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A BILL

TO ENACT THE SOUTH CAROLINA COMPASSIONATE CARE ACT; TO AMEND CHAPTER 53, TITLE 44 OF THE 1976 CODE, RELATING TO POISONS, DRUGS, AND OTHER CONTROLLED SUBSTANCES, BY ADDING ARTICLE 20, TO PROVIDE FOR THE SALE OF MEDICAL CANNABIS AND THE CONDITIONS UNDER WHICH A SALE CAN OCCUR; TO AMEND SECTION 12-36-2120(69) OF THE 1976 CODE, RELATING TO EXEMPTIONS FROM THE SOUTH CAROLINA SALES AND USE TAX, TO PROVIDE THAT CANNABIS SOLD BY A DISPENSARY TO A CARDHOLDER IS EXEMPT FROM THE SALES TAX IMPOSED BY CHAPTER 36, TITLE 12; TO REPEAL ARTICLE 4, CHAPTER 53, TITLE 44 OF THE 1976 CODE, RELATING TO CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH; AND TO DEFINE NECESSARY TERMS.

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

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

1 Department of Justice from using any appropriated funds to
2 interfere with the implementation of those laws;

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

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

21 (5) cannabis has many accepted medical uses in the United
22 States, having been recommended by thousands of licensed
23 physicians to more than two million patients in the states that have
24 medical cannabis laws, and a wide range of medical and public
25 health organizations have recognized the medical utility of
26 cannabis, including the American Academy of HIV Medicine, the
27 American College of Physicians, the American Nurses
28 Association, the American Public Health Association, the
29 Leukemia & Lymphoma Society, and the Epilepsy Foundation.

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

36
37 SECTION 3. Chapter 53, Title 44 of the 1976 Code is amended
38 by adding:

39
40 "ARTICLE 20

41
42 The South Carolina Compassionate Care Act

43

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

2 (1)(a) 'Allowable amount of medical cannabis' means, for a
3 fourteen-day period, a combined total of up to:

4 (i) two ounces of cannabis; or

5 (ii) cannabis products in an amount equivalent to two
6 ounces of cannabis, which shall be determined by the department
7 based on the most widely accepted conversion factors between
8 cannabis flower weight and non-flower product units.

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

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

13 (3) 'Cannabis' means all parts of any plant of the cannabis
14 genus of plants, whether growing or not; the seeds of the plant; the
15 resin extracted from any part of the plant; and every compound,
16 manufacture, salt, derivative, mixture, or preparation of the plant,
17 its seeds, or resin. 'Cannabis' does not mean the mature stalks of
18 the plant; fiber produced from the stalks; oil or cake made from the
19 seeds of the plant; any other compound, manufacture, salt,
20 derivative, mixture, or preparation of a mature stalk, except the
21 resin extracted from the plant; or the sterilized seeds of the plant
22 that are incapable of germination.

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

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

32 (6) 'Child-resistant packaging' means packaging that is
33 designed or constructed to be significantly difficult for children
34 under five years of age to open and not difficult for normal adults
35 to use properly, substantially similar to those defined by 16 C.F.R.
36 1700.20 (1995), opaque so that the packaging does not allow the
37 product to be seen without opening the packaging material, and
38 re-sealable for any product intended for more than a single use or
39 containing multiple servings.

40 (7) 'Cultivation center' means a facility operated by an
41 organization or business that is licensed by the department
42 pursuant to this article to cultivate, possess, and distribute cannabis

1 to state-licensed processing facilities, dispensaries, and
2 independent testing laboratories.

3 (8) 'Debilitating medical condition' means:

4 (a) one or more of the following: cancer; multiple
5 sclerosis; a neurological disease or disorder, including epilepsy;
6 glaucoma; post-traumatic stress disorder; Crohn's disease; sickle
7 cell anemia; ulcerative colitis; cachexia or wasting syndrome;
8 severe or persistent nausea in a person who is not pregnant that is
9 related to end-of-life or hospice care, or who is bedridden or
10 homebound because of the condition; a chronic medical condition
11 causing severe and persistent muscle spasms, including multiple
12 sclerosis; or any chronic or debilitating disease or medical
13 condition for which an opioid is currently or could be prescribed
14 by a physician based on generally accepted standards of care;

15 (b) a terminal illness with a life expectancy of less than
16 one year in the opinion of the patient's treating physician; or

17 (c) any other serious medical condition or its treatment
18 added by the Medical Cannabis Advisory Board, as provided for in
19 Section 44-53-2060.

20 (9) 'Department' means the South Carolina Department of
21 Health and Environmental Control.

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

28 (11) 'Dispensary' means a facility operated by an
29 organization or business licensed by the department pursuant to
30 this article that possesses and dispenses cannabis, cannabis
31 products, industrial hemp for human consumption, or
32 paraphernalia to cardholders.

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

37 (13) 'Edible cannabis product' means an individually packed
38 food or potable liquid into which has been incorporated a
39 cannabinoid concentrate or extract or the dried leaves or flowers of
40 marijuana with a tetrahydrocannabinol concentration of not more
41 than ten milligrams per serving.

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

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

6 (16) ‘Independent testing laboratory’ means a facility licensed
7 by the department pursuant to this article to offer or perform
8 testing related to cannabis, cannabis products, industrial hemp, and
9 industrial hemp products that is independent of any entity that
10 cultivates, processes, or dispenses cannabis, cannabis products,
11 industrial hemp, or industrial hemp products for human
12 consumption.

13 (17) ‘Industrial hemp’ has the same meaning as in Section
14 46-55-10(2).

