission due to medical cannabis treatment, or the qualifying patient is not expected to benefit from medical cannabis for an entire year, the written certification must specify that fact.

Section 44-53-2020. (A) A qualifying patient is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for the medical use of cannabis pursuant to this article if the qualifying patient does not possess more than the allowable amount of medical cannabis and is lawfully using the medical cannabis under this article.

(B) A designated caregiver, or an employee acting on behalf of a designated caregiver if the designated caregiver is a healthcare facility, residential care facility, or an entity that provides home care aides to seriously ill patients, is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for assisting a qualifying patient with the medical use of cannabis pursuant to this article if the designated caregiver does not possess more than the allowable amount of medical cannabis for each associated qualifying patient.

(C) An employee of a licensed health care facility that is a designated caregiver is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for transporting cannabis or administering cannabis to the facility's associated qualifying patients, provided the employee does so in compliance with regulations promulgated pursuant to this article.

(D) A cardholder is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for delivering or transporting an allowable amount of medical cannabis to an independent testing laboratory.

(E) A cardholder is presumed to be lawfully in possession of cannabis if the person possesses an amount of cannabis that does not exceed an allowable amount of medical cannabis.

(F) If a cardholder is found to be in possession of cannabis in an amount in excess of an allowable amount of medical cannabis, the excess amount is subject to seizure by law enforcement and may not be returned. The cardholder also is subject to criminal charges for possession of the amount in excess of an allowable amount of medical cannabis as provided in this article.

(G) The presumption provided for in subsection (E) may be rebutted by evidence that conduct related to the use of cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to this article.

Section 44-53-2030. (A) A qualifying patient must purchase cannabis, cannabis products, and paraphernalia for medical use pursuant to this article from a licensed dispensary, provided that a qualifying patient may not obtain more than an allowable amount of medical cannabis, cannabis products, or a combined cannabinoid equivalent of the allowable amount of cannabis or cannabis products each fourteen days.

(B) A designated caregiver may purchase cannabis, cannabis products, and paraphernalia to assist a qualifying patient with the medical use of cannabis pursuant to this article from a licensed dispensary, provided that the designated caregiver and the caregiver's associated qualifying patients may not obtain a combined total of more than an allowable amount of medical cannabis, cannabis products, or a combined cannabinoid equivalent of the allowable amount of cannabis or cannabis products each fourteen days for each qualifying patient.

Section 44-53-2040. (A) Until sixty days after the department makes applications available, a valid, written certification issued within the previous year must be deemed a registry identification card for a qualifying patient.

(B) Until sixty days after the department makes applications available, the following must be deemed a registry identification card for designated caregiver:

- (1) a copy of a qualifying patient's valid written certification issued within the previous year; and
- (2) a signed affidavit attesting that the person has significant responsibility for managing the well-being of the patient and that the person has been chosen to assist the qualifying patient.

Section 44-53-2050. A valid registry identification card, or its equivalent, that is issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a nonresident cardholder to possess cannabis for medical use, has the same force and effect as a valid registry identification card issued by the department in this State, provided the person produces a statement from a physician stating that the person has a debilitating medical condition.

Section 44-53-2060. (A) It is unlawful for a cardholder to smoke cannabis or use a device to facilitate the smoking of cannabis. A violation of this subsection is punishable by a civil fine of up to one hundred fifty dollars.

(B) This article does not authorize any person to engage in, and does not prevent the imposition of, any civil, criminal, or other penalties for engaging in the following conduct:

- (1) undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;
- (2) possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;

(3) operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis;

(4) knowingly using cannabis in close physical proximity to anyone under the age of eighteen;

(5) using cannabis if that person does not have a debilitating medical condition, or possessing cannabis if the person is not a qualifying patient, designated caregiver, medical cannabis establishment agent, or someone who is authorized to assist a qualifying patient under Section 44-53-2100;

(6) allowing any person who is not authorized to use cannabis under this article to use cannabis that a cardholder is allowed to possess under this article;

(7) transferring cannabis for medical use to any person contrary to the provisions of this article;

(8) the use of cannabis for medical use by a law enforcement officer, correctional officer, correctional probation officer, or firefighter while on duty; or

(9) the use of cannabis, in any public place where an individual could reasonably be expected to be observed by others.

(C) Nothing in this article may be construed to prevent the arrest or prosecution of a qualifying patient for reckless driving or driving under the influence of cannabis where probable cause exists.

(D) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis for medical use, knowingly making a misrepresentation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is a misdemeanor and, upon conviction, is punishable by a fine of up to one thousand dollars per offense, and which is in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken pursuant to this article.

(E) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis for medical use, knowingly making a misrepresentation of a medical condition to a physician or fraudulently providing material misinformation to a physician in order to obtain a written certification is a misdemeanor and, upon conviction, is punishable by a fine of up to one thousand dollars per offense.

(F) Any cardholder who sells cannabis, or is convicted of a criminal violation of this article, shall have his registry identification card permanently revoked and is subject to other penalties for the unauthorized sale of cannabis. An individual who has had his registry identification card revoked for a criminal violation of this article may never be issued another registry identification card.

(G) Any qualifying patient who commits a violation of subsection (B)(3) or refuses a properly requested test related to operating a motor vehicle while under the influence of cannabis shall have his registry identification card revoked.

(H) No qualifying patient or designated caregiver shall knowingly obtain, seek to obtain or possess, individually or collectively, an amount of cannabis that would exceed an allowable amount of medical cannabis for the qualifying patient.

(I)(1) Except as provided in this section, nothing in this article prevents a private property owner from restricting or prohibiting the medical use of cannabis on the owner's property.

(2) Except as provided in this section, a qualifying patient only may use cannabis on or in privately owned real or personal property with the permission of the property owner.

(3) An owner of a residential property may not prohibit tenants from administering medical cannabis through modes of administration authorized pursuant to this article.

Section 44-53-2070. (A) A person entitled to custody of, or visitation or parenting time with, a child must not be denied these rights for conduct allowed pursuant to this article unless the person's behavior is such that it creates an unreasonable danger to the safety of the child as established by clear and convincing evidence.

(B) There is no presumption of child abuse or neglect for conduct allowed pursuant to this article.

(C) No school or landlord may refuse to enroll, lease to, or otherwise penalize a person solely for the person's status as a cardholder, unless failing to do so would violate federal law or regulations, or would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(D) For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient's use of cannabis according to this article is considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify the registered qualifying patient from needed medical care.

(E) Except as provided in this article, a registered qualifying patient who uses cannabis for medical purposes must be afforded the same rights under state and local law, including those guaranteed pursuant to Article 1, Chapter 9, Title 45, as the person would be afforded if the person was prescribed solely pharmaceutical medications, as pertaining to:

- (1) any interaction with a person's employer;
- (2) drug testing by a person's employer; or
- (3) drug testing required by any state or local law, agency, or governmental official.

(F) The rights provided by this section do not apply to the extent that they conflict with an employer's obligations under federal law or regulations, or to the extent that the rights would disqualify an employer from a monetary or licensing-related benefit under federal law or regulations.

(G) No employer may discharge, threaten, refuse to hire, or otherwise discriminate or retaliate against an employee regarding an employee's compensation, terms, conditions, location, or privileges solely on the basis of the employee's status as a cardholder.

(H) Nothing in this article requires an employer to make any accommodation of the use of medical cannabis on the property or premises of any place of employment, to allow the ingestion of cannabis in any workplace, or to allow any employee to work while under the influence of cannabis. This article in no way limits an employer's ability to discipline an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis.

(I) No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.

Section 44-53-2080. (A) A state-chartered bank or credit union, a licensed attorney, or a certified public accountant, and all associated employees, are not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for engaging in conduct authorized by this article nor are they subject to professional discipline for providing advice or services related to medical cannabis establishments or applications to operate medical cannabis establishments on the basis of federal law.

(B) A licensed attorney, a certified public accountant, or another holder of a professional or occupations license may not be subject to professional discipline for providing advice or services related to medical cannabis establishments or applicants to operate medical cannabis establishments on the basis that cannabis is illegal under federal law.

(C) An applicant for a professional or occupational license may not be denied a license based on previous employment related to cannabis establishments operating in accordance with state law.

Section 44-53-2090. A person employed by, contracted with, or an agent of the State of South Carolina is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of any right or privilege for engaging in conduct authorized by this article, when the conduct is within the scope of the person's employment.

Section 44-53-2100. A person is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for:

- (1) being in the presence or vicinity of a qualifying patient engaged in the medical use of cannabis, or a designated caregiver assisting a qualifying patient with the medical use of cannabis;
- (2) being in the presence of a medical cannabis establishment principal or agent engaged in conduct authorized pursuant to this article;
- (3) assisting a registered qualifying patient with the act of using or administering medical cannabis; or
- (4) storing or otherwise possessing a registered qualifying patient's medical cannabis on the patient's behalf at the patient's residence, a residential facility, school, daycare or healthcare facility, or similar location that is caring for a qualifying patient.

Section 44-53-2110. (A) Before issuing a written certification, a physician shall consult the prescription monitoring program established pursuant to Article 15, Chapter 53, Title 44, and review the patient's prescription history and shall document such consultation in the patient's medical record.

(B) Any physician who issues written certifications must complete a three-hour continuing medical education course on medical cannabis approved by the department and must file a form with the department attesting to the completion of the course:

- (1) within one year of issuing the first written certification; and
- (2) prior to issuing more than sixteen written certifications, if those certifications are issued prior to the expiration of the one-year time frame.

(C) If the patient qualifies for a registry identification card because he is currently or could be prescribed an opioid, the physician shall document and maintain records of all previous unsuccessful attempts to treat the condition.

(D) A physician is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege including, but not limited to, disciplinary action by the South Carolina Board of Medical Examiners, or any other occupational or professional licensing entity, for providing a written certification as authorized by this section and Section 44-53-2130(B)(4). A physician may not be sued for medical malpractice as a result of certifying a qualifying patient's medical use of cannabis.

(E)(1) Except as allowed pursuant to Section 44-53-2320, a physician shall not:

- (a) accept, solicit, or offer any form of pecuniary remuneration from or to a dispensary;
- (b) offer a discount or any other thing of value to a cardholder who uses or agrees to use a particular dispensary;
- (c) examine a patient for the purposes of diagnosing a debilitating medical condition at a location where cannabis or cannabis products are sold; or
- (d) hold an economic interest in a cannabis enterprise that provides or dispenses cannabis or cannabis products if the physician certifies the debilitating medical condition of a patient for participation in the medical cannabis program.

(2) If the department has reasonable cause to believe that a physician has violated this section, the department may refer the matter to the South Carolina Board of Medical Examiners for an investigation and determination. If the board finds that the physician engaged in unprofessional conduct by violating this section, the department shall restrict the physician's authority to recommend the use of medical cannabis. This restriction may be in addition to any sanction imposed by the South Carolina Board of Medical Examiners.

Section 44-53-2120. (A) No later than one hundred and twenty days after the effective date of this act, the department is responsible for:

(1) developing and establishing registry identification card application forms and the process for issuance of registry identification cards for qualifying patients and designated caregivers, including a state and national fingerprint-based criminal records check for a designated caregiver's initial registration and annual registration renewals, and for issuing, denying, and revoking registry identification cards;

(2) developing and facilitating a process and establishing a reasonable fee to allow nonresident cardholders to access medical cannabis from a licensed dispensary;

(3) promulgating regulations governing healthcare facilities, residential care facilities, and entities that provide home care aides to seriously ill patients that serve as designated caregivers, including regulations to:

(a) limit the number of individuals who may transport and administer cannabis on behalf of the facility to a reasonably necessary number who have undergone appropriate training; and

(b) require the name and date of birth of each individual who may transport or administer cannabis on behalf of the facility to be communicated with the department; and

(4) establishing reasonable application and renewal fees for registry identification cards, provided:

(a) the department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income;

(b) the fees charged to qualifying patients, nonresident cardholders, and caregivers must be no greater than the costs of processing the applications and issuing registry identification cards or registrations; and

(c) the department may accept donations from private sources to reduce application and renewal fees.

(B)(1) No later than one hundred and forty days after the effective date of this act, the department shall begin accepting applications for registry identification cards.

(2) The department may electronically store in the card any or all of the following information in a manner that may be read by law enforcement agents:

(a) the name of the cardholder;

(b) the address of the cardholder;

(c) the cardholder's date of birth;

(d) a designation of whether the cardholder is a designated caregiver or qualifying patient;

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

(f) a random alphanumeric identification number that is unique to the cardholder;

(g) if the cardholder is a designated caregiver, the random alphanumeric identification number of the registered qualifying patient the designated caregiver is receiving the registry identification card to assist; and

(h) a photograph of the cardholder, if required by department regulations.

(C) The department shall issue a registry identification card within twenty-five days of receiving a valid application from a prospective qualifying patient or designated caregiver.

Section 44-53-2130. (A) In order to obtain a registry identification card as a qualifying patient, a person shall:

- (1) complete an application form provided by the department;
- (2) submit the application to the department; and
- (3) pay a nonrefundable annual registration fee.

(B) The application for the issuance of an initial and renewal registry identification card to a qualifying patient must include:

- (1) the applicant's name, residential and mailing address, and date of birth, unless the applicant is homeless, in which case a residential address is not required;
- (2) a recent passport-sized photograph of the applicant's face;
- (3) the name, mailing address, and telephone number of the applicant's physician authorized by this article to recommend medical cannabis;
- (4) the written certification signed and submitted to the department by the physician;
- (5) the name, residential and mailing address, and phone number of the applicant's proposed designated caregiver or caregivers, if applicable, provided that a qualifying patient only may have a single designated caregiver unless the application included documentation demonstrating that the additional designated caregivers are needed due to the patient's age or medical condition;
- (6) a statement signed by the applicant agreeing not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this article and acknowledging that diversion of cannabis is a felony and, upon conviction, results in revocation of the registry identification card and subjects the applicant to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both; and
- (7) a questionnaire that asks if the applicant would like to be notified by the department of any clinical studies needing human subjects for research on the medical use of cannabis. The department shall notify interested patients of studies that will be conducted in the United States.

(C)(1) A designated caregiver may serve only one patient, unless the caregiver:

- (a) is a healthcare facility, residential care facility, or an entity that provides home care aides to seriously ill patients;
- (b) is a first-degree relative to all patients by blood or marriage; or
- (c) is a healthcare aide or medical professional.

(2) In no event may a natural person who is a designated caregiver serve more than five patients.

(3) A designated caregiver must be a natural person unless it is a healthcare facility, residential care facility, or an entity that provides home care aides to seriously ill patients. A designated caregiver who is a natural person must be at least twenty-one years of age unless the person is the parent or legal guardian of the qualifying patient or patients the person assists.

(4) A person only may serve as a designated caregiver if the person has been designated to assist a qualifying patient in the patient's application. In order to obtain a registry identification card as a designated caregiver, a person must:

- (a) complete an application form provided by the department;
- (b) in the case of a natural person, provide a copy of a SLED criminal records background check report that bears the division stamp, for which the person must pay the costs;
- (c) submit a nonrefundable application fee;
- (d) pay an annual registration fee;
- (e) submit a recent passport-sized photograph of the applicant's face;
- (f) submit a statement signed by the applicant agreeing not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this article and acknowledging that diversion of cannabis is a felony and, upon conviction, results in revocation of the registry identification card and subjects the applicant to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both; and
- (g) submit a statement signed by the applicant agreeing to not consume cannabis or cannabis products intended for a qualifying patient.

(D) The department has the discretion not to issue a registry identification card to a designated caregiver if the person has been convicted of, or pled guilty or nolo contendere to, a felony drug-related offense, unless the person completed the sentence, including any term of probation or supervised release, at least five years prior.



(E)(1) To prevent fraud and enhance patient safety, a registry identification card issued pursuant to this section must be printed with tamper-resistant technology and contain, at a minimum, the following information:

- (a) the name of the cardholder;
  - (b) the address of the cardholder;
  - (c) the cardholder's date of birth;
  - (d) a designation of whether the cardholder is a designated caregiver or qualifying patient;
  - (e) the date of issuance and expiration date of the registry identification card;
  - (f) a random alphanumeric identification number that is unique to the cardholder;
  - (g) if the cardholder is a designated caregiver, the random alphanumeric identification number of the registered qualifying patient the designated caregiver is receiving the registry identification card to assist; and
  - (h) a photograph of the cardholder, if required by department regulations.
- (2) Except as provided in this subsection, the expiration date of a registry identification card is one year after issuance.
- (3) If the practitioner stated in the written certification that the qualifying patient is expected to recover from the debilitating medical condition earlier than one year from issuance, or the qualifying patient is not expected to benefit from medical cannabis for an entire year, the registry identification card expires on the date specified.

Section 44-53-2140. (A) The department may not issue a registry identification card to a person under eighteen years of age who is a qualifying patient applicant unless:

- (1) a physician provides a written certification to a designated custodial parent or legal guardian with the legal authority to make healthcare decisions on behalf of the minor;
- (2) the physician has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with the legal authority to make healthcare decisions on behalf of the minor;
- (3) the custodial parent or legal guardian having the legal authority to make healthcare decisions on behalf of the minor consents in writing to:
  - (a) allow the minor's medical use of cannabis; and
  - (b) serve as one of the minor's designated caregivers, and to either determine the frequency and route of administration of cannabis by the patient, or designate another appropriate individual as caregiver for the patient; and
- (4) the custodial parent or legal guardian with the legal authority to make healthcare decisions on behalf of the minor completes an application in accordance with the requirements of Section 44-53-2130 on behalf of the minor.

(B) The department may not issue a registry identification card to an incapacitated person who is a qualifying patient applicant unless:

- (1) a physician provides a written certification on behalf of the incapacitated person to a designated person with the legal authority to make healthcare decisions on behalf of the incapacitated person;
- (2) the physician has explained the potential risks and benefits of the medical use of cannabis to the person with the legal authority to make healthcare decisions on behalf of the incapacitated person;
- (3) the person with the legal authority to make healthcare decisions on behalf of the incapacitated person consents in writing to:
  - (a) allow the incapacitated person's medical use of cannabis; and
  - (b) serve as one of the incapacitated person's designated caregivers; and
  - (c) determine the frequency and route of administration of cannabis by the incapacitated person;
- (4) the person with the legal authority to make healthcare decisions for the incapacitated person completes an application in accordance with the requirements of Section 44-53-2130 on behalf of the incapacitated person; and
- (5) the person submitting the application on the incapacitated patient's behalf submits a statement signed by the person agreeing not to consume cannabis or cannabis products intended for a qualifying patient.

Section 44-53-2150. No later than one hundred and ten days after the effective date of this act, the department shall develop a written certification form to be completed and renewed annually by a physician on behalf of a person applying for an initial or renewal registry identification card as a qualifying patient. The written certification must include:

- (1) the physician's name, address, phone number, and medical license number;
- (2) an acknowledgement to be signed by the physician that sets forth the penalties for providing false information, including the department's right to notify the medical board or other similar authority established pursuant to Chapter 47, Title 40; and
- (3) a statement for the physician to attest to and sign with the following provisions:

- (a) the physician and patient have a bona fide physician-patient relationship as a prerequisite to any recommendation, in accordance with the prerequisites for prescription medication pursuant to Section 40-47-113(A);
- (b) the patient has a debilitating medical condition, identifying the patient's condition, and that the symptoms or side effects might benefit from the medical use of cannabis;
- (c) if the patient's debilitating medical condition is one for which opioid medications could be or have been prescribed, that the physician has maintained records required by Section 44-53-2110(C); and
- (d) either a statement that the patient's debilitating medical condition is expected to last for a year or a date when the patient is no longer expected to benefit from medical cannabis.

Section 44-53-2160. (A)(1) A qualifying patient shall notify the department of any change in the patient's name or address, or if the qualifying patient ceases to have the debilitating medical condition, not including if the person's debilitating medical condition or the underlying cause of the debilitating medical condition goes into remission due to medical cannabis, within ten days of the change.

(2) A designated caregiver shall notify the department of any change in the caregiver's name or address, or if the designated caregiver becomes aware the qualifying patient is deceased, within ten days of the change.

(3) If a registry identification cardholder loses his registry identification card, the cardholder shall notify the department within ten days of becoming aware the card has been lost.

(B) When a registry identification cardholder notifies the department of an occurrence identified in subsection (A), and remains eligible for a registry identification card pursuant to this article, the department shall issue the cardholder a new registry identification card with a new random alphanumeric identification number within a reasonable time period, not to exceed thirty business days, of receiving the updated information and a replacement card fee. If the person notifying the department is a qualifying patient, the department also shall issue the qualifying patient's designated caregiver, if any, a new registry identification card within a reasonable time period, not to exceed thirty business days, of receiving the updated information and a replacement card fee. The cost of a replacement card is twenty-five dollars.

(C) If a qualifying patient ceases to be a qualifying patient or changes to a different designated caregiver, the department promptly shall notify the designated caregiver. The designated caregiver's rights and protections pursuant to this article as to that qualified patient expire fifteen days after notification by the department.

(D) A registry identification cardholder who fails to notify the department as required by this section is subject to a civil penalty, punishable by a fine of no more than one hundred and fifty dollars, per occurrence.

(E) If the qualifying patient's physician notifies the department in writing that either the qualifying patient has ceased to suffer from a debilitating medical condition, not including if the cause of the patient's debilitating medical condition goes into remission due to medical cannabis, or that the physician no longer believes the patient would benefit from the medical use of cannabis, the card becomes null and void. However, the qualifying patient has fifteen days to destroy all remaining cannabis.

Section 44-53-2170. (A) The department shall maintain a confidential list of the persons to whom the department has issued a registry identification card and each person's address, phone number, random ten-digit registry identification number, physician's name, and associated patient or caregiver's associated qualifying patient or designated caregiver and the random ten-digit registry identification number, as applicable. The department also shall maintain a confidential list of any person who submitted an unsuccessful application. These confidential lists may not be combined or linked in any manner with any other list or database, nor may the lists be used for any purpose not provided for in this article.

(B) Within one hundred and forty days after the effective date of this act, the department shall establish a secure phone or web-based verification system. The verification system must allow law enforcement personnel and medical cannabis establishments to enter a registry identification number to determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:

- (1) whether the identification card is valid;
- (2) the name, address, and date of birth of the cardholder;
- (3) a photograph of the cardholder;
- (4) whether the cardholder is a qualifying patient or a designated caregiver; and
- (5) the registry identification number of any affiliated registered qualifying patient.

(C) No person or entity may have access to information contained in the department's verification system, except for an authorized employee of the department in the course of his official duties or a state or local law enforcement officer who

has detained or arrested a person who claims to be a qualifying patient, a designated caregiver, a medical cannabis establishment principal, or a medical cannabis establishment agent engaged in conduct authorized in this article.

Section 44-53-2180. (A) Information maintained by the department related to registry identification cards, applicants, qualifying patients, physicians, and designated caregivers is considered protected health information that may not be released pursuant to state and federal confidentiality statutes including, but not limited to, the Health Insurance Portability and Accountability Act, as amended.

(B) Information maintained by the department related to registry identification cards, applicants, qualifying patients, physicians, and designated caregivers is not public information subject to access pursuant to the South Carolina Freedom of Information Act.

(C) If a person discloses information contained in the verification system in violation of this article, the person must be fined not more than five thousand dollars. Subsequent violations are a misdemeanor and, upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 44-53-2190. (A) When a state or local law enforcement officer has probable cause to believe cannabis is possessed at a specific address in violation of South Carolina law, the officer may request the department to verify whether the address is associated with a qualifying patient or a medical cannabis establishment.

(B) The department may notify a law enforcement officer about falsified or fraudulent information submitted to the department.

Section 44-53-2200. (A) The department may revoke or suspend the registry identification card of a qualifying patient or designated caregiver for violation of this article or department regulations. The qualifying patient or designated caregiver also is subject to other penalties established by law.

(B) A person whose registry identification card is revoked or suspended may request a hearing in the Administrative Law Court within thirty days of receipt of written notification of the revocation and is not subject to the requirements set forth in Section 44-1-60.

Section 44-53-2210. (A) No later than twelve months after the effective date of this act, the department shall promulgate regulations to:

- (1) establish the form and content of medical cannabis establishment license and renewal applications;
- (2) establish a system to numerically score competing medical cannabis establishment applicants and, in cases where more applicants apply than are allowed by the local government, the system must include analysis of:
  - (a) the preference of the local government;
  - (b) in the case of dispensaries, the suitability of the proposed location and its accessibility for patients;
  - (c) the character, veracity, diversity, residency, background, qualifications, and relevant experience of principal officers and board members;
  - (d) the business plan proposed by the applicant, which in the case of cultivation centers and dispensaries shall include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients; and
  - (e) the applicant's access to a bank or credit union account to conduct business;
- (3) ensure the equitable distribution of dispensaries throughout the State to ensure patients have access to medical cannabis;
- (4) encourage minority and women applicants, and minority- and women-owned business participation in the South Carolina medical cannabis industry;
- (5) govern medical cannabis establishments, with the goals of ensuring the health and safety of qualifying patients and preventing diversion and theft without creating an undue burden or compromising the confidentiality of cardholders, including:
  - (a) oversight requirements;
  - (b) recordkeeping requirements;
  - (c) security requirements, which must be developed in consultation with SLED, including lighting, physical security, and alarm requirements, and, in the case of a registered cultivation center, access controls, perimeter intrusion

detection systems, personnel identification systems, and a twenty-four hour surveillance system to monitor the interior and exterior of the cultivation center which are accessible to authorized law enforcement and the department;

(d) health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;

(e) standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by cultivation centers;

(f) requirements for the secure transportation and storage of cannabis by medical cannabis establishments, which must be developed in consultation with SLED;

(g) employment and training requirements, including requiring medical cannabis establishments to create an identification badge for each medical cannabis establishment agent and principal;

(h) standards for the safe manufacture of cannabis products, including extracts and concentrates;

(i) restrictions on the advertising, signage, and display of medical cannabis, provided that the restrictions may not prevent appropriate signs on the property of a dispensary; listings in business directories including phone books; listings in cannabis-related or medical publications; or the sponsorship of health or not-for-profit charity or advocacy events;

(j) requirements and procedures for the safe and accurate packaging and labeling of medical cannabis;

(k) standards for independent testing laboratories, including requirements for equipment and qualifications for personnel; and

(l) protocol for the safe delivery of cannabis from dispensaries to cardholders, which must be developed after consulting with SLED;

(6) establish procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that commit multiple or serious violations of the provisions of this article or the regulations promulgated pursuant to this section;

(7) establish labeling requirements for cannabis and cannabis products, which must require cannabis product labels to include the following:

(a) the length of time it typically takes for the product to take effect;

(b) disclosure of ingredients and possible allergens;

(c) a nutritional fact panel; and

(d) clear identification of edible cannabis products, when practicable, with a standard symbol indicating that the product contains cannabis;

(8) establish restrictions, if any, on the forms or appearance of edible cannabis products in order to reduce appeal to young children;

(9) establish reasonable application and renewal fees for medical cannabis establishments, which must generate revenues sufficient to offset all expenses of implementing and administering this article. Fees must be reviewed annually and, if appropriate, adjusted to meet the financial needs of the program without charging more than is reasonably necessary to administer the program;

(10) establish the standards and requirements necessary for an independent testing laboratory to be certified;

(11) establish the standards of care and required testing to be carried out by the independent testing laboratory; and

(12) establish minimum capital requirements for each type of medical cannabis establishment that reasonably ensure applicants have sufficient resources to open and operate a medical cannabis establishment without requiring more than reasonably necessary and allowing for some of the capital requirements to be satisfied by ownership of the real property and for resources to be pooled among multiple principals.

(B) At any time after the effective date of this act, the department may promulgate regulations allowing additional categories of licensed medical cannabis establishments to operate, establishing fees for these establishments, and governing their operations.

(C) The department shall create a commission within thirty days after the effective date of this act to assist in promulgating regulations and to evaluate the qualifications of applicants for medical cannabis establishments which, at a minimum, must include as members:

(1) the director of the department, or a designee;

(2) the director of the South Carolina Department of Labor, Licensing, and Regulation, or a designee;

(3) the president of the South Carolina Board of Medical Examiners, or a designee;

(4) the chief of the South Carolina Law Enforcement Division, or a designee;

(5) a sheriff designated by the South Carolina Sheriffs' Association;

(6) the commissioner of the South Carolina Department of Agriculture, or a designee;

- (7) a patient representative, appointed by the Governor;
  - (8) an industry representative, appointed by the Governor. The industry representative may participate in assisting with the process of promulgating regulations, but must not participate in the license selection process if that appointee has applied for or has an affiliation with, through family or business affiliation, a license applicant; and
  - (9) a representative of the African-American community, appointed by the Governor in consultation with the South Carolina Commission for Minority Affairs.
- (D) Members of the commission may not receive compensation but are entitled to mileage, subsistence, and per diem as allowed by law for members of state boards, commissions, and committees.
- (E) The department shall, no less frequently than every two years, reevaluate and in its discretion:
- (1) determine the appropriate number and geographical density of licenses for cultivation centers, processing facilities, dispensaries, and independent testing laboratories; and
  - (2) determine adjustments, if any, to the application and licensing fees.

Section 44-53-2220. (A) In order to be licensed as a medical cannabis establishment, an applicant shall submit to the department an application that, at a minimum, includes the following:

- (1) a completed application form provided by the department;
- (2) a nonrefundable application fee to be determined by the department;
- (3) proof that the applicant has sufficient capital, including access to banking services, to open and operate the type of medical cannabis establishment as determined by department regulation;
- (4) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with Generally Accepted Accounting Principles (GAAP), including all disclosures required by GAAP;
- (5) the legal name of the proposed medical cannabis establishment;
- (6) the physical address of the proposed medical cannabis establishment which must:
  - (a) provide the distance to the nearest public or private school existing before the date of the medical cannabis establishment application, as computed in Section 44-53-2190(A);
  - (b) include a sworn statement certifying that the proposed medical cannabis establishment is in compliance with local government enacted zoning restrictions, if applicable; and
  - (c) include a copy of any local registration, license, or permit required by local government for the proposed medical cannabis establishment;
- (7) the name, date of birth, and contact information for each principal officer and board member of the proposed medical cannabis establishment with a copy of a SLED criminal records background check report for each officer and board member paid for by the principal officer or board member;
- (8) operating procedures for the proposed medical cannabis establishment to ensure accurate recordkeeping and adequate security measures;
- (9) a security plan approved by SLED;
- (10) for an application to operate a cultivation center, documentation that the applicant has appropriate expertise in agriculture, as defined by the department, and is qualified to process cannabis to sell, deliver, transport, or distribute solely for use pursuant to this article;
- (11) for an application to operate a processing facility, documentation demonstrating that the applicant is qualified to process medical cannabis into cannabis products, utilizing industry standards for safe handling of food products and consistency in production;
- (12) for an application to operate an independent testing laboratory, documentation demonstrating that the applicant meets the standards and requirements for accreditation, inspection, and testing established through regulation by the department;
- (13) the applicant's plan to hire employees from within the community in which it will be operating; and
- (14) if the applicant is applying for more than one license, a notation on the application regarding the additional licenses for which the applicant has applied.

(B) No later than eighteen months after the effective date of this act, the department shall issue registrations of the following number to qualified applicants:

- (1) fifteen cultivation center registrations;
- (2) thirty processing facility registrations;
- (3) one dispensary registration for every twenty pharmacies in the State; and

(4) five independent testing laboratory registrations.

(C) All license recipients must be operable within twelve months of issuance or the license reverts to the department, which shall, within thirty days, issue a license to the most qualified applicant that did not receive one of the original licenses.

(D) No license granted for cultivation, processing, dispensing, or testing is transferable until the expiration of twenty-four months from issuance.

(E) If a smaller number of qualified applicants applies for any type of medical cannabis establishment registration than the department is required to issue, the department shall issue licenses to all qualified applicants for that type of registration.

(F) Upon approval and before beginning its operations, a medical cannabis establishment shall pay a licensing fee in an amount determined by the department.

(G) The department shall issue a renewal license within thirty days of receiving a renewal application and renewal fee from a medical cannabis establishment if the license is not under suspension or has not been revoked. Any changes in board members or principal officers must be noted on the application which must include their name, date of birth, contact information, and SLED background check.

Section 44-53-2230. (A) Except as provided in this section, a medical cannabis establishment may not be located within one thousand feet of a school. This distance must be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the school.

(B) The department may allow an exception to the prohibition in subsection (A) if it is shown by clear and convincing evidence that the exception is necessary to provide adequate access to patients. The department may require as part of granting an exception that the medical cannabis establishment undertake additional security or other restrictions to protect children.

Section 44-53-2240. (A) A dispensary must be located in an area zoned for commercial use.

(B) A processing facility or cultivation center must be located in an area zoned for manufacturing, commercial, or agricultural uses.

Section 44-53-2250. (A) A medical cannabis establishment shall issue an identification card to each medical cannabis establishment agent and medical cannabis establishment principal.

(B) Before allowing a prospective medical cannabis establishment agent or medical cannabis establishment principal to work for the medical cannabis establishment, the establishment shall review a SLED criminal records check report, provided by the applicant, that bears the division stamp and was conducted within the previous ninety days for each prospective agent or employee.

(C) A medical cannabis establishment only may issue a person an identification card and allow them to work for the establishment if:

(1) the person is twenty-one years of age or older;

(2) unless the department grants a waiver, the person has not been convicted of, or pled guilty or nolo contendere to, a felony drug-related offense; provided, this restriction does not apply if the person completed the sentence, including any term of probation or supervised release, at least five years prior; and

(3) the person is not included in a list of individuals who are not allowed to serve as medical cannabis establishment agents or principals, if the department maintains and disseminates such a list.

(D) Each medical cannabis establishment shall retain records of agents and principals for at least five years after the end of their employment that allow the department to verify compliance with this section.

Section 44-53-2260. (A) All cultivation, harvesting, processing, and packaging of cannabis must take place in a secure facility at a physical address provided to the department and SLED during the processing facility or cultivation center's registration process. The secure facility may be accessed only by agents of the medical cannabis establishment, law enforcement, emergency personnel, and adults who are twenty-one years of age and older who are accompanied by medical cannabis establishment agents.

(B) All locations at which cultivation, harvesting, processing, and packaging of cannabis takes place are subject to random inspection by the department and SLED as provided by regulation.

(C) All dispensaries are subject to inspection by the department.

(D) Medical cannabis establishments shall implement appropriate security measures, approved by SLED, designed to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.

Section 44-53-2270. The department may establish training requirements for employees of dispensaries and require dispensaries to use only employees who have met all training requirements established.

Section 44-53-2280. (A) To prevent diversion and protect public safety, the department shall require the use of a single real-time, seed-to-sale tracking system used by all medical cannabis establishments and the department that complies with Health Insurance Portability and Accountability Act (HIPAA) guidelines, is hosted on a platform that allows for dynamic allocation of resources, provides data redundancy, and is capable of recovering from natural disasters within hours.

(B) The department shall require that the system be capable of:

- (1) tracking all plants, products, packages, patients, waste, transfers, conversions, packages, sales, and returns, and all with unique identification numbers;
- (2) tracking lot and batch information throughout the entire chain of custody until the point of sale to a cardholder;
- (3) tracking all product, conversions, and derivatives throughout the entire seed-to-sale chain of custody;
- (4) tracking plant, batch, and product destruction;
- (5) tracking transportation of product;
- (6) performing complete batch recall tracking capabilities that must be able to clearly identify all of the following details relating to the specific batch subject to the recall:
  - (a) all sold product;
  - (b) product available for sale (product that is in finished inventory, but not sold);
  - (c) product that is in the transfer process;
  - (d) work in progress (product that is being converted); and
  - (e) raw material (product that is in the post-harvest process, such as drying, trimming, and curing);
- (7) reporting and tracking loss, theft, or diversion of product containing cannabis;
- (8) reporting and tracking all inventory discrepancies to the department;
- (9) reporting and tracking all sales and refunds to the department;
- (10) receiving testing results electronically from independent testing laboratories via a secure application program interface (API) into the seed-to-sale tracking system, and directly attaching the testing results to the source batch and/or sample;
- (11) restricting the altering of test results by the operator;
- (12) providing the department with real-time access to the database;
- (13) providing real-time analytics to the department regarding key performance indicators including, but not limited to:
  - (a) total daily sales;
  - (b) total plants in production;
  - (c) total plants destroyed; and
  - (d) total inventory adjustments; and
- (14) providing other information specified by the department.

Section 44-53-2290. (A) A local government may enact ordinances or regulations not in conflict with this article, or with regulations enacted pursuant to this article, governing the time, place, manner, and number of medical cannabis establishment operations in the locality. A local government may establish penalties for violation of an ordinance or regulations governing the time, place, and manner of a medical cannabis establishment that may operate in such locality.

(B) No local government may prohibit medical cannabis establishments, either expressly or through the enactment of ordinances or regulations, that make their operation impracticable in the jurisdiction.

(C) A local government may require a medical cannabis establishment to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, permit, or registration.

Section 44-53-2300. (A) The department shall require, at a minimum, routine testing of cannabis and cannabis products by a cultivation center and processing facility.

(B) A cultivation center shall test each strain's cannabinoid profile per harvest.

(C) A processing facility shall test each extraction batch and each batch of ingestible products manufactured.

Section 44-53-2310. (A) The department shall establish standards for and certify at least five independent testing laboratories to test cannabis that is to be sold in the State. A certified independent testing laboratory must analyze a representative sample of all cannabis and cannabis products pursuant to Section 44-53-2300 before transport or sale.

(B) An independent testing laboratory is responsible for selecting, picking up, and testing product samples and must be able to: determine accurately the concentration of tetrahydrocannabinol (THC) and cannabidiol (CBD); whether the testing material is organic or nonorganic; moisture content; potency analysis; foreign matter inspection; microbiological screening; residual solvent testing; the presence and identification of fungi, including molds; the presence and concentration of fertilizers and other nutrients; and any other determinations required by the department.

(C) A licensed independent testing laboratory shall report the results of all testing required by the department to the department's electronic monitoring system.

Section 44-53-2320. (A) Each dispensary must contract with or employ at least one pharmacist, physician assistant, or clinical practice nurse, who has completed a department-approved medical cannabis continuing education course. The pharmacist, physician assistant, or clinical practice nurse must be reasonably available to advise and educate patients, in person or by telemedicine. A pharmacist, physician assistant, or clinical practice nurse may contract with multiple dispensaries.

(B) Each dispensary agent who dispenses cannabis or cannabis products to patients must complete a department-approved medical cannabis continuing education course prior to dispensing cannabis.

(C) All items sold at a dispensary must be properly labeled and contained in a child-resistant package. The label must comply with state laws and regulations and, at a minimum, must include:

- (1) the name of the licensed dispensary;
- (2) the name of the product being sold;
- (3) the percentage of tetrahydrocannabinol (THC) and the percentage of cannabidiol (CBD) within a profile tolerance range of ten percent. For edible cannabis products, the cannabinoid profile should be listed by milligrams per serving;
- (4) the name of the cultivation center and processing facility; and
- (5) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: 'NOT FOR RESALE. KEEP OUT OF THE REACH OF CHILDREN AND ANIMALS.'

Section 44-53-2330. (A) All cultivation center cannabis by-product, scrap, and harvested cannabis not intended for distribution to a dispensary, processing facility, or testing laboratory must be destroyed and disposed of in accordance with department regulations. Documentation of destruction and disposal must be retained by the cultivation center for a period of not less than one year. The cultivation center shall maintain a record of the date of destruction and the amount destroyed.

(B) A dispensary shall destroy all cannabis that is not sold to qualifying patients or designated caregivers. The dispensary shall retain documentation of destruction and disposal for a period of not less than one year. The dispensary shall maintain a record of the date of destruction and the amount destroyed.

Section 44-53-2340. (A) A medical cannabis establishment is subject to inspection by the department during business hours.

(B) During an inspection, the department may review the medical cannabis establishment's records required pursuant to this article and department regulations. Records must track patient-specific and caregiver-specific information by registry identification number to protect confidentiality.

(C) The department may establish and charge an inspection fee in an amount to be determined by the department that will cover the expense to the department for conducting the inspection.

Section 44-53-2350. (A) It is not unlawful for a licensed cultivation center to:

- (1) possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, transport, or store cannabis;
- (2) possess, use, and manufacture cannabis paraphernalia;
- (3) deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, and educational materials to licensed processing facilities or dispensaries; and
- (4) deliver, transfer, or transport cannabis to independent testing laboratories.

(B) It is not unlawful for a licensed processing facility to:



(1) possess, process, manufacture, compound, convert, prepare, pack, repack, transport, or store cannabis or cannabis products;

(2) possess, use, and manufacture cannabis paraphernalia;

(3) deliver, sell, supply, transfer, or transport cannabis and educational materials to licensed dispensaries; and

(4) deliver, transfer, or transport cannabis to independent testing laboratories.

(C) It is not unlawful for a licensed dispensary to possess, transport, or dispense cannabis, cannabis products, cannabis paraphernalia, or educational materials to a cardholder in accordance with the requirements of this article.

(D) It is not unlawful for a licensed independent testing facility to possess or transport cannabis, cannabis products, or cannabis paraphernalia in accordance with the requirements of this article.

(E) A medical cannabis establishment is not subject to prosecution, search, seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for engaging in activities related to cannabis that are not unlawful under South Carolina law pursuant to this article.

(F) A medical cannabis establishment principal and medical cannabis establishment agent are not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for engaging in activities related to cannabis that are not unlawful under South Carolina law pursuant to this article.

Section 44-53-2360. (A) The department may deny, suspend, or revoke the license of a medical cannabis establishment as a result of violation of this article or department regulations.

(B) The department may ban an individual from serving as a medical cannabis establishment agent or principal for a violation of this article or department regulations. The department may disseminate a list of individuals who are prohibited from serving as a medical cannabis establishment agent or principal to each medical cannabis establishment.

(C) The department shall create a tiered structure for identification, investigation, and resolution of potential violations of this article.

(D) Operators of dispensaries and cultivation centers must be granted a reasonable resolution period established by the department to implement corrective actions acceptable to the department.

(E) The department shall create a progressive penalty structure for violations of this article.

(F) The department is authorized to impose monetary penalties on a dispensary, dispensary principal, cultivation center, cultivation center principal, or an independent testing laboratory for violations of this article.

(G) A medical cannabis establishment whose license is denied, suspended, or revoked may request a hearing in the Administrative Law Court, and is not subject to the requirements set forth in Section 44-1-60, within thirty days of receipt of written notification of the denial, suspension, or revocation.

Section 44-53-2370. Nothing in this article may be construed to require a health insurance provider, healthcare plan, or medical assistance program to be liable for or reimburse a claim for the medical use of cannabis.

Section 44-53-2380. (A) The department shall provide a report to the General Assembly by December thirty-first of each year addressing the effectiveness of the medical cannabis program operated pursuant to this article and recommendations for any changes to the program.

(B) The report must, without disclosing any identifying information about cardholders, physicians, caregivers, or medical cannabis establishments, contain the following, at a minimum:

(1) the number of registry identification card applications submitted, granted, and renewed;

(2) the number of qualifying patients and designated caregivers served by each medical cannabis establishment during the report year;

(3) the nature of the debilitating medical conditions of the qualifying patients and a breakdown of qualifying patients by age group;

(4) the efficacy or satisfaction of medical cannabis on a scale of 1 to 5, as submitted by the patients in a voluntary, anonymous survey, which may be conducted online or through licensed dispensaries;

(5) the number of registry identification cards suspended or revoked;

(6) the number of physicians providing certifications for qualifying patients;

(7) the number and type of licensed medical cannabis establishments by county; and

(8) an evaluation of the efficacy of cannabis as medicine and the recommendation, if applicable, to reschedule cannabis as a Schedule II controlled substance in the State of South Carolina.

Section 44-53-2390. Subject to Chapter 35, Title 11, the South Carolina Consolidated Procurement Code, the department is authorized to procure services of qualified contractors or other state agencies to assist the department in implementing this article, including testing, auditing, inspection, registry management, diversion control, and other compliance services.

Section 44-53-2400. (A) The department is responsible for performing inspections of medical cannabis establishments and investigating suspected violations of this article and department regulations and is primarily responsible for other duties with respect to regulating cannabis for medical use, as are specifically delegated to the department by the General Assembly.

(B) The department may contract with state occupational or professional licensing entities and the law enforcement division of other state agencies to enforce the provisions of this article with respect to inspections and audits which apply to cultivation centers, processing facilities, dispensaries, and independent testing laboratories, and all of their agents and employees.

(C) Authorized employees of state or local law enforcement agencies immediately shall notify the department when any person in possession of a registry identification card has been determined by a court of law to have wilfully violated the provisions of this article or has pled guilty to an offense.

(D) Department counsel may not:

(1) make determinations as to reporting fraudulent information submitted to the department, but rather may advise department employees as needed; and

(2) be the decision maker for the department for purposes of determining whether probable cause exists, but rather may be a legal adviser.

Section 44-53-2410. (A) The department may develop, seek any necessary federal approval for, and carry out research programs relating to the medical use of cannabis. Participation in any research program must be voluntary on the part of a registered patient, designated caregiver, or physician.

(B) The department shall collect data on the efficacy and safety of medical cannabis from qualifying patients who voluntarily provide the information. The department may require dispensaries to collect that information.

(C) Physicians who issue written certifications are not required to participate in data collection.

Section 44-53-2420. (A) The department shall establish a South Carolina Medical Cannabis Program Fund to ensure the availability of funds necessary to carry out the department's responsibilities under this article. All monies collected pursuant to this article must be deposited into the fund. The funds must be used for the direct and indirect costs associated with the implementation, administration, and enforcement of this article.

(B) Revenues generated in excess of the amount needed to implement and enforce this article must be distributed every three months as follows:

(1) fifty percent to the South Carolina Law Enforcement Division;

(2) twenty-five percent to the South Carolina Department of Education; and

(3) twenty-five percent to the state general fund.

(C)(1) All funds designated to law enforcement, as provided by subsection (B)(1), must be distributed by SLED. Such distributions must be divided between SLED and the forty-six sheriffs' offices exclusively.

(2) The distribution must be equitable and based on a distribution plan developed by SLED in direct coordination with the several sheriffs as designated and agreed upon by SLED and the South Carolina Sheriffs' Association. These sheriffs must represent a range of sheriffs based on population.

(3) The plan for the distribution of these funds may take into consideration, but not be limited to, the possible number of licensed cultivation facilities, dispensary locations, and processing facilities.

(4) The distribution plan must be reviewed by SLED and the Sheriffs' Association two years following the implementation of the original distribution plan to determine if any alterations to the plan are necessary and appropriate.

(5) These provisions must be developed by SLED through its authority to promulgate regulations as provided by law.

(D) The South Carolina Medical Cannabis Program Fund is not subject to any fiscal or budgetary action that would in any way transfer any amount from the South Carolina Medical Cannabis Program Fund into any other fund of the State, except as provided by this article.

Section 44-53-2430. The department may implement a reasonable fee increase to be charged and collected pursuant to this article, when necessary, for the department to cover the cost of administering and operating the program pursuant to this article.

Section 44-53-2440. (A) All sales of medical cannabis are subject to a six percent excise tax at the point of sale.

(B) On the twentieth day of each month, each retail outlet shall pay the excise taxes due on all medical cannabis sold in the prior calendar month.

(C) All revenue collected pursuant to the medical cannabis excise tax must be placed in the South Carolina Medical Cannabis Program Fund.

Section 44-53-2450. (A) There is created a Medical Cannabis Advisory Board, which must be comprised of one appointment from each of the following:

- (1) the chief of SLED, or a designee;
- (2) the director of the department, or a designee; and
- (3) the following members appointed by the Governor and approved by the Senate:
  - (a) two licensed medical doctors authorized by the State to practice medicine;
  - (b) one licensed doctor of osteopathic medicine;
  - (c) one licensed pharmacist;
  - (d) one cardholder;
  - (e) a representative of a registered medical cannabis establishment; and
  - (f) one representative of a municipality.

(B) The board shall meet at least two times per year for the purpose of reviewing petitions to add qualifying medical conditions.

(C) At least once every one hundred and eighty days, the board shall review petitions, consult with experts in South Carolina and other states with medical cannabis programs, as well as any available research, and, if necessary, hold public hearings before voting on whether to add the condition as a qualifying medical condition.

(D) Members of the board serve a term of four years, and until their successors are appointed and qualify. A vacancy on the board must be filled in the manner of the original appointment for the remainder of the unexpired term.

(E) Members of the board may not receive compensation but are entitled to mileage, subsistence, and per diem as allowed by law for members of state boards, commissions, and committees.”

SECTION 2. Section 12-36-2120(69) of the 1976 Code is amended to read:

“(69) ~~Reserved~~ cannabis sold by a dispensary to a cardholder pursuant to Article 20, Chapter 53, Title 44.”

SECTION 3. Article 4, Chapter 53, Title 44 of the 1976 Code is repealed.

SECTION 4. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. 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 6. If the department fails to adopt regulations to implement this act within two hundred days of the effective date of this act, a qualifying patient may commence an action in the South Carolina Administrative Law Court to compel the department to perform the actions mandated pursuant to the provisions of this act.

SECTION 7. This act takes effect upon approval by the Governor. /

**RENUMBER SECTIONS TO CONFORM.**

**AMEND TITLE TO CONFORM.**