

SENATE AMENDMENT

AMENDMENT NO. _____

REDLINED TD COMPREHENSIVE
As of April 23, 2019

ADOPTED	TABLED	CARRIED OVER	FAILED	RECONSIDERED
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Clerk of the Senate

ADOPTION NO. _____

BILL NO: S. 366

(Reference is to the original version.)

Sen. ___ proposed the following amendment (S 366 REDLINED COMP AMENDMENT FOR TD):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act must be known and may be cited as the “South Carolina Compassionate Care Act”.

SECTION 2. (A) The General Assembly finds that:

(1) as of January 1, 2019, thirty-three states and the District of Columbia have removed state-level criminal penalties from the medical use, cultivation, and distribution of cannabis, and South Carolina now joins in this effort for the health and welfare of its citizens;

(2) the United States Congress has signaled support for allowing states to set their own medical cannabis policies by approving budgets that include a proviso that restricts the Department of Justice from using any appropriated funds to interfere with the implementation of those laws;

(3) on January 12, 2017, the National Academies of Sciences, Engineering, and Medicine issued a report presenting nearly one hundred conclusions related to the health effects of cannabis and cannabinoid use. Among other things, this report concluded that there is evidence that cannabis or cannabinoids are effective for the treatment of several medical conditions and symptoms, including chronic pain, chemotherapy-induced nausea and vomiting, the improvement of multiple sclerosis spasticity symptoms, the improvement of anxiety symptoms in individuals with social anxiety disorders, and the improvement of symptoms of post-traumatic stress disorder;

(4) clinical studies continue to show the therapeutic value of cannabis in treating a wide array of debilitating medical conditions, including relief of the neuropathic pain that often fails to respond to conventional treatments, reduced reliance on opiate-based painkillers, and relief of the severe nausea associated with hepatitis C, thereby increasing patients' ability to continue on life-saving treatment regimens; and

(5) cannabis has many accepted medical uses in the United States, having been recommended by thousands of licensed physicians to more than two million patients in the states that have medical cannabis laws, and a wide range of medical and public health organizations have recognized the medical utility of cannabis, 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, and the Epilepsy Foundation.

(B) Nothing in this act shall be construed or interpreted as an effort by the South Carolina General Assembly to legalize cannabis for any reason except for the therapeutic benefit for patients upon the certification and with the supervision of a physician, under the circumstances and subject to the guidelines contained herein.

SECTION 3. Chapter 53, Title 44 of the 1976 Code is amended by adding:

“ARTICLE 20

The South Carolina Compassionate Care Act

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

(1)(a) ‘Allowable amount of medical cannabis’ or ‘allowable amount of cannabis products’ means, for a fourteen-day period, a combined total of up to:

(i) two ounces of cannabis; or

(ii) cannabis products in an amount equivalent to two ounces of cannabis, which shall be determined by the department based on the most widely accepted conversion factors between cannabis flower weight and non-flower product units for topical administration, including, but not limited to, patches for transdermal administration or lotions, creams, or ointments, that contain a total of no more than four thousand milligrams of delta-9-tetrahydrocannabinol;

(ii) cannabis products for oral administration, including but not limited to, oils, tinctures, capsules, or edible forms, that contain a total of no more than one thousand six hundred milligrams of delta-9-tetrahydrocannabinol;

(ii) cannabis products that consist of oils for vaporization that contain a total of no more than eight thousand, two hundred milligrams of delta-9-tetrahydrocannabinol; and

(iii) for any other modes of delivery, an equivalent amount as determined by the department.

(b) In any case where a physician has specified a certain amount of cannabis products pursuant to section 44-53-2080(B), an allowable amount of medical cannabis is the amount of cannabis products specified for a fourteen-day period.

(b)(c) The allowable amount of medical cannabis does not include industrial hemp for human consumption.

(2) ‘Bona fide physician-patient relationship’ has the same meaning as in Section 40-47-113(A).

(3)(a) ‘Cannabis’ means:

(i) all parts of any plant of the cannabis genus of plants, whether growing or not;

(ii) the seeds of the plant;

(iii) the resin extracted from any part of the plant; and

(iv) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

(b) ‘Cannabis’ does not mean:

(i) the mature stalks of the plant;

(ii) fiber produced from the stalks;

(iii) oil or cake made from the seeds of the plant;

(iv) any other compound, manufacture, salt, derivative, mixture, or preparation of a mature stalk, except the resin extracted from the plant; or

(v) the sterilized seeds of the plant that are incapable of germination.

(4) ‘Cannabis products’ means concentrated cannabis, cannabis extracts, and products that are infused with or otherwise contain cannabis or an extract thereof and that are intended for use, consumption, absorption, or any method of ingestion by humans. The term includes, but is not limited to, edible cannabis products, beverages, topical products, ointments, oils, patches, sprays, suppositories, and tinctures. The term does not include any product that is comprised of more than fifty percent of delta-9-tetrahydrocannabinol by weight.

(5) ‘Cardholder’ means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card from 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, substantially similar to those 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 re-sealable 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 processing facilities, dispensaries, and independent testing laboratories.

(8) ‘Debilitating medical condition’ means:

(a) a diagnosis of one or more of the following that also results in a debilitated condition:

(i) cancer;

(ii) multiple sclerosis;

(iii) a neurological disease or disorder, including epilepsy;

(iv) glaucoma;

(v) post-traumatic stress disorder;

(vi) Crohn’s disease;

(vii) sickle cell anemia;

(viii) ulcerative colitis;

(ix) cachexia or wasting syndrome;

(x) autism;

(xi) 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 homebound because of the condition;

(xii) a chronic medical condition causing severe and persistent muscle spasms; or

(xiii) 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;

(b) a terminal illness with a life expectancy of less than one year in the opinion of the patient’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 44-53-2060.

(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 that possesses and dispenses **cannabis**, cannabis products, industrial hemp for human consumption, or paraphernalia to cardholders.

(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 an individually packaged 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 concentration of not more than ten milligrams per serving.

(14) ‘Exit packaging’ means a sealed, child-resistant receptacle into which **cannabis or** pre-packaged cannabis products are placed at the retail point of sale at a dispensary.

(15) ‘Human consumption’ has the same meaning as in Section 46-55-10(4).

(16) ‘Independent testing laboratory’ means a facility licensed by the department pursuant to this article to offer or perform testing related to cannabis, cannabis products, industrial hemp, and industrial hemp products that is independent of cultivation centers, processing facilities, and dispensaries.

(17) ‘Industrial hemp’ has the same meaning as in Section 46-55-10(2).

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

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

(20) ‘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.

(21) ‘Medical use’ means the acquisition, administration, possession, preparation, transportation, or use of **cannabis**, cannabis products, or paraphernalia used to administer **cannabis or** cannabis products to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the qualifying patient’s debilitating medical condition and includes the transfer of cannabis from a designated caregiver to a qualifying patient who the designated caregiver is authorized to assist. ‘Medical use’ does not include:

(a) 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;

(b) **smoking; or**

(c) **vaporizing waxes or any other cannabis product containing more than fifty percent concentration of THC.**

(22) ‘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 the authority, under the laws of the state where the patient resides, 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 44-53-2120.

(23) ‘Opioid’ means a narcotic drug or substance that is a Schedule II controlled substance defined in Section 44-53-210(b) or (c).

(24) ‘Paraphernalia’ means paraphernalia as defined in Section 44-53-110, if its sole intended purpose is for use with cannabis **products, except that it shall not include bongs, pipes, rolling papers, blowtorches, or any other paraphernalia that is used to smoke cannabis.**

(25) ‘Physician’ means a person who:

(a)(i) is a physician as defined in Section 40-47-20, is authorized to prescribe medication under state law and by the South Carolina Board of Medical Examiners, and has a controlled substances registration pursuant to Section 44-53-290 and a controlled substances registration issued by the federal Drug Enforcement Administration; and

(ii) specifically treats a debilitating medical condition;

(b) is licensed as a doctor of medicine or doctor of osteopathic medicine in a state bordering South Carolina; is board certified in neurology, oncology, or rheumatology; and has a controlled substances registration issued by the federal Drug Enforcement Administration; or

(c) 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.

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

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

(28) ‘Registry identification card’ means a document issued by the department that identifies a person as a qualifying patient or designated caregiver, or documentation that is deemed a registry identification card pursuant to Section 44-53-2170.

(29) ‘SLED’ means the South Carolina Law Enforcement Division.

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

(31) ‘Tamper-resistant paper’ means paper that possesses an industry-recognized feature that prevents copying the paper, erasure or modification of information on the paper, or use of counterfeit documentation.

(32) ‘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, and medical cannabis establishment agents for the verification of registry identification cards.

(33) ‘Written certification’ means a document dated, signed, and submitted by a physician to the department, on a form developed by the department, stating that a qualifying patient has been diagnosed with a debilitating medical condition and that the potential benefits of using medical cannabis **products** outweigh any risks. 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 or conditions; must indicate the date of the qualifying patient’s follow-up appointment, not to exceed six months from the

original date of issuance; 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 **products** for an entire year, then the written certification must specify that fact.

Section 44-53-2020. (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 fund 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, administer, and enforce this article must be annually distributed as follows:

(1) five hundred thousand dollars per year to each the University of South Carolina School of Medicine and the Medical University of South Carolina for research to improve detection and training methods to detect drivers impaired by cannabis, prescription medications, and other drugs, until SLED affirms that no additional research is needed;

(2) fifty percent of the remainder to SLED for subsequent distribution between SLED and the forty-six county sheriffs' offices;

(3) twenty percent of the remainder to the South Carolina Department of Education to be used for drug safety education;

(4) twenty percent of the remainder to the state general fund; and

(5) **five percent of the monies must be used for the purposes related to alcohol and drug abuse prevention, education, early intervention and treatment services. These funds will go to the local designated provider services authority directed by Act 301 of 1973; and**

(6) **ten five** percent of the remainder in equal shares to the University of South Carolina School of Medicine and the Medical University of South Carolina to be used in connection with medical cannabis research and development, including use for:

(a) clinical trials regarding the effectiveness of cannabis at treating symptoms and conditions that are not debilitating medical conditions pursuant to this article;

(b) data collection from qualifying patients who voluntarily provide information related to dosage, efficacy, and side effects;

(c) conducting clinical trials, observational studies, or both, on the dosage, efficacy, and side effects of medical cannabis; and

(d) publishing dosage recommendations based upon medical conditions or symptoms, the mode of administration, and the cannabinoid profile.

(C) SLED shall promulgate regulations to divide the funds provided by subsection (B)(2) between SLED and the forty-six sheriffs' offices exclusively. The distribution must be equitable and based on a distribution plan developed and agreed to by the South Carolina Sheriffs' Association, with the plan taking into consideration the population of the counties and the number and location of the cultivation centers, dispensaries, and processing facilities. The distribution plan must be reviewed by SLED and the Sheriffs' Association two years following implementation of the original distribution plan to determine if any alterations to the plan are necessary or appropriate.

(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 44-53-2030. Notwithstanding any other provision of law, the department may implement a reasonable fee increase to be charged and collected pursuant to this article, if necessary, for the department to cover the cost of administering and operating the program pursuant to this article.

Section 44-53-2040. (A) All sales of medical cannabis are subject to a six percent sales tax at the point of sale.

(B) On the twentieth day of each month, each dispensary shall pay the taxes due on all **cannabis and** cannabis products sold in the prior calendar month.

(C) All revenue collected pursuant to the medical cannabis tax must be placed in the fund.

(D) No other tax may be imposed on the purchase of cannabis or cannabis products.

Section 44-53-2050. Subject to Chapter 35, Title 11, the South Carolina Consolidated Procurement Code, the department is authorized to procure the services of qualified contractors or other state agencies to assist the department in implementing this article, including licensure, testing, audits, inspections, registry identification card and electronic patient registry management, verification system management, seed-to-sale tracking system management, diversion control, and other compliance services.

Section 44-53-2060. (A) There is created a Medical Cannabis Advisory Board, which must be comprised of:

(1) one member appointed by the director of the department, or his designee;

(2) one member appointed by the chief of SLED, or his designee as approved upon the advice and consent of the Senate; and

(3) the following members appointed by the Governor, upon the advice and consent of the Senate:

- (a) two licensed medical doctors authorized by the State to practice medicine;
- (b) one licensed doctor of osteopathic medicine;
- (c) one research scientist with expertise in the field of cannabinoid medicine;
- (d) one licensed pharmacist;
- (e) one cardholder;
- (f) one representative of a medical cannabis establishment; and
- (g) one representative of a municipality.

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

(C) At least once every one hundred eighty days, the advisory 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 a certain condition as a debilitating medical condition.

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

(E) Members of the advisory 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 44-53-2070. Nothing in this article may be construed to require a health insurance provider, health care plan, property and casualty insurer, or medical assistance program to be liable for or reimburse a claim for the medical use of cannabis. Consultations in which physicians diagnose debilitating medical conditions and complete written certifications shall be reimbursed consistent with any other visit to a health care facility.

Section 44-53-2080. (A) The department shall develop a written certification form to be annually completed and submitted electronically to the department by a physician. The written certification must include:

(1) the physician's name, mailing address, email address, telephone number, medical license number, federal controlled substances registration number, and, in states where applicable, state controlled substances registration 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 South Carolina Board of Medical Examiners or other similar authority established pursuant to Chapter 47, Title 40;

(3) a statement for the physician to attest to and sign with the following provisions:

(a) that the physician and patient have a bona fide physician-patient relationship as a prerequisite to any certification, in accordance with Section 44-53-2010(2);

(b) that the physician has consulted the prescription drug monitoring program, established pursuant to Article 15, Chapter 53, Title 44, to review the patient's controlled-substance prescription history and has documented such consultation in the patient's medical record;

(c) that the physician has conducted an in-person evaluation and collected relevant clinical history commensurate with the presentation of the patient prior to **issuing a written certification certifying cannabis for medical use**. At a minimum, the evaluation should include the patient's:

(i) history of present illness;

(ii) social history;

(iii) past medical and surgical history;

- (iv) alcohol and substance use history;
- (v) family history with an emphasis on addiction, mental illness, or psychotic disorders;
- (vi) physical exam; and
- (vii) documentation of therapies with inadequate response;

(d) that the patient has a debilitating medical condition; that the treatment of the debilitating medical condition, or one or more symptoms of the debilitating medical condition or side effects of its treatment, falls within the physician's area of practice, identifying the patient's condition; and that the symptoms or side effects of the condition or its treatment could benefit from a certification for the medical use of cannabis;

(e) that the physician has developed a written treatment plan that includes:

(i) a review of other measures attempted to ease the suffering caused by the debilitating medical condition that do not involve **the certification of cannabis products** for medical use;

(ii) advice about other options for managing the debilitating medical condition;

(iii) advice about the potential risks of the use of medical cannabis **products**, to include:

(A) the variability of the quality and concentration of cannabis **products**;

(B) the risk of cannabis use disorder;

(C) the potential exacerbation of psychotic disorders and the adverse cognitive effects for children and young adults;

(D) adverse events, exacerbation of psychotic disorders, adverse cognitive effects for children and young adults, and other risks, including falls or fractures;

(E) the risks of using cannabis **products** during pregnancy or breast feeding; and

(F) the need to safeguard all **cannabis and** cannabis products from children and pets or other domestic animals;

(iv) additional diagnostic evaluations or other planned treatments; and

(v) an ongoing treatment plan as medically appropriate;

(f) notification of the patient or caregiver that the medical cannabis **products are is** for the qualifying patient's use only and that the **cannabis or** cannabis products should not be donated or otherwise supplied to another individual; **and**

(g) the amount of medical cannabis certified and the reason for the dosage; and

(g) that the physician has discussed the risks and benefits of the use of medical cannabis with the patient or caregiver, including the variability and lack of standardization of cannabis preparations, their potential effects, and an admonition that qualifying patients should not drive or operate heavy machinery while under the influence of medical cannabis; and

(h) in the case of a patient whose debilitating medical condition is a chronic or debilitating disease or medical condition for which an opioid is currently or could be prescribed:

(i)an attestation that the physician has reviewed objective proof of the etiology of the patient’s pain, such as diagnostic test that may include, but are not limited to, the results of an x-ray, computerized tomography scan, or magnetic resonance imaging; or

(ii) an attestation that the patient has been diagnosed with a specific medical condition or disease that causes the patient severe pain, which includes, but is not limited to, complex regional pain syndrome, residual limb pain, rheumatoid arthritis, spinal cord disease, spinal cord injury, fibromyalgia, shingles, or trigeminal neuralgia.

(4) a statement that the physician maintains documentation in the patient’s medical record, if the patient’s debilitating medical condition is one for which opioid medications could be or have been prescribed;

(5) a statement that the patient’s debilitating medical condition is expected to last either for one year, or until a date when the patient is no longer expected to benefit from medical cannabis **products**;

(6) the date of the patient’s follow-up appointment to assess whether the patient has found relief from his debilitating medical condition and the patient’s overall health and level of function. The follow-up appointment shall not exceed six months after the initial consultation or renewal appointment; and

(7) an acknowledgement that the physician has considered that any patient who has a history of substance use disorder or a co-occurring mental health disorder shall require specialized assessment and treatment; in those instances, the physician should seek a consultation with or refer the patient to a pain management, psychiatric, addiction, or mental health specialist as needed.

(B) A physician also may choose to include a specific amount of **medical cannabis products** certified every fourteen days and the reason for the dosage, in which case the qualifying patient shall be limited to those amounts in the verification system.

(C) Nothing in this article may be construed to require a physician to issue a written certification to any patient for the use of medical cannabis.

(D) A physician in a bona fide physician-patient relationship with a patient may review the patient's medical cannabis certification and dispensing history as provided by the department in regulation.

Section 44-53-2090. (A) Any physician who issues written certifications must:

- (1) be licensed and in good standing as a physician;
- (2) be currently practicing medicine;
- (3) register with the department to issue written certifications in a manner and on a format determined by the department;
- (4) attest that the physician has an active, unrestricted medical license, unrestricted federal controlled substances registration and, in states where applicable, unrestricted state controlled substances registration; and
- (5)(a) complete a three-hour continuing medical education course on medical cannabis, including an online course, that is approved by the South Carolina Board of Medical Examiners; and
 - (b) attest to the completion of the course electronically or as otherwise specified by the department:
 - (i) within one year of issuing his first written certifications and prior to issuing more than sixteen written certifications, if those certifications are issued prior to the expiration of the one-year time frame; or
 - (ii) prior to writing any certifications.

(B) 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 article. A physician may not be sued for medical malpractice as a result of certifying a qualifying patient's medical use of cannabis.

(C)(1) Except as allowed pursuant to Section 44-53-2470, 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 purpose of diagnosing a debilitating medical condition at a location where cannabis or cannabis products are sold;

(d) refer a patient to a particular dispensary or display or distribute dispensary marketing materials within the physician's office if the physician certifies the debilitating medical conditions of patients for participation in the medical cannabis program; or

(e) certify the use of medical cannabis for himself or for a family member.

(2) If the South Carolina Board of Medical Examiners finds that the physician engaged in unprofessional conduct by violating this article, then the South Carolina Board of Medical Examiners shall notify the department as specified in department regulations that the physician's authority to certify patients for the medical use of cannabis or prescriptive authority has been restricted, which may be in addition to any other sanction imposed by the South Carolina Board of Medical Examiners, including any disciplinary action up to the suspension or revocation of the physician's medical license.

Section 44-53-2100. (A) The department shall promulgate regulations:

(1) developing and establishing registry identification card application forms and the process for the issuance of registry identification cards for qualifying patients and designated caregivers, including a state and national fingerprint-based criminal records check for designated caregivers, and for the issuance, denial, suspension, and revocation of registry identification cards;

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

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

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

(b) the department shall provide optional discounts for qualifying patient application and renewal fees based upon a qualifying patient's household income and shall waive all applicable fees for veterans; and

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

(4) providing guidelines for the types of evidence accepted to confirm an applicant experienced one or more traumatic events. Acceptable evidence must include, but is not limited to, proof of military service in an active combat zone, that the

person was the victim of a violent or sexual crime, or that the person was a first responder. The department shall not require details of the trauma.

(B) The department shall either create the necessary software for an electronic patient registry, or engage a company that can do so. The registry must be able to accept and store all necessary information pursuant to this article and department regulations.

(C) No later than ninety days after the effective date of the regulations promulgated pursuant to subsection (A), the department shall begin accepting applications for registry identification cards.

Section 44-53-2110. (A) A registry identification card issued pursuant to this section must be printed with tamper-resistant technology and contain, at a minimum, the following information:

- (1) the name of the cardholder;
- (2) the address of the cardholder;
- (3) the cardholder's date of birth;
- (4) a designation of whether the cardholder is a designated caregiver or qualifying patient;
- (5) the date of issuance and expiration date of the registry identification card;
- (6) a random alphanumeric identification number that is unique to the cardholder;
- (7) if the cardholder is a designated caregiver, the random alphanumeric identification number of the qualifying patients that the designated caregiver is authorized to assist; and
- (8) a photograph of the cardholder, if required by department regulations.

(B) Except as provided in this subsection or department regulations, a registry identification card shall expire one year after the date the written certification is signed by the physician.

(C) If the physician stated in the written certification that the qualifying patient is expected to recover from the debilitating medical condition in less than one year or that the qualifying patient is expected to benefit from medical cannabis for less than one year, then the registry identification card shall expire on the date specified by the physician on the written certification.

(D) The department shall issue a registry identification card within twenty-five days of receiving a valid, complete electronic application from a qualifying patient or designated caregiver applicant in accordance with this article.

Section 44-53-2120. 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 its 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 that the person produces a statement from a physician stating that the person has a debilitating medical condition, submits any other documentation required by the department, and has received confirmation from the department.

Section 44-53-2130. (A) The department shall issue a registry identification card to a qualifying patient applicant who submits a valid, complete electronic application and, at a minimum, the following, in accordance with the department's regulations:

- (1) the application or annual renewal fee set by the department;
- (2) the name, residential and mailing address, email address, telephone number, and date of birth of the qualifying patient applicant, except that if the applicant is homeless, then no residential address is required;
- (3) a recent passport-sized photograph of the qualifying patient applicant's face, if required by department regulations;
- (4) the name, mailing address, and telephone number of the qualifying patient applicant's physician authorized by this article to certify the medical use of cannabis **products**;
- (5) a written certification dated, signed, and submitted to the department by the physician. For a first-time qualifying patient applicant between the ages of eighteen and twenty-three, the qualifying patient must have written certifications dated, signed, and submitted to the department by two physicians;
- (6) the name, address, date of birth, and any other contact information required by department regulations for each proposed designated caregiver. If more than one designated caregiver is designated at any given time, then the qualifying patient applicant must submit documentation demonstrating that the additional designated caregiver is needed due to the qualifying patient applicant's age, medical condition, or place of residence;
- (7) a statement signed by the qualifying patient applicant agreeing not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this article and acknowledging that the diversion of cannabis is a felony that, upon

conviction, results in the revocation of a registry identification card and subjects the qualifying patient to a fine of not more than five thousand dollars, imprisonment of not more than five years, or both;

(8) a questionnaire that asks if the qualifying patient 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; and

(9) the date of a pre-scheduled follow-up appointment with the qualifying patient applicant's physician, which shall be no later than six months after the date of the written certification. A follow-up appointment may be conducted in-person or through telemedicine; and

(10) for patients whose debilitating medical condition is post-traumatic stress disorder, evidence that the person experienced trauma pursuant to section 44-53-2100(A)(4).

(B) After a qualifying patient applicant has been approved for a registry identification card by the department, the department shall issue registry identification cards to associated designated caregiver applicants who submit a valid, complete electronic application and, at a minimum, the following, in accordance with department regulations:

- (1) An associated designated caregiver applicant that is a natural person must submit:
 - (a) the application or annual renewal fee set by the department;
 - (b) the name, residential mailing address, email address, telephone number, date of birth, and any other contact information for the designated caregiver applicant as specified in department regulations;
 - (c) a recent passport-sized photograph of the designated caregiver applicant's face, if required by department regulations;
 - (d) a copy of the designated caregiver applicant's SLED and FBI criminal records checks, for which the designated caregiver applicant must pay the costs;
 - (e) a statement signed by the designated caregiver applicant agreeing not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this article and acknowledging that the diversion of cannabis is a felony that, upon conviction, results in the revocation of a registry identification card and subjects the designated caregiver to a fine of not more than five thousand dollars, imprisonment of not more than five years, or both; and
 - (f) a statement signed by the designated caregiver applicant agreeing to not consume **cannabis or** cannabis products intended for a qualifying patient.

(2)(a) An associated designated caregiver applicant that is a facility licensed by the department that provides care to qualifying patients must submit:

(i) the application or annual renewal fee set by the department;

(ii) the facility's full name; business and mailing address; license number issued by the department; email address; telephone number; the name, title, and signature of an authorized facility representative; and any other contact information for the designated caregiver applicant as specified in department regulations;

(iii) a statement signed by the authorized facility representative of the designated caregiver applicant agreeing not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to this article and acknowledging that the diversion of cannabis is a felony that, upon conviction, results in the revocation of a registry identification card and subjects the designated caregiver to a fine of not more than five thousand dollars, imprisonment of not more than five years, or both; and

(iv) a statement signed by the authorized facility representative of the designated caregiver applicant agreeing to secure and ensure the proper handling of **cannabis and** cannabis products intended for a qualifying patient.

(b) A staff member of a designated caregiver facility licensed by the department that provides care to qualifying patients must submit a designated caregiver application as a natural person in accordance with subsection (B) and may be required to provide additional proof of employment or contract with the designated caregiver facility.

(C) The department shall deny, suspend, or revoke a registry identification card for a designated caregiver applicant or designated caregiver if the designated caregiver applicant or designated caregiver has been convicted of, or pled guilty or nolo contendere to, a felony drug-related offense, unless the designated caregiver applicant completed the sentence, including any term of probation or supervised release, at least fifteen years prior.

(D) Each patient or, in the case of a minor, the parent or guardian of each minor patient who applies for a registry identification card must be asked if he wants to participate voluntarily in observational studies and other data collection on medical cannabis, including those funded pursuant to Section 44-53-2020.

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 submits a written certification electronically to the department that certifies the minor's medical use of cannabis and lists the designated custodial parent or legal guardian with the legal authority to make health care decisions on behalf of the minor;

(2) the physician attests to explaining the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with the legal authority to make health care decisions on behalf of the minor;

(3) the custodial parent or legal guardian with the legal authority to make health care decisions on behalf of the minor consents in writing to:

(a) allow the minor's medical use of cannabis **products**; and

(b)(i) serve as one of the minor's designated caregivers and determine the frequency and route of administration of cannabis **products** to the patient; or

(ii) designate another appropriate individual as caregiver for the patient; and

(4) the custodial parent or legal guardian with the legal authority to make health care decisions on behalf of the minor completes the applications in accordance with the requirements of Section 44-53-2130 on behalf of the minor and as a caregiver to 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 submits a written certification electronically to the department that certifies the incapacitated person's medical use of cannabis and lists the designated person with the legal authority to make health care decisions on behalf of the incapacitated person;

(2) the physician attests to explaining the potential risks and benefits of the medical use of cannabis to the person with the legal authority to make health care decisions on behalf of the incapacitated person;

(3) the person with the legal authority to make health care decisions on behalf of the incapacitated person consents in writing to:

(a) allow the incapacitated person's medical use of cannabis **products**;

(b) serve as one of the incapacitated person's designated caregivers; and

(c) determine the frequency and route of administration of cannabis **products** to the incapacitated person;

(4) the person with the legal authority to make health care decisions for the incapacitated person completes the applications in accordance with the requirements of Section 44-53-2130 on behalf of the incapacitated person and as a caregiver to the incapacitated person; and

(5) the person submitting the applications on the incapacitated person's behalf submits a statement signed by the person agreeing not to consume cannabis or cannabis products intended for a qualifying patient.

(C) For new patients, not to include renewals, the department may not issue a registry identification card to a patient who is between the ages of eighteen and twenty-three years unless two physicians who have performed in-person exams and verified the patient's debilitating medical condition submit a written certification to the department on behalf of the patient.

(D) The department may not issue a registry identification card to a person who is employed in the areas of public safety, commercial transportation, or operation of commercial machinery.

Section 44-53-2150. (A) A designated caregiver may serve only one patient, unless the caregiver:

(1) is a facility licensed by the department that provides care to qualifying patients; or

(2) is the spouse, parent, sibling, grandparent, child, or grandchild, whether related by whole or half blood, by marriage, or by adoption, of each qualifying patient.

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

(C) A designated caregiver must be a natural person unless it is a facility licensed by the department that provides care to qualifying patients.

Section 44-53-2160. The department shall promulgate regulations governing facilities licensed by the department that provide care to qualifying patients and that serve as designated caregivers.

Section 44-53-2170. (A) Until ninety days after the department begins accepting applications for registry identification cards, a copy of a patient's valid, written certification issued and printed by the physician on tamper-resistant paper within the previous year must be deemed a registry identification card for the qualifying patient.

(B) Until ninety days after the department begins accepting applications for registry identification cards, the following must be deemed a registry identification card for a designated caregiver:

(1) a copy of a qualifying patient's valid, written certification issued and printed by a physician on tamper-resistant paper within the previous year; and

(2) a notarized affidavit attesting that the person has significant responsibility for managing the well-being of the qualifying patient and that the person has been chosen by the qualifying patient.

Section 44-53-2180. (A)(1) A qualifying patient shall notify the department of any change in the patient's name, address, telephone number, or email address, or if the qualifying patient ceases to have a 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 thirty days of the change.

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

(3) Before a qualifying patient changes his designated caregiver, the qualifying patient shall notify the department.

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

(B) If a cardholder notifies the department of an occurrence identified in subsection (A) and remains eligible for a registry identification card pursuant to this article, then 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 fourteen business days, of receiving the updated information and a replacement card fee set by the department. If the person notifying the department is a qualifying patient, then 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 set by the department.

(C) A cardholder who fails to notify the department as required by this section is subject to a civil penalty, punishable by a fine of not more than five hundred dollars, per occurrence.

(D) If the qualifying patient's physician notifies the department in writing either that the qualifying patient has ceased to suffer from a debilitating medical condition, not including if the cause of the qualifying patient's debilitating medical condition goes into remission due to medical cannabis **products**, or that the physician no longer believes that the qualifying patient could benefit from the medical use of cannabis **products**, then the card shall become null and void; however, the qualifying patient shall have fifteen days to destroy all remaining cannabis **products** by returning it to a dispensary for destruction.

Section 44-53-2190. (A) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards and all of their information required in Section 44-53-2110. The department also shall maintain a confidential list of any person who submitted a registry identification card application. These confidential lists may not be combined or linked in any manner with any other list, nor may the lists be used for any purpose not provided for in this article. The department may provide the names and contact information of patients who volunteer to participate in research with university-affiliated researchers who are conducting research that has been approved by an institutional review board and complies with the Health Insurance Portability and Accountability Act.

(B) The department shall establish a secure web-based verification system. The verification system must allow authorized department personnel, state and local law enforcement personnel, and medical cannabis establishments to enter a registry identification card number to determine whether the number corresponds with a current, valid registry identification card. For the purposes of this subsection, the system may disclose only:

- (1) whether the registry identification card is valid;
- (2) the name, address, and date of birth of the cardholder;
- (3) a photograph of the cardholder, if required by department regulations;
- (4) whether the cardholder is a qualifying patient or a designated caregiver;
- (5) the registry identification card number of any associated qualifying patients or designated caregivers; and
- (6) only when accessed by medical cannabis dispensaries and authorized department personnel, the amount of medical cannabis dispensed in the past fourteen days.

(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 in the

course of his official duties related to a person who claims to be a qualifying patient, designated caregiver, medical cannabis establishment principal, or medical cannabis establishment agent engaged in conduct authorized in this article.

(D) Before cannabis **products** may be dispensed to a cardholder or non-resident cardholder, a medical cannabis dispensary staffer must access the verification system and determine for the qualifying patient or non-resident cardholder for whom the cannabis is intended, and any designated caregiver transporting the cannabis to the patient, that:

(1) The registry identification card presented to the registered medical cannabis dispensary is valid.

(2) Each person presenting a registry identification card is the person identified on the registry identification card presented to the dispensary staffer.

(3) The amount to be dispensed would not cause a qualifying patient, directly or via his or her designated caregiver, to exceed the limit on obtaining no more than **two ounces of an allowable amount** cannabis during any fourteen-day period.

(E) After making the determinations required in subsection (D), but before dispensing cannabis to a qualifying patient or a designated caregiver on a qualifying patient's behalf, a medical cannabis dispensary staffer must enter the following information in the verification system:

(1) How much cannabis is being dispensed to the registered qualifying patient.

(2) Whether it was dispensed directly to the qualifying patient or to the qualifying patient's designated caregiver.

(3) The date and time the cannabis was dispensed.

(4) The registry identification number of the medical cannabis dispensary that dispensed the cannabis.

Section 44-53-2195. (A) Medical cannabis information received and maintained by the department pursuant to this article is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (D) and (E) and Section 44-53-2190.

(B) The department shall maintain procedures to ensure that the privacy and confidentiality of qualifying patients and qualifying patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (D) and (E) and Section 44-53-2190.

(C) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards and all of their information required in Section 44-53-2110. The department shall maintain a confidential list of any person who submitted a registry identification card application. The lists maintained pursuant to this subsection

may not be combined or linked in any manner with any other list. The department may provide the names and contact information for patients who volunteer to participate in research to qualified personnel for the purpose of bona fide research or education pursuant to a written agreement between qualified personnel and the department.

(D) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, the department shall notify the appropriate law enforcement or professional licensure, certification, or regulatory agency or entity and shall provide medical cannabis information required for an investigation.

(E) The department may provide medical cannabis information to the following persons:

(1) a physician who requests information and certifies that the requested medical cannabis information is for the purpose of providing medical or pharmaceutical treatment in the course of a bona fide physician-patient relationship;

(2) a qualifying patient or designated caregiver who requests the individual's own medical cannabis information;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of any person authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit or illicit drugs and who is involved in a bona fide specific drug-related investigation involving a designated person;

(5) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(6) personnel of the department for purposes of administration and enforcement of this article;

(7) qualified personnel for the purpose of bona fide research, except the department may only provide the names and contact information for qualifying patients who volunteers to participate in bona fide research, including observational studies or other data collection on medical cannabis pursuant to Section 44-53-2130(C). Release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this subsection;

(8) a coroner, deputy coroner, medical examiner, or deputy medical examiner who is involved in a specific inquiry into the cause and manner of death of a designated person pursuant to Chapter 5, Title 17;

(9) a physician who requests the physician's own written certification history; and

(10) the presiding judge of a drug court pertaining to a specific case involving a designated person.

Section 44-53-2200. (A) A cardholder who is a qualifying patient may purchase **cannabis**, cannabis products, industrial hemp for human consumption, and paraphernalia for medical use pursuant to this article from a dispensary, provided that a qualifying patient may not obtain more than an allowable amount of medical cannabis, cannabis products, or a combined allowable amount for a fourteen-day period.

(B) A cardholder who is 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 dispensary, provided that the designated caregiver and the designated 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 allowable amount for a fourteen-day period for each qualifying patient.

Section 44-53-2210. (A) A cardholder who is 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 **products** pursuant to this article if the qualifying patient does not possess more than the allowable amount of medical cannabis **products** and is lawfully using the medical cannabis under this article.

(B) A cardholder who 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 assisting a qualifying patient with the medical use of cannabis **products** pursuant to this article if the designated caregiver does not possess more than the allowable amount of medical cannabis **products** for each associated qualifying patient.

(C) A cardholder who 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 **products** or administering cannabis **products** to the associated qualifying patients, provided that the agent 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 **products** to an independent testing laboratory.

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

(F) If a cardholder is found to be in possession of cannabis in an amount **in excess of or type that exceeds** an allowable amount of medical cannabis **products**, then the excess amount **or type of cannabis are 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 the 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 **products** 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 44-53-2220. (A) It is unlawful for a physician to certify cannabis to any patient for the purposes of smoking or burning.

(B) It is unlawful for a cardholder to **possess cannabis in plant for or to** smoke cannabis or use a device to facilitate the smoking of cannabis **or the vaped intake of cannabis in liquid form**.

(i) **A For a first offense, a violation of this subsection by a qualifying patient with one ounce or less of marijuana or ten grams of hashish is punishable by a civil fine of up to five hundred dollars.**

(ii) **For a second or subsequent offense by a qualifying patient with one ounce or less of marijuana or ten grams of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars, but not more than two hundred dollars. Upon approval by the solicitor and the magistrate or municipal judge, a conditional discharge may be granted pursuant to section 44-53-450. A person charged with the offense of possession of marijuana or hashish under this subsection may be permitted to enter the pretrial intervention program pursuant to Article 1, Chapter 22 of Title 17. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.**

(C) **A violation of this section for possession of more than an ounce of marijuana or ten grams of hashish is punishable pursuant to section 44-53-370.**

(D) A qualifying patient who violates this section a second or subsequent time may have his registry identification card suspended or revoked.

Section 44-53-2230. (A) 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, if doing so would constitute negligence or professional malpractice;

(2) possessing cannabis or cannabis products or otherwise engaging in the medical use of cannabis products 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) using cannabis products if the person does not have a debilitating medical condition or possessing cannabis products 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 44-53-2210;

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

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

(7) using cannabis for medical purposes if the person is a law enforcement officer, correctional officer, correctional probation officer, or firefighter while on duty, except in the case of a medical emergency.

(B) 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 if probable cause exists. The mere presence of cannabis metabolites shall not automatically deem a person under the influence.

(C) 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, 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.

(D) 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.

(E) 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.

(F) Any qualifying patient who commits a violation of subsection (A)(3) or refuses a properly requested test related to operating **a motor vehicle any mode of transportation** while under the influence of cannabis shall have his registry identification card revoked for a period of one year.

(G) The diversion of cannabis to any individual who is not allowed to possess cannabis pursuant to this article is a felony that, upon conviction, results in the revocation of a registry identification card and subjects the qualifying patient to a fine of not more than five thousand dollars, imprisonment of not more than five years, or both.

Section 44-53-2240. (A) The department may deny, revoke, or suspend the registry identification card of a qualifying patient or designated caregiver for a violation of this article or of department regulations. The qualifying patient or designated caregiver is also subject to other penalties established by law.

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

Section 44-53-2250. (A) If a state or local law enforcement officer has probable cause to believe that cannabis is possessed at a specific address in violation of South Carolina law, then the officer may verify whether the address is associated with a qualifying patient, designated caregiver, or medical cannabis establishment through the department's verification system.

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

Section 44-53-2260. (A) Except as provided in this article, a 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 solely prescribed pharmaceutical medications, as pertaining to:

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

(B) 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.

(C) 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.

(D) Nothing in this article requires an employer to make any accommodation for 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 medical cannabis. This article in no way limits an employer's ability to discipline or terminate an employee for being under the influence of medical cannabis in the workplace or for working while under the influence of medical cannabis.

(E) No employer may be penalized or denied any benefit under state law for employing a cardholder.

(F) Except as otherwise provided by this section, the provisions of this chapter do not require any person, corporation, or other entity that occupies, owns, or controls a property to allow the vaporization of cannabis on that property. A landlord may not prohibit a tenant who is a cardholder from vaporizing cannabis **products** that cannot be smelled outside of the cardholder's rented dwelling unless permitting cannabis **product** use conflicts with the landlord's obligations under federal law or regulations or would disqualify the landlord from a monetary or licensing-related benefit under federal law or regulations. This shall not be construed to require a landlord or other property owner to allow the vaporization of cannabis **products** in any of the following circumstances:

(1) the tenant is a roomer who is not leasing the entire residential dwelling;

(2) the residence is incidental to the provision of medical, geriatric, educational, counseling, religious, or similar service;

(3) the residence is a transitional housing facility; or

(4) the residence is a dormitory affiliated with an educational institution.

(G) Nothing in this article requires a motor carrier or private carrier, as defined in Section 58-23-1110, to make any accommodation for the use of cannabis by any employee whose duties affect the safety of operation of motor vehicles in transportation on public roads.

Section 44-53-2265. (A) Nothing in this article shall require an employer to permit or accommodate any applicant or employee's use, consumption, possession, or impairment by medical cannibi in any form on its premises or during work-related activities. This article also does not affect the ability of an employer to enforce a drug-free workplace policy or zero tolerance drug testing policy prohibiting any applicant or employee from having a detectable amount of marijuana metabolites in such employee's system.

(B) No employer may be penalized or denied any benefit under state law for employing a cardholder.

(C) This article does not create a private cause of action against an employer for wrongful discharge, discrimination, or any other adverse employment action.

Section 44-53-2270. 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, if the conduct is within the scope of the person's employment.

Section 44-53-2280. (A) 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:

(1) 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; or

(2) at the discretion of the landlord or manager, the conduct due to a cannabis-related offense would give cause for a landlord or manager to deny or terminate Section 8 housing to a cardholder as dictated by federal law. Denials or terminations on the basis of cannabis-related conduct must be reported to the Attorney General's Office for assessment for racially discriminatory conduct or disparate racial impact.

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

Section 44-53-2290. 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 state law. A physician may not be sued for medical malpractice as a result of certifying a qualifying patient's medical use of cannabis **products** in accordance with this article; however, the immunities provided by this section shall not be construed to prevent a physician from being penalized or sued for violating the standard of care or for any violations of this article, including certifying a person for medical cannabis **products** who does not have a debilitating medical condition.

Section 44-53-2300. (A) A bank, savings and loan association, or credit union, licensed attorney, or 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, the denial of a right or privilege for engaging in conduct authorized by this article, or professional discipline for providing advice or services related to medical cannabis establishments or applications to operate medical cannabis establishments on the basis that cannabis is illegal under federal law.

(B) A licensed attorney, a certified public accountant, or another holder of a professional or occupational license may not be subject to professional discipline for providing advice or services related to medical cannabis establishments or applications 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 44-53-2310. 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 **products** or a designated caregiver assisting a qualifying patient with the medical use of cannabis **products**;

(2) being in the presence of a medical cannabis establishment principal or agent engaged in conduct authorized pursuant to this article;

(3) assisting a qualifying patient with the act of using or administering medical cannabis **products**; or

(4) storing or otherwise possessing a registered qualifying patient's medical cannabis **products** on the patient's behalf at the patient's residence, a residential facility, school, daycare or health care facility, or similar location that is caring for the qualifying patient.

Section 44-53-2320. (A) The lawful use of medical cannabis **products** pursuant to this article shall not be used as a relevant factor or evidence in proceedings regarding parental rights, child welfare, guardianship, decision making, and probate matters.

(B) A person entitled to the 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.

(C) This section shall not be construed to allow a person to engage in any conduct that would be negligent to undertake while impaired by cannabis.

Section 44-53-2330. For the purposes of medical care, including organ and tissue transplants, a 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 physician and does not constitute the use of an illicit substance or otherwise disqualify the qualifying patient from needed medical care.

Section 44-53-2340. (A) The department shall create a commission 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 his designee;
- (2) the director of the South Carolina Department of Labor, Licensing and Regulation, or his designee;
- (3) the president of the South Carolina Board of Medical Examiners, or his designee;
- (4) the chief of SLED, or his designee;
- (5) a sheriff designated by the South Carolina Sheriffs' Association;
- (6) the commissioner of the South Carolina Department of Agriculture, or his designee;
- (7) a patient representative, appointed by the Governor;
- (8) an industry representative, appointed by the Governor, subject to the limitation that, although the industry representative may participate in assisting with the process of promulgating regulations, the industry representative must not participate in the license-selection process if that appointee has applied for or has an affiliation with a license applicant through family or business; and

(9) a representative of the African-American community, appointed by the Governor in consultation with the South Carolina Commission for Minority Affairs.

(B) 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.

(C) Upon issuance of all of the cannabis establishment licenses, the commission shall dissolve, and any future license shall be chosen by the department based on the criteria established by the commission.

Section 44-53-2350. (A) The department shall promulgate regulations to:

- (1) establish the form and content of a medical cannabis establishment license and renewal applications;
- (2) establish a system to numerically score competing medical cannabis establishment applicants and, in cases in which more applicants apply than are allowed by the local government, the system must include an 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 principals and agents; and

(d) the business plan proposed by the medical cannabis establishment applicant, which in the case of cultivation centers and dispensaries shall include the ability to maintain an adequate supply of cannabis, plans to ensure the 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 qualifying patients;

(3) ensure the equitable distribution of dispensaries throughout the State in order for patients to have access to medical cannabis, with a minimum of one dispensary per county, while preventing an overconcentration of dispensaries in any one area;

(4) in coordination with the Division of Small and Minority Business Contracting and Certification, implement policies to:

(a) engage in outreach to encourage racial, ethnic, and gender diversity in the South Carolina medical cannabis industry;

(b) ensure that diverse groups are afforded equal opportunity in licensing; and

(c) develop policies for medical cannabis establishments to promote the participation of diverse groups and provide equal access to employment;

(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 and inventory-management 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 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, that are accessible to authorized law enforcement personnel 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, including environmental impact regulations;

(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, administer, and track 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, provided that the restrictions must include:

(A) requirements that the medical cannabis establishment's logo, advertising, and signage must be tasteful, respectful, and medically focused and must not appeal to minors or contain cartoon-like figures or attempts at humor;

(B) requirements that medical cannabis establishments must submit any logo or sign for review to the department in accordance with department regulations;

(C) prohibitions on medical cannabis establishments from using marijuana leaves or slang for cannabis in or on their signs, logos, packaging, or structures;

(D) limitations on the size or location of signs; and

(E) prohibitions against using neon colored signage, logos, packaging, or neon colored signage or logos on structures;

(j) requirements and procedures for the safe and accurate packaging and labeling of medical cannabis, cannabis products, and industrial hemp for human consumption;

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

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

(m) requirements and procedures for facility and equipment sanitary conditions;

(n) odor mitigation measures to ensure cannabis cannot be smelled outside of the property or a medical cannabis establishment; and

(o) requirements for medical cannabis establishments to maintain a discreet, professional appearance that is compatible with existing commercial structures or land uses within the immediate area, including requirements to maintain the establishment in a manner to prevent blight, deterioration, diminishment, or impairment of property values within the vicinity of the establishment;

(6) establish procedures for suspending or revoking the licenses of 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, cannabis products, and industrial hemp for human consumption, 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 requirements and procedures for the safe, appropriate, and accurate packaging and labeling of **medical cannabis**, medical cannabis products, and industrial hemp for human consumption, including prohibiting the use of any images designed or likely to appeal to minors, including cartoons, toys, animals, or children; any other likeness to images, characters, or phrases that are popularly used to advertise to children; or any imitation of candy packaging or labeling;

(9) establish requirements to ensure that **cannabis**, cannabis products, and industrial hemp for human consumption are designed, marketed, and packaged in a manner that is appropriate for a medicinal product and that does not resemble commercially sold candies or other food that is typically marketed to children;

(10) establish restrictions, **if any**, on the forms, **or appearance, and flavor** of edible cannabis products in order to reduce their appeal to **young children minors, including prohibiting edibles in shapes of cartoons, toys, animals, and people**;

(11) establish reasonable application and renewal fees for medical cannabis establishments, which must generate revenues sufficient to offset all of the 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;

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

(13) establish the standards of care and required testing to be carried out by an independent testing laboratory consistent with the guidelines promulgated by the American Herbal Pharmacopoeia;

(14) establish minimum capital requirements for each type of medical cannabis establishment that reasonably ensure medical cannabis establishment principal 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 medical cannabis establishment principals; and

(15) establish standards and requirements necessary for the destruction of cannabis and cannabis waste.

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

(C) The department shall, no less frequently than every two years, reevaluate and at 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 44-53-2360. (A) The department shall establish standards for and shall license up to five independent testing laboratories to test cannabis that is to be sold in the State. An independent testing laboratory must analyze a representative sample of all **cannabis and** cannabis products pursuant to Section 44-53-2450 before sale or transfer to dispensaries by the **cultivation center or** processing facility.

(B) An independent testing laboratory must be responsible for selecting, picking up, and testing product samples and must be able to determine accurately:

(1) the concentration of tetrahydrocannabinol, cannabidiol, and other cannabinoids, if applicable;

(2) whether the testing material is organic or nonorganic;

(3) moisture content;

(4) allergens;

(5) potency analysis;

(6) foreign matter inspection, including heavy metals;

- (7) microbiological screening;
- (8) residual solvent testing;
- (9) the presence and identification of fungi, including molds;
- (10) the presence and concentration of fertilizers and other nutrients; and
- (11) any other determinations required by the department.

(C) An independent testing laboratory shall report the results of all testing required by the department to the department's seed-to-sale tracking system.

Section 44-53-2370. (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 by the department that complies with the Health Insurance Portability and Accountability Act guidelines, is hosted on a platform that allows for the 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, qualifying patients, waste, transfers, conversions, 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 products, conversions, and derivatives throughout the entire seed-to-sale chain of custody in real time;
- (4) tracking plant, batch, and product destruction;
- (5) tracking the transportation of products;
- (6) performing complete batch recall tracking capabilities that must be able to clearly identify all of the following details relating to a specific batch subject to recall:
 - (a) all sold products;
 - (b) products available for sale, which are in the finished inventory but have not been sold;
 - (c) products that are in the transfer process;
 - (d) work-in-progress products, which are in the process of being converted; and
 - (e) raw material products, which are in the post-harvest stage of the process, such as drying, trimming, and curing;
- (7) reporting and tracking loss, theft, or diversion of products containing cannabis to the department;

- (8) reporting and tracking all inventory discrepancies to the department;
 - (9) reporting and tracking all sales and refunds to the department;
 - (10) real-time alerts and notifications to the department regarding when propagation sources are planted, when plants are harvested and destroyed, and when cannabis products are transported, sold, or destroyed;
 - (11) tracking all plants and products using a tagging methodology that is considered environmentally friendly and sustainable;
 - (12) tracking all plants and products using a tagging methodology that avoids adding an undue financial burden on cultivation centers, processing facilities, and dispensaries;
 - (13) receiving testing results electronically from independent testing laboratories via a secure application program interface into the seed-to-sale tracking system and directly attaching the testing results to the source batch or sample;
 - (14) restricting the altering of test results;
 - (15) providing the department with real-time access to the database;
 - (16) 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
 - (17) providing other information specified by the department.
- (C) The department shall require the provider of the seed-to-sale system to:
- (1) have a current security audit that is no more than twelve months old and that was performed by a third party certified to perform such audits, demonstrating the use of sound security measures and practices by the provider hosting the data or application processing the data, as defined by a nationally recognized security framework;
 - (2) submit an annual update on any open corrective action plans associated with the most recent audit's noted deficiencies;
 - (3) produce a new or updated audit every three years; and

(4) have experience implementing and maintaining a seed-to-sale tracking system of a similar size and nature for at least two other state government agencies without interruptions of service or security breaches, or otherwise demonstrate the ability to implement and maintain such systems.

Section 44-53-2380. (A) It is not unlawful for a 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 processing facilities or dispensaries; and

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

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

(1) obtain, 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, cannabis products, or industrial hemp for human consumption and educational materials to dispensaries; and

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

(C) It is not unlawful for a dispensary to obtain, possess, transport, or dispense cannabis, cannabis products, industrial hemp for human consumption that has passed independent laboratory testing pursuant to Section 46-55-40(G), cannabis paraphernalia, or educational materials to a cardholder in accordance with the requirements of this article.

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

(E) It is not unlawful for a grower of industrial hemp who is permitted pursuant to Title 46, Chapter 55 to sell or transport industrial hemp for human consumption to a dispensary, provided that the industrial hemp products for human consumption are compliant with all regulations regarding laboratory testing, packaging, and labeling as determined by the department.

(F) Industrial hemp operations and individuals who have been issued permits pursuant to Section 46-55-20(3) relating to the cultivation of industrial hemp are authorized to provide industrial hemp for human consumption to processing facilities or dispensaries licensed pursuant to this article.

(G) 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.

(H) 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.

(I) Nothing in this article may be construed to prohibit medical cannabis establishments from processing, producing, or selling products for human consumption from industrial hemp.

Section 44-53-2390. (A) The department shall issue licenses to the following number of qualified medical cannabis establishment applicants:

- (1) fifteen cultivation center licenses;
- (2) thirty processing facility licenses;
- (3) one dispensary license for every twenty pharmacies with a state-issued permit in the State; and
- (4) five independent testing laboratory licenses.

(B) In order to be licensed as a medical cannabis establishment, a medical cannabis establishment principal applicant shall submit to the department a completed electronic application signed by each medical cannabis establishment principal that, at a minimum, includes the following:

- (1) a nonrefundable application fee to be determined by the department;
- (2) proof that the applicant has sufficient liquid and non-liquid assets to open and operate the type of medical cannabis establishment as determined by the department through regulation;
- (3) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with generally accepted accounting principles, including all disclosures required by generally accepted accounting principles;

- (4) the legal name of the proposed medical cannabis establishment;
- (5) the physical address of the proposed medical cannabis establishment, which:
 - (a) shall not be within one thousand feet of a public or private school existing before the date the medical cannabis establishment application is received by the department, except as provided in Section 44-53-2420;
 - (b) if a dispensary applicant, shall be located in an area zoned for commercial use; and
 - (c) if a processing facility or cultivation center applicant, shall be located in an area zoned for manufacturing or agriculture;
- (6) a sworn statement certifying that the proposed medical cannabis establishment is in compliance with local government zoning restrictions, if applicable;
- (7) a copy of any local registration, license, or permit required by local government for the proposed medical cannabis establishment;
- (8) the name, date of birth, and contact information for each principal of the proposed medical cannabis establishment with a copy of a SLED and a FBI criminal records check for each principal paid for by the principal;
- (9) operating procedures for the proposed medical cannabis establishment to ensure accurate recordkeeping and adequate security measures;
- (10) a security plan that meets all requirements promulgated by the department, which, in connection therewith, shall consult with and receive input from SLED;
- (11) for a cultivation center applicant, documentation demonstrating that the applicant has appropriate expertise in agriculture and is qualified to process cannabis to sell, deliver, transport, or distribute solely for use pursuant to this article;
- (12) for a processing facility applicant, documentation demonstrating that the applicant is qualified to process medical cannabis into cannabis products, utilizing industry standards for the safe handling of food products and consistency in production;
- (13) for an independent testing laboratory applicant, documentation demonstrating that the applicant meets the standards and requirements for accreditation, inspection, and testing established through regulation by the department;
- (14) a medical cannabis establishment applicant's plan to hire employees from within the community in which it will be operating; and

(15) for a medical cannabis establish applicant who is applying for more than one license, a notation on the application regarding the additional licenses for which the applicant has applied.

(C) If a licensee is not operable within twelve months of issuance of the license, then the license is void, and the department shall within thirty days issue a license to the most qualified applicant in accordance with this article.

(D) No license issued to a medical cannabis establishment is transferable until the expiration of twenty-four months from the date of issuance by the department.

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

(F) Prior to operating, a medical cannabis establishment shall pay a nonrefundable license fee in an amount determined by the department.

(G) The department shall issue a renewal license within thirty days of receiving, prior to the expiration of the license, a completed electronic license renewal application signed by each medical cannabis establishment principal and renewal fee from a medical cannabis establishment if the license is not under suspension or has not been revoked.

(H) Medical cannabis establishments must notify the department of any changes in medical cannabis establishment principals and must include their name, date of birth, contact information, a copy of a SLED and a FBI criminal records check, and any other information required by department regulations.

(I) The department shall deny, suspend, or revoke a medical cannabis establishment license if any medical cannabis establishment principal applicant or medical cannabis establishment principal has been convicted of, pled guilty or nolo contendere to, a felony drug-related offense, unless the medical cannabis establishment principal applicant or medical cannabis establishment principal completed the sentence, including any term of probation or supervised release, at least five years prior.

Section 44-53-2400. (A) A medical cannabis establishment shall issue an identification card to each medical cannabis establishment agent and medical cannabis establishment principal in accordance with department regulations before the person begins working at the medical cannabis establishment.

(B) A medical cannabis establishment shall request and obtain a SLED and a FBI criminal records check for every person seeking to become a medical cannabis establishment agent within the previous ninety days before the person is issued an identification card or begins working at a medical cannabis establishment.

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

- (1) the person is twenty-one years of age or older;
- (2) the person has not been convicted of, or pled guilty or nolo contendere to, a felony drug-related offense, or if the person completed the sentence, including any term of probation or supervised release, at least five years prior;
- (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; and
- (4) the person has completed, or indicated in writing that he will complete within ninety days of being hired, an educational requirement approved by the department.

(D) Each medical cannabis establishment shall retain all records documenting compliance with this article with regards to medical cannabis establishment agents and medical cannabis establishment principals for at least five years after the end of their employment.

Section 44-53-2410. (A) The department is responsible for performing inspections of medical cannabis establishments and investigating suspected violations of this article and of 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) A medical cannabis establishment is subject to inspection by the department.

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

(D) The department shall 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.

(E) 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 that apply to cultivation centers, processing facilities, dispensaries, and independent testing laboratories.

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

Section 44-53-2420. (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 of the school.

(B) The department has the discretion to allow an exception to the prohibition in subsection (A) if it is shown by the applicant 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 as determined by the department.

Section 44-53-2430. (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 the violation of an ordinance or regulation governing the time, place, and manner of a medical cannabis establishment that may operate in the 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) The burden for compliance with zoning or land use regulations and the requirements for seeking a variance should be no greater for a cannabis-related business than for any other similar business.

(D)(B) A local government may not impose any tax or fee for the sale of **medical cannabis or** medical cannabis products sold in a licensed dispensary.

Section 44-53-2440. (A) Medical cannabis establishments shall implement appropriate security measures in accordance with regulations promulgated by the department, which shall be developed by the department after consulting with and receiving input from SLED, designed to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.

(B) All cultivation centers and processing facilities must conduct cultivation, harvesting, processing, and packaging of cannabis in a secure facility at a physical address provided to the department and SLED during their license application process. A processing facility or cultivation secure facility may only be accessed by medical cannabis establishment agents, medical cannabis establishment principals, authorized department personnel, law enforcement personnel, emergency personnel, and adults who are twenty-one years of age and older who are accompanied by medical cannabis establishment agents or principals.

(C) All medical cannabis establishments are subject to random inspection by the department and SLED in accordance with regulations promulgated by the department, which shall be developed by the department after consulting with and receiving input from SLED.

Section 44-53-2450. (A) The department shall require, at a minimum, the routine testing of cannabis and cannabis products at an independent testing facility by cultivation centers and processing facilities in accordance with department regulations.

(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 44-53-2460. (A) All cultivation center cannabis by-product, scrap, and harvested cannabis not intended for distribution to a **dispensary**, processing facility, or independent 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 **products** that **is are** not sold to qualifying patients or designated caregivers in accordance with department regulations. 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.

(C) A dispensary shall destroy all unused cannabis **products** that **is are** returned to a dispensary by a patient or his caregiver if the patient no longer qualifies for the use of medical cannabis.

Section 44-53-2470. (A) Each dispensary must contract with or employ at least one pharmacist, physician assistant, or clinical practice nurse who is licensed by the State and who has completed a medical cannabis continuing education course approved by the South Carolina Board of Medical Examiners. The continuing education course must include best practices regarding dosage based upon medical conditions or symptoms, modes of administration, and cannabinoid profiles. The pharmacist, physician assistant, or clinical practice nurse must be reasonably available during business hours 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 medical cannabis establishment principal or agent of a dispensary who dispenses **cannabis or** cannabis products to qualifying patients must complete a medical cannabis continuing education course approved by the South Carolina Board of Medical Examiners prior to dispensing **cannabis or** cannabis products. The continuing education course must include best practices regarding dosage based upon medical conditions or symptoms, modes of administration, and cannabinoid profiles.

(C)(1) 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:

(a) the name of the dispensary;

(b) the percentage of tetrahydrocannabinol and the percentage of cannabidiol within a profile tolerance range of ten percent. For edible cannabis products, the cannabinoid profile should be listed by milligrams per serving;

(c) the name of the cultivation center and processing facility; and

(d) 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. FOR MEDICAL USE ONLY. KEEP OUT OF THE REACH OF CHILDREN AND ANIMALS'.

(2) Labels shall not include strain names but may include cannabinoid and terpene profiles for identification.

(3) All **cannabis and** cannabis products purchased in dispensaries should be placed in child-resistant exit packaging before leaving the dispensary.

(D) A dispensary shall not allow a person under the age of eighteen to enter a dispensary unless the minor is accompanied by their parent, legal guardian, or designated caregiver.

Section 44-53-2480. (A) After consulting with medical professionals who are knowledgeable about the risks and benefits of cannabis, the department shall develop a scientifically accurate safety information flyer, which shall be provided to each patient applying for a registry identification card. The flyer must be offered at every dispensary when medical cannabis **is products are** dispensed. It must include:

- (1) advice about the potential risks of the use of medical cannabis **products**, including:
 - (i) the variability of quality and concentration of cannabis **products**;
 - (ii) the risk of cannabis use disorder and where to reach out for help;
 - (iii) any potential exacerbation of psychotic disorders and any adverse cognitive effects for children and young adults;
 - (iv) potential adverse events and other risks, including falls or fractures;
 - (v) the risks of using cannabis **products** during pregnancy or breast feeding; and
 - (vi) the need to safeguard all cannabis and cannabis products from children and pets or other domestic animals;
- (2) a notification to the qualifying patient or designated caregiver that the medical cannabis **products** is for the qualifying patient's use only and the **cannabis or** cannabis products should not be donated or otherwise supplied to another individual;
 - (3) **a notification of the variability and lack of standardization of cannabis preparations and their potential effects;**
 - (4)(3) a warning to qualifying patients not to drive or operate heavy machinery while under the influence of medical cannabis; and
 - (5)(4) a disclosure to qualifying patients that under the United States government's 1986 Gun Control Act, any 'unlawful' user of a controlled substance is prohibited from purchasing or owning a gun and that federally licensed gun dealers must ask prospective customers about drug use habits before approving a purchase, and that because cannabis is a

Schedule I substance under federal law, the United States government maintains that there is no way to use cannabis **products** lawfully.

(B) The department shall make the information identified in subsection (A) available online with a link to the information conspicuously located on the department's website.

Section 44-53-2490. (A) The department may deny, suspend, or revoke the license of a medical cannabis establishment as a result of a violation of this article or department regulations.

(B) The department may require medical cannabis establishments to ban an individual from serving as a medical cannabis establishment agent or principal at any medical cannabis establishment for a violation of this article or department regulations. The department may maintain and 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 the identification, investigation, and resolution of potential violations of this article and department regulations.

(D) Medical cannabis establishments 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 and department regulations.

(F) The department is authorized to impose monetary penalties on a medical cannabis establishment for violations of this article.

(G) If a medical cannabis establishment's license is denied, suspended, or revoked, then the medical cannabis establishment 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 44-53-2500. (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 the qualifying patient, designated caregiver, or physician.

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

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

Section 44-53-2510. (A) The department shall provide a report to the General Assembly by the second Tuesday 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, qualified patients, designated caregivers, or medical cannabis establishments, contain the following, at a minimum:

(1) the number of registry identification card applications submitted, approved, 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 **products** on a yes-no questionnaire basis as submitted by the qualifying patients in a voluntary, anonymous survey, which may be conducted online or through dispensaries;

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

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

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

(C) After two years, the department shall evaluate the efficacy of cannabis as medicine and make a recommendation with regard to the rescheduling of cannabis on a lower schedule in the State of South Carolina.”

SECTION 4. 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 5. Article 4, Chapter 53, Title 44 of the 1976 Code is repealed.

SECTION 6. The repeal or amendment by this act of any law, whether temporary, permanent, 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 7. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then 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 8. (A) After the effective date of this act, the South Carolina Department of Health and Environmental Control shall:

- (1) create a commission pursuant to Section 44-53-2340, as added by this act, within thirty days;
- (2) develop a written certification form pursuant to Section 44-53-2080, as added by this act, after no later than ten days after the effective date of regulations promulgated pursuant to Section 44-53-2100(A);
- (3) promulgate regulations pursuant to Section 44-53-2100(A), as added by this act, after no later than one year;
- (4) engage a company to create the necessary software for an electronic patient registry pursuant to Section 44-53-2100(B), as added by this act, after no later than one hundred twenty days;
- (5) develop a safety information flyer pursuant to Section 44-53-2480, as added by this act, after no later than ten days after the effective date of regulations promulgated pursuant to Section 44-53-2100(A);
- (6) establish a secure web-based verification system pursuant to Section 44-53-2190(B), as added by this act, within one year;

- (7) promulgate regulations pursuant to Section 44-53-2350, as added by this act, after no later than one year; and
- (8) begin accepting applications for licensure pursuant to Section 44-53-2390, as added by this act, after no later than thirty days after the effective date of regulations promulgated pursuant to Section 44-53-2350.

(B) If the South Carolina Department of Health and Environmental Control fails to promulgate regulations to implement this act within two years of the effective date of this act, then a qualifying patient may commence an action in the South Carolina Administrative Law Court to compel the South Carolina Department of Health and Environmental Control to perform the actions mandated pursuant to the provisions of this act.

(C) No later than one year after the effective date of this act, the South Carolina Law Enforcement Division shall promulgate regulations pursuant to Section 44-53-2020(C), as added by this act.

(D) No later than thirty days after the effective date of this act, the South Carolina Board of Medical Examiners shall approve a three-hour continuing medical education course on medical cannabis **products**, pursuant to Section 44-53-2090, as added by this act.

~~SECTION 9. A. SECTIONS 1 through 9 are repealed five years from the effective date of this act.~~

~~B. SECTIONS 1 through 9 shall be repealed by operation of law in the event that a court in the federal system of courts, pursuant to a filing by the United States of America or one of its authorized executive agencies, issues a final order declaring those sections have been preempted by the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, more commonly known as the “Controlled Substances Act.”~~

Renumber sections to conform.
Amend title to conform.