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

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

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

27 (21) ‘Medical use’ means the acquisition, administration,
28 possession, preparation, transportation, or use of cannabis,
29 cannabis products, or paraphernalia used to administer cannabis or
30 cannabis products to treat or alleviate a registered qualifying
31 patient’s debilitating medical condition or symptoms associated
32 with the patient’s debilitating medical condition and includes the
33 transfer of cannabis from a designated caregiver to a qualifying
34 patient who the caregiver is registered to assist. ‘Medical use’ does
35 not include the extraction of resin from cannabis by solvent
36 extraction other than water, glycerin, propylene glycol, vegetable
37 oil, or food grade ethanol (ethyl alcohol), unless the extraction is
38 done by a processing facility.

39 (22) ‘Nonresident cardholder’ means a person who:

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

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

3 (c) is in compliance with Section 44-53-2120.

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

7 (24) ‘Paraphernalia’ means paraphernalia as defined in
8 Section 44-53-110, if its sole intended purpose is for use with
9 cannabis.

10 (25) ‘Physician’ means a physician as defined in Section
11 40-47-20 who is authorized to prescribe medication under state law
12 and by the South Carolina Board of Medical Examiners and who
13 has a controlled substances registration pursuant to Section 44-53-
14 290 and a controlled substances registration issued by the federal
15 Drug Enforcement Administration. In relation to a nonresident
16 cardholder, ‘physician’ means a medical practitioner who is
17 allowed to certify patients to use medical cannabis in the state of
18 the patient’s residence.

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

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

27 (28) ‘Registry identification card’ means a document issued
28 by the department that identifies a person as a registered qualifying
29 patient or registered designated caregiver, or documentation that is
30 deemed a registry identification card pursuant to Section
31 44-53-2170.

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

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

36 (31) ‘Verification system’ means a secure, confidential, and
37 web-based system established and maintained by the department
38 that is available to authorized department personnel, law
39 enforcement personnel, and medical cannabis establishment agents
40 for the verification of registry identification cards.

41 (32) ‘Written certification’ means a document developed by
42 the department and printed on tamper-resistant paper dated and
43 signed by a physician stating that the patient has been diagnosed

1 with a debilitating medical condition and that the potential benefits
2 of using medical cannabis outweigh any risks. The certification
3 may be made only in the course of a bona fide physician-patient
4 relationship; must specify the qualifying patient's debilitating
5 medical condition or conditions; must indicate the date of the
6 patient follow-up appointment, not to exceed six months from the
7 original date of issuance; and must be updated annually for each
8 qualifying patient by the certifying physician. If the qualifying
9 patient is expected to recover from the debilitating medical
10 condition within a year of the written certification, not including if
11 the patient may go into remission due to medical cannabis
12 treatment or the qualifying patient is not expected to benefit from
13 medical cannabis for an entire year, then the written certification
14 must specify that fact.

15
16 Section 44-53-2020. (A) The department shall establish a
17 South Carolina Medical Cannabis Program Fund to ensure the
18 availability of funds necessary to carry out the department's
19 responsibilities under this article. All monies collected pursuant to
20 this article must be deposited into the fund. The funds must be
21 used for the direct and indirect costs associated with the
22 implementation, administration, and enforcement of this article.

23 (B) Revenues generated in excess of the amount needed to
24 implement and enforce this article must be distributed annually as
25 follows:

- 26 (1) fifty percent to SLED for subsequent distribution
27 between SLED and the forty-six county sheriffs' offices;
- 28 (2) twenty percent to the South Carolina Department of
29 Education to be used for drug safety education;
- 30 (3) twenty percent to the state general fund; and
- 31 (4) ten percent in equal shares to the University of South
32 Carolina School of Medicine and the Medical University of South
33 Carolina to be used in connection with medical cannabis research
34 and development.

35 (C)(1) SLED shall promulgate regulations to divide the funds
36 provided by subsection (B)(1) between SLED and the forty-six
37 sheriffs' offices exclusively.

38 (2) The distribution must be equitable and based on a
39 distribution plan developed and agreed to by the South Carolina
40 Sheriffs' Association, with the plan taking into consideration the
41 population of the counties and the number and location of the
42 licensed cultivation facilities, dispensary locations, and processing
43 facilities.

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

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

10
11 Section 44-53-2030. Notwithstanding any other provision of
12 law, the department may implement a reasonable fee increase to be
13 charged and collected pursuant to this article, if necessary, for the
14 department to cover the cost of administering and operating the
15 program pursuant to this article.

16
17 Section 44-53-2040. (A) All sales of medical cannabis are
18 subject to a six percent sales tax at the point of sale.

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

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

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

27
28 Section 44-53-2050. Subject to Chapter 35, Title 11, the South
29 Carolina Consolidated Procurement Code, the department is
30 authorized to procure the services of qualified contractors or other
31 state agencies to assist the department in implementing this article,
32 including licensing, testing, auditing, inspections, registry
33 management, diversion control, and other compliance services.

34
35 Section 44-53-2060. (A) There is created a Medical Cannabis
36 Advisory Board, which must be comprised of:

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

39 (2) one member appointed by the chief of SLED, or his
40 designee; and

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

- 1 (a) two licensed medical doctors authorized by the State
2 to practice medicine;
3 (b) one licensed doctor of osteopathic medicine;
4 (c) one research scientist with expertise in the field of
5 cannabinoid medicine;
6 (d) one licensed pharmacist;
7 (e) one cardholder;
8 (f) one representative of a registered medical cannabis
9 establishment; and
10 (g) one representative of a municipality.

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

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

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

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

27
28 Section 44-53-2070. Nothing in this article may be construed to
29 require a health insurance provider, health care plan, or medical
30 assistance program to be liable for or reimburse a claim for the
31 medical use of cannabis. Consultations in which physicians
32 diagnose qualifying conditions and complete written certifications
33 shall be reimbursed consistent with any other visit to a health care
34 facility.

35
36 Section 44-53-2080. The department shall develop a written
37 certification form to be completed annually by a physician. The
38 written certification must include:

- 39 (1) the physician's name, address, phone number, and
40 medical license number;
41 (2) an acknowledgement to be signed by the physician that
42 sets forth the penalties for providing false information, including

1 the department's right to notify the medical board or other similar
2 authority established pursuant to Chapter 47, Title 40;

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

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

8 (b) that the physician has consulted the prescription drug
9 monitoring program, established pursuant to Article 15, Chapter
10 53, Title 44, to review the patient's controlled-substance
11 prescription history and has documented such consultation in the
12 patient's medical record;

13 (c) that the physician has conducted an in-person
14 evaluation and collected relevant clinical history commensurate
15 with the presentation of the patient prior to recommending
16 cannabis for medical use. At a minimum, the evaluation should
17 include the patient's history of present illness; social history; past
18 medical and surgical history; alcohol and substance use history;
19 family history with an emphasis on addiction, mental illness, or
20 psychotic disorders; physical exam; and documentation of
21 therapies with inadequate response;

22 (d) that the patient has a debilitating medical condition,
23 identifying the patient's condition, and the symptoms or side
24 effects of the condition or its treatment could benefit from a
25 recommendation for the medical use of cannabis;

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

28 (i) a review of other measures attempted to ease the
29 suffering caused by the debilitating medical condition that do not
30 involve the recommendation of medical cannabis;

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

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

35 (A) the variability of quality and concentration of
36 cannabis;

37 (B) the risk of cannabis use disorder;

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

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

1 (E) the use of cannabis during pregnancy or breast
2 feeding; and
3 (F) the need to safeguard all cannabis and cannabis
4 products from children and pets or other domestic animals;
5 (iv) additional diagnostic evaluations or other planned
6 treatments; and
7 (v) an ongoing treatment plan as medically appropriate;
8 (f) notification of the patient or caregiver that the medical
9 cannabis is for the patient's use only and that the cannabis or
10 cannabis products should not be donated or otherwise supplied to
11 another individual; and
12 (g) that the physician has discussed the risks and benefits
13 of the use of medical cannabis with the patient or caregiver,
14 including the variability and lack of standardization of cannabis
15 preparations and their potential effects and an admonition that
16 patients should not drive or operate heavy machinery while under
17 the influence of medical cannabis;
18 (4) a statement that the physician maintains documentation
19 in the patient's medical record, if the patient's debilitating medical
20 condition is one for which opioid medications could be or have
21 been prescribed;
22 (5) either a statement that the patient's debilitating medical
23 condition is expected to last for a year or until a date when the
24 patient is no longer expected to benefit from medical cannabis;
25 (6) the date of the patient's follow-up appointment to assess
26 whether the patient has found relief from his debilitating condition
27 and the patient's overall health and level of function. The
28 follow-up appointment shall not exceed six months after the initial
29 consultation or renewal appointment; and
30 (7) an acknowledgement that the physician has considered
31 that any patient who has a history of substance use disorder or a
32 co-occurring mental health disorder may require specialized
33 assessment and treatment; in those instances, the physician should
34 seek a consultation with or refer the patient to a pain management,
35 psychiatric, addiction, or mental health specialist as needed.
36
37 Section 44-53-2090. (A) Any physician who issues written
38 certifications must complete a three-hour continuing medical
39 education course on medical cannabis that is approved by the
40 department and must file a form with the department attesting to
41 the completion of the course:
42 (1) within one year of issuing his first written certification;
43 and

[]

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

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

12 (C)(1) Except as allowed pursuant to Section 44-53-2470, a
13 physician shall not:

14 (a) accept, solicit, or offer any form of pecuniary
15 remuneration from or to a dispensary;

16 (b) offer a discount or any other thing of value to a
17 cardholder who uses or agrees to use a particular dispensary;

18 (c) examine a patient for the purposes of diagnosing a
19 debilitating medical condition at a location where cannabis or
20 cannabis products are sold;

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

26 (e) recommend, attest, or otherwise authorize the use of
27 medical cannabis for himself or for a family member.

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

38
39 Section 44-53-2100. (A) The department shall promulgate
40 regulations:

41 (1) developing and establishing registry identification card
42 application forms and the process for the issuance of registry
43 identification cards for qualifying patients and designated

1 caregivers, including a state and national fingerprint-based
2 criminal records check for a designated caregiver's initial
3 registration and annual registration renewals, and for the issuance,
4 denial, and revocation of registry identification cards;

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

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

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

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

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

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

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

28
29 Section 44-53-2110. (A) A registry identification card issued
30 pursuant to this section must be printed with tamper-resistant
31 technology and contain, at a minimum, the following information:

32 (1) the name of the cardholder;

33 (2) the address of the cardholder;

34 (3) the cardholder's date of birth;

35 (4) a designation of whether the cardholder is a designated
36 caregiver or qualifying patient;

37 (5) the date of issuance and expiration date of the registry
38 identification card;

39 (6) a random alphanumeric identification number that is
40 unique to the cardholder;

41 (7) if the cardholder is a designated caregiver, the random
42 alphanumeric identification number of the registered qualifying

1 patient that the designated caregiver is receiving the registry
2 identification card to assist; and

3 (8) a photograph of the cardholder, if required by department
4 regulations.

5 (B) Except as provided in this subsection, the expiration date of
6 a registry identification card is one year after issuance.

7 (C) If the practitioner stated in the written certification that the
8 qualifying patient is expected to recover from the debilitating
9 medical condition earlier than one year from issuance or if the
10 qualifying patient is not expected to benefit from medical cannabis
11 for an entire year, then the registry identification card expires on a
12 date specified.

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

16
17 Section 44-53-2120. A valid registry identification card, or its
18 equivalent, that is issued pursuant to the laws of another state,
19 district, territory, commonwealth, or insular possession of the
20 United States that allows, in its jurisdiction of issuance, a
21 nonresident cardholder to possess cannabis for medical use has the
22 same force and effect as a valid registry identification card issued
23 by the department in this State, provided that the person produces a
24 statement from a physician stating that the person has a debilitating
25 medical condition, submits any other documentation required by
26 the department, and has received confirmation of registration.

27
28 Section 44-53-2130. (A) The department shall issue registry
29 identification cards to qualifying patient applicants who submit a
30 completed application and, at a minimum, the following, in
31 accordance with the department's regulations:

32 (1) the name, residential and mailing address, email address,
33 telephone number, and date of birth of the qualifying patient
34 applicant, except that if the applicant is homeless, then no
35 residential address is required;

36 (2) recent passport-sized photographs of each qualifying
37 patient applicant's face and proposed designated caregiver's face;

38 (3) the name, mailing address, and telephone number of the
39 applicant's physician authorized by this article to recommend
40 medical cannabis;

41 (4) the written certification dated, signed, and submitted to
42 the department by the physician;

1 (5) the name, residential and mailing address, email address,
2 telephone number, and date of birth of the applicant's proposed
3 designated caregiver or caregivers. If more than one designated
4 caregiver is designated at any given time, then the patient applicant
5 must submit documentation demonstrating that the additional
6 designated caregivers are needed due to the patient's age, medical
7 condition, or place of residency;

8 (6) statements signed by the qualifying patient applicant or
9 proposed designated caregiver agreeing not to divert cannabis to
10 anyone who is not allowed to possess cannabis pursuant to this
11 article and acknowledging that diversion of cannabis is a felony
12 that, upon conviction, results in the revocation of the registry
13 identification card and subjects the applicant to a fine of not more
14 than five thousand dollars, imprisonment of not more than five
15 years, or both;

16 (7) a questionnaire that asks if the qualifying patient
17 applicant would like to be notified by the department of any
18 clinical studies needing human subjects for research on the medical
19 use of cannabis. The department shall notify interested patients of
20 studies that will be conducted in the United States; and

21 (8) the date of a pre-scheduled follow-up appointment with
22 the patient's physician, which shall be no later than six months
23 after the date of the certification. A follow-up appointment may be
24 conducted in-person or through telemedicine.

25 (B) If the patient is a new patient between the ages of eighteen
26 and twenty-three, then the patient must submit written
27 certifications from two physicians.

28
29 Section 44-53-2140. (A) The department may not issue a
30 registry identification card to a person under eighteen years of age
31 who is a qualifying patient applicant unless:

32 (1) a physician provides a written certification to a
33 designated custodial parent or legal guardian with the legal
34 authority to make health care decisions on behalf of the minor;

35 (2) the physician has explained the potential risks and
36 benefits of the medical use of cannabis to the custodial parent or
37 legal guardian with the legal authority to make health care
38 decisions on behalf of the minor;

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

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

1 (b)(i) serve as one of the minor’s designated caregivers
2 and determine the frequency and route of administration of
3 cannabis by the patient; or

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

6 (4) the custodial parent or legal guardian with the legal
7 authority to make health care decisions on behalf of the minor
8 completes an application in accordance with the requirements of
9 Section 44-53-2130 on behalf of the minor.

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

13 (1) a physician provides a written certification on behalf of
14 the incapacitated person to a designated person with the legal
15 authority to make health care decisions on behalf of the
16 incapacitated person;

17 (2) the physician has explained the potential risks and
18 benefits of the medical use of cannabis to the person with the legal
19 authority to make health care decisions on behalf of the
20 incapacitated person;

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

24 (a) allow the incapacitated person’s medical use of
25 cannabis;

26 (b) serve as one of the incapacitated person’s designated
27 caregivers; and

28 (c) determine the frequency and route of administration of
29 cannabis by the incapacitated person;

30 (4) the person with the legal authority to make health care
31 decisions for the incapacitated person completes an application in
32 accordance with the requirements of Section 44-53-2130 on behalf
33 of the incapacitated person; and

34 (5) the person submitting the application on the
35 incapacitated patient’s behalf submits a statement signed by the
36 person agreeing not to consume cannabis or cannabis products
37 intended for a qualifying patient.

38 (C) For new patients, not to include renewals, the department
39 may not issue a registry card to a patient who is between the ages
40 of eighteen and twenty-three years unless the patient submits
41 written certifications from two physicians who have performed
42 in-person exams and verified the patient’s qualifying debilitating
43 condition.

1
2 Section 44-53-2150. (A) A designated caregiver may serve
3 only one patient, unless the caregiver:
4 (1) is a health care facility, residential care facility, or entity
5 that provides home care aides to seriously ill patients;
6 (2) is a first-degree relative to all patients by blood or
7 marriage; or
8 (3) is a health care aide or medical professional.
9 (B) In no event may a natural person who is a designated
10 caregiver serve more than five patients.
11 (C) A designated caregiver must be a natural person unless it is
12 a health care facility, residential care facility, or entity that
13 provides home care aides to seriously ill patients. A designated
14 caregiver who is a natural person must be at least twenty-one years
15 of age unless the person is the parent or legal guardian of the
16 qualifying patient or patients that the person assists.
17 (D) In order to obtain a registry identification card as a
18 designated caregiver, a person must provide to the department:
19 (1) a copy of the proposed designated caregiver's SLED
20 criminal-records check report that bears a SLED stamp, for which
21 the proposed designated caregiver must pay the costs; and
22 (2) a statement signed by the proposed designated caregiver
23 agreeing to not consume cannabis or cannabis products intended
24 for a qualifying patient.
25 (E) The department has the discretion not to issue a registry
26 identification card to a designated caregiver if the person has been
27 convicted of, or pled guilty or nolo contendere to, a felony
28 drug-related offense, unless the person completed the sentence,
29 including any term of probation or supervised release, at least five
30 years prior.
31 (F)(1) A registry identification card issued pursuant to this
32 section must be printed with tamper-resistant technology and
33 contain, at a minimum, the following information:
34 (a) the name of the cardholder;
35 (b) the address of the cardholder;
36 (c) the cardholder's date of birth;
37 (d) a designation of whether the cardholder is a designated
38 caregiver or qualifying patient;
39 (e) the date of issuance and expiration date of the registry
40 identification card;
41 (f) a random alphanumeric identification number that is
42 unique to the cardholder;

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

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

7 (2) Except as provided in this subsection, the expiration date
8 of a registry identification card is one year after issuance.

9 (3) If the practitioner stated in the written certification that
10 the qualifying patient is expected to recover from the debilitating
11 medical condition earlier than one year from issuance or if the
12 qualifying patient is not expected to benefit from medical cannabis
13 for an entire year, then the registry identification card expires on a
14 date specified.

15
16 Section 44-53-2160. The department shall promulgate
17 regulations governing health care facilities, residential care
18 facilities, and entities that provide home care aides to seriously ill
19 patients that serve as designated caregivers, including regulations
20 to:

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

24 (2) require the name and date of birth of each individual who
25 may transport or administer cannabis on behalf of a facility to be
26 registered with the department.

27
28 Section 44-53-2170. (A) Until sixty days after the department
29 makes applications available, a valid, written certification issued
30 within the previous year must be deemed a registry identification
31 card for a qualifying patient.

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

35 (1) a copy of a qualifying patient's valid written certification
36 issued within the previous year; and

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

41 (C) Until a qualifying patient who has submitted an application
42 and the required fee to the department receives a registry
43 identification card or a rejection, a copy of the individual's

1 application, written certification, and proof that the application was
2 submitted to the department shall be deemed a registry
3 identification card.

4 (D) Until a designated caregiver whose qualifying patient has
5 submitted an application and the required fee to the department
6 receives a registry identification card or a rejection, a copy of the
7 qualifying patient's application, written certification, and proof
8 that the application was submitted to the department shall be
9 deemed a registry identification card.

10
11 Section 44-53-2180. (A)(1) A qualifying patient shall notify
12 the department of any change in the patient's name or address, or if
13 the qualifying patient ceases to have the debilitating medical
14 condition, not including if the person's debilitating medical
15 condition or the underlying cause of the debilitating medical
16 condition goes into remission due to medical cannabis, within ten
17 days of the change.

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

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

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

27 (B) When a registry identification cardholder notifies the
28 department of an occurrence identified in subsection (A) and
29 remains eligible for a registry identification card pursuant to this
30 article, the department shall issue the cardholder a new registry
31 identification card with a new random alphanumeric identification
32 number within a reasonable time period, not to exceed fourteen
33 business days, of receiving the updated information and a
34 replacement card fee set by the department. If the person notifying
35 the department is a qualifying patient, then the department also
36 shall issue the qualifying patient's designated caregiver, if any, a
37 new registry identification card within a reasonable time period,
38 not to exceed thirty business days, of receiving the updated
39 information and a replacement card fee set by the department.

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

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

10
11 Section 44-53-2190. (A) The department shall maintain a
12 confidential list of the persons to whom the department has issued
13 registry identification cards and all of their information required in
14 Section 44-53-2110. The department also shall maintain a
15 confidential list of any person who submitted an unsuccessful
16 application. These confidential lists may not be combined or linked
17 in any manner with any other list or database, nor may the lists be
18 used for any purpose not provided for in this article.

19 (B) The department shall establish a secure phone or web-based
20 verification system. The verification system must allow law
21 enforcement personnel and medical cannabis establishments to
22 enter a registry identification number to determine whether the
23 number corresponds with a current, valid registry identification
24 card. The system may disclose only:

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

32 (C) No person or entity may have access to information
33 contained in the department’s verification system, except for an
34 authorized employee of the department in the course of his official
35 duties or a state or local law enforcement officer who has detained
36 or arrested a person who claims to be a qualifying patient,
37 designated caregiver, medical cannabis establishment principal, or
38 medical cannabis establishment agent engaged in conduct
39 authorized in this article.

40
41 Section 44-53-2200. (A) A cardholder may purchase cannabis,
42 cannabis products, industrial hemp for human consumption, and
43 paraphernalia for medical use pursuant to this article from a

1 licensed dispensary, provided that a qualifying patient may not
2 obtain more than an allowable amount of medical cannabis,
3 cannabis products, or a combined allowable amount, for a
4 fourteen-day period.

5 (B) A cardholder who is a designated caregiver may purchase
6 cannabis, cannabis products, and paraphernalia to assist a
7 qualifying patient with the medical use of cannabis pursuant to this
8 article from a licensed dispensary, provided that the designated
9 caregiver and the caregiver's associated qualifying patients may
10 not obtain a combined total of more than an allowable amount of
11 medical cannabis, cannabis products, or a combined allowable
12 amount, for a fourteen-day period for each qualifying patient.

13
14 Section 44-53-2210. (A) A qualifying patient is not subject to
15 arrest by state or local law enforcement, prosecution or penalty
16 under state or local law, or the denial of a right or privilege for the
17 medical use of cannabis pursuant to this article if the qualifying
18 patient does not possess more than the allowable amount of
19 medical cannabis and is lawfully using the medical cannabis under
20 this article.

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

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

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

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

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

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

16
17 Section 44-53-2220. It is unlawful for a cardholder to smoke
18 cannabis or use a device to facilitate the smoking of cannabis. A
19 violation of this subsection is punishable by a civil fine of up to
20 one hundred fifty dollars.

21
22 Section 44-53-2230. (A) This article does not authorize any
23 person to engage in, and does not prevent the imposition of, any
24 civil, criminal, or other penalties for engaging in the following
25 conduct:

26 (1) undertaking any task under the influence of cannabis, if
27 doing so would constitute negligence or professional malpractice;

28 (2) possessing cannabis or otherwise engaging in the
29 medical use of cannabis in any correctional facility;

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

33 (4) using cannabis if the person does not have a debilitating
34 medical condition, or possessing cannabis if the person is not a
35 qualifying patient, designated caregiver, medical cannabis
36 establishment agent, or someone who is authorized to assist a
37 qualifying patient under Section 44-53-2210;

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

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

1 (7) the use of cannabis for medical use by a law enforcement
2 officer, correctional officer, correctional probation officer, or
3 firefighter while on duty, except in the case of a medical
4 emergency.

5 (B) Nothing in this article may be construed to prevent the
6 arrest or prosecution of a qualifying patient for reckless driving or
7 driving under the influence of cannabis if probable cause exists;
8 however, the mere presence of cannabis metabolites shall not
9 automatically deem a person under the influence.

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

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

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

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

38
39 Section 44-53-2240. (A) The department may revoke or
40 suspend the registry identification card of a qualifying patient or
41 designated caregiver for a violation of this article or of department
42 regulations. The qualifying patient or designated caregiver also is
43 subject to other penalties established by law.

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

6
7 Section 44-53-2250. (A) If a state or local law enforcement
8 officer has probable cause to believe that cannabis is possessed at a
9 specific address in violation of South Carolina law, then the officer
10 may request that the department verify whether the address is
11 associated with a qualifying patient or a medical cannabis
12 establishment.

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

15
16 Section 44-53-2260. (A) Except as provided in this article, a
17 registered qualifying patient who uses cannabis for medical
18 purposes must be afforded the same rights under state and local
19 law, including those guaranteed pursuant to Article 1, Chapter 9,
20 Title 45, as the person would be afforded if the person was
21 prescribed solely pharmaceutical medications, as pertaining to:

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

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

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

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

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

3
4 Section 44-53-2270. A person employed by, contracted with, or
5 an agent of the State of South Carolina is not subject to arrest by
6 state or local law enforcement, prosecution or penalty under state
7 or local law, or the denial of any right or privilege for engaging in
8 conduct authorized by this article, if the conduct is within the
9 scope of the person's employment.

10
11 Section 44-53-2280. (A) No school or landlord may refuse to
12 enroll, lease to, or otherwise penalize a person solely for the
13 person's status as a cardholder, unless:

14 (1) failing to do so would violate federal law or regulations
15 or would cause the school or landlord to lose a monetary or
16 licensing-related benefit under federal law or regulations; or

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

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

26
27 Section 44-53-2290. A physician is not subject to arrest by
28 state or local law enforcement, prosecution or penalty under state
29 or local law, or the denial of a right or privilege, including, but not
30 limited to, disciplinary action by the South Carolina Board of
31 Medical Examiners or any other occupational or professional
32 licensing entity, for providing a written certification as authorized
33 by state law. A physician may not be sued for medical malpractice
34 as a result of certifying a qualifying patient's medical use of
35 cannabis.

36
37 Section 44-53-2300. (A) A state-chartered bank or credit
38 union, licensed attorney, or certified public accountant, and all
39 associated employees, are not subject to arrest by state or local law
40 enforcement, prosecution or penalty under state or local law, the
41 denial of a right or privilege for engaging in conduct authorized by
42 this article, or professional discipline for providing advice or
43 services related to medical cannabis establishments or applications

1 to operate medical cannabis establishments on the basis that
2 cannabis is illegal under federal law.

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

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

12
13 Section 44-53-2310. A person is not subject to arrest by state or
14 local law enforcement, prosecution or penalty under state or local
15 law, or the denial of a right or privilege for:

16 (1) being in the presence or vicinity of a qualifying patient
17 engaged in the medical use of cannabis or a designated caregiver
18 assisting a qualifying patient with the medical use of cannabis;

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

22 (3) assisting a registered qualifying patient with the act of
23 using or administering medical cannabis; or

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

28
29 Section 44-53-2320. (A) The lawful use of medical cannabis
30 pursuant to this article shall not be used as a relevant factor or
31 evidence in proceedings regarding parental rights, child welfare,
32 guardianship, decision making, and probate matters.

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

38
39 Section 44-53-2330. For the purposes of medical care,
40 including organ and tissue transplants, a registered qualifying
41 patient's use of cannabis according to this article is considered the
42 equivalent of the authorized use of any other medication used at
43 the discretion of a physician and does not constitute the use of an

1 illicit substance or otherwise disqualify the registered qualifying
2 patient from needed medical care.

3
4 Section 44-53-2340. (A) The department shall create a
5 commission to assist in promulgating regulations and to evaluate
6 the qualifications of applicants for medical cannabis
7 establishments, which, at a minimum, must include as members:

- 8 (1) the director of the department, or his designee;
- 9 (2) the director of the South Carolina Department of Labor,
10 Licensing, and Regulation, or his designee;
- 11 (3) the president of the South Carolina Board of Medical
12 Examiners, or his designee;
- 13 (4) the chief of SLED, or his designee;
- 14 (5) a sheriff designated by the South Carolina Sheriffs'
15 Association;
- 16 (6) the commissioner of the South Carolina Department of
17 Agriculture, or his designee;
- 18 (7) a patient representative, appointed by the Governor;
- 19 (8) an industry representative, appointed by the Governor,
20 subject to the limitation that, although the industry representative
21 may participate in assisting with the process of promulgating
22 regulations, the industry representative must not participate in the
23 license-selection process if that appointee has applied for or has an
24 affiliation with a license applicant through family or business; and
- 25 (9) a representative of the African-American community,
26 appointed by the Governor in consultation with the South Carolina
27 Commission for Minority Affairs.

28 (B) Members of the commission may not receive compensation
29 but are entitled to mileage, subsistence, and per diem as allowed by
30 law for members of state boards, commissions, and committees.

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

35
36 Section 44-53-2350. (A) The department shall promulgate
37 regulations to:

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

- 1 (a) the preference of the local government;
- 2 (b) in the case of dispensaries, the suitability of the
3 proposed location and its accessibility for patients;
- 4 (c) the character, veracity, diversity, residency,
5 background, qualifications, and relevant experience of principal
6 officers and board members; and
- 7 (d) the business plan proposed by the applicant, which in
8 the case of cultivation centers and dispensaries shall include the
9 ability to maintain an adequate supply of cannabis, plans to ensure
10 the safety and security of patrons and the community, procedures
11 to be used to prevent diversion, and any plan for making cannabis
12 available to low-income registered qualifying patients;
- 13 (3) ensure the equitable distribution of dispensaries
14 throughout the State to ensure that patients have access to medical
15 cannabis, with a minimum of one dispensary per county;
- 16 (4) in coordination with the Office for Economic
17 Development, implement policies to:
 - 18 (a) engage in outreach to encourage racial, ethnic, and
19 gender diversity in the South Carolina medical cannabis industry;
 - 20 (b) ensure that diverse groups are afforded equal
21 opportunity in licensing and permitting; and
 - 22 (c) develop policies for medical cannabis establishments
23 to promote the participation of diverse groups and provide equal
24 access to employment;
 - 25 (5) govern medical cannabis establishments, with the goals
26 of ensuring the health and safety of qualifying patients and
27 preventing diversion and theft, without creating an undue burden
28 or compromising the confidentiality of cardholders, including:
 - 29 (a) oversight requirements;
 - 30 (b) recordkeeping and inventory-management
31 requirements;
 - 32 (c) security requirements, which must be developed in
33 consultation with SLED, including lighting, physical security, and
34 alarm requirements and, in the case of a registered cultivation
35 center, access controls, perimeter intrusion detection systems,
36 personnel identification systems, and a twenty-four hour
37 surveillance system to monitor the interior and exterior of the
38 cultivation center, that are accessible to authorized law
39 enforcement and the department;
 - 40 (d) health and safety regulations, including restrictions on
41 the use of pesticides that are injurious to human health;

1 (e) standards for the manufacture of cannabis products
2 and both the indoor and outdoor cultivation of cannabis by
3 cultivation centers, including environmental impact regulations;
4 (f) requirements for the secure transportation and storage
5 of cannabis by medical cannabis establishments, which must be
6 developed in consultation with SLED;
7 (g) employment and training requirements, including
8 requiring medical cannabis establishments to create an
9 identification badge for each medical cannabis establishment agent
10 and principal;
11 (h) standards for the safe manufacture of cannabis
12 products, including extracts and concentrates;
13 (i) restrictions on the advertising, signage, and display of
14 medical cannabis, provided that the restrictions may not prevent
15 appropriate signs on the property of a dispensary; listings in
16 business directories, including phone books; listings in
17 cannabis-related or medical publications; or the sponsorship of
18 health or not-for-profit charity or advocacy events;
19 (j) requirements and procedures for the safe and accurate
20 packaging and labeling of medical cannabis, cannabis products,
21 and industrial hemp for human consumption;
22 (k) standards for independent testing laboratories,
23 including requirements for equipment and qualifications for
24 personnel;
25 (l) protocol for the safe delivery of cannabis from
26 dispensaries to cardholders, which must be developed after
27 consulting with SLED; and
28 (m) requirements and procedures for facility and
29 equipment sanitary conditions;
30 (6) establish procedures for suspending or terminating the
31 licenses of medical cannabis establishments that commit multiple
32 or serious violations of the provisions of this article or the
33 regulations promulgated pursuant to this section;
34 (7) establish labeling requirements for cannabis, cannabis
35 products, and industrial hemp for human consumption, which must
36 require cannabis product labels to include the following:
37 (a) the length of time it typically takes for the product to
38 take effect;
39 (b) disclosure of ingredients and possible allergens;
40 (c) a nutritional fact panel; and
41 (d) clear identification of edible cannabis products, when
42 practicable, with a standard symbol indicating that the product
43 contains cannabis;

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

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

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

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

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

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

29 (14) establish minimum capital requirements for each type of
30 medical cannabis establishment that reasonably ensure applicants
31 have sufficient resources to open and operate a medical cannabis
32 establishment without requiring more than reasonably necessary
33 and allowing for some of the capital requirements to be satisfied by
34 ownership of the real property and for resources to be pooled
35 among multiple principals; and

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

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

42 (C) The department shall, no less frequently than every two
43 years, reevaluate and in its discretion:

[]

- 1 (1) determine the appropriate number and geographical
2 density of licenses for cultivation centers, processing facilities,
3 dispensaries, and independent testing laboratories; and
4 (2) determine adjustments, if any, to the application and
5 licensing fees.

6
7 Section 44-53-2360. (A) The department shall establish
8 standards for and shall license up to five independent testing
9 laboratories to test cannabis that is to be sold in the State. An
10 independent testing laboratory must analyze a representative
11 sample of all cannabis and cannabis products pursuant to Section
12 44-53-2450 before sale or transfer to dispensaries.

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

- 16 (1) the concentration of tetrahydrocannabinol, cannabidiol,
17 and other cannabinoids, if applicable;
18 (2) whether the testing material is organic or nonorganic;
19 (3) moisture content;
20 (4) allergens;
21 (5) potency analysis;
22 (6) foreign matter inspection, including heavy metals;
23 (7) microbiological screening;
24 (8) residual solvent testing;
25 (9) the presence and identification of fungi, including molds;
26 (10) the presence and concentration of fertilizers and other
27 nutrients; and
28 (11) any other determinations required by the department.

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

32
33 Section 44-53-2370. (A) To prevent diversion and protect
34 public safety, the department shall require the use of a single
35 real-time, seed-to-sale tracking system used by all medical
36 cannabis establishments and by the department that complies with
37 the Health Insurance Portability and Accountability Act (HIPAA)
38 guidelines, is hosted on a platform that allows for dynamic
39 allocation of resources, provides data redundancy, and is capable
40 of recovering from natural disasters within hours.

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

- 1 (1) tracking all plants, products, packages, patients, waste,
2 transfers, conversions, sales, and returns, and all with unique
3 identification numbers;
- 4 (2) tracking lot and batch information throughout the entire
5 chain of custody until the point of sale to a cardholder;
- 6 (3) tracking all products, conversions, and derivatives
7 throughout the entire seed-to-sale chain of custody in real time;
- 8 (4) tracking plant, batch, and product destruction;
- 9 (5) tracking the transportation of products;
- 10 (6) performing complete batch recall tracking capabilities
11 that must be able to clearly identify all of the following details
12 relating to a specific batch subject to recall:
 - 13 (a) all sold products;
 - 14 (b) products available for sale, which are in the finished
15 inventory but have not been sold;
 - 16 (c) products that are in the transfer process;
 - 17 (d) work-in-progress products, which are in the process of
18 being converted; and
 - 19 (e) raw material products, which are in the post-harvest
20 stage of the process, such as drying, trimming, and curing;
- 21 (7) reporting and tracking loss, theft, or diversion of
22 products containing cannabis;
- 23 (8) reporting and tracking all inventory discrepancies to the
24 department;
- 25 (9) reporting and tracking all sales and refunds to the
26 department;
- 27 (10) real-time alerts and notifications to the department
28 regarding when propagation sources are planted, when plants are
29 harvested and destroyed, and when cannabis products are
30 transported, sold, or destroyed;
- 31 (11) tracking all plants and products using a tagging
32 methodology that is considered environmentally friendly and
33 sustainable;
- 34 (12) tracking all plants and products using a tagging
35 methodology that avoids adding an undue financial burden on
36 cultivators, processors, and dispensaries;
- 37 (13) receiving testing results electronically from independent
38 testing laboratories via a secure application program interface into
39 the seed-to-sale tracking system and directly attaching the testing
40 results to the source batch or sample;
- 41 (14) restricting the altering of test results by the operator;
- 42 (15) providing the department with real-time access to the
43 database;

1 (16) providing real-time analytics to the department regarding
2 key performance indicators, including, but not limited to:

- 3 (a) total daily sales;
- 4 (b) total plants in production;
- 5 (c) total plants destroyed; and
- 6 (d) total inventory adjustments; and

7 (17) providing other information specified by the department.

8 (C) The department shall require that the provider of the
9 system:

10 (1) have a current security audit that is no more than twelve
11 months old and that was performed by a third party certified to
12 perform such audits, demonstrating the use of sound security
13 measures and practices by the provider hosting the data or
14 application processing the data, as defined by a nationally
15 recognized security framework;

16 (2) submit an annual update on any open corrective action
17 plans associated with the most recent audit's noted deficiencies;

18 (3) produce a new or updated audit every three years; and

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

24

25 Section 44-53-2380. (A) It is not unlawful for a licensed
26 cultivation center to:

27 (1) possess, plant, propagate, cultivate, grow, harvest,
28 produce, process, manufacture, compound, convert, prepare, pack,
29 repack, transport, or store cannabis;

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

31 (3) deliver, sell, supply, transfer, or transport cannabis,
32 cannabis paraphernalia, and educational materials to licensed
33 processing facilities or dispensaries; and

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

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

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

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

41 (3) deliver, sell, supply, transfer, or transport cannabis or
42 industrial hemp for human consumption and educational materials
43 to licensed dispensaries; and

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

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

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

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

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

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

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

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

39
40 Section 44-53-2390. (A) The department shall issue
41 registrations of the following number to qualified applicants:

- 42 (1) fifteen cultivation center licenses;
43 (2) thirty processing facility licenses;

[]

1 (3) one dispensary license for every twenty pharmacies with
2 a state-issued permit in the State; and
3 (4) five independent testing laboratory licenses.
4 (B) In order to be licensed as a medical cannabis establishment,
5 an applicant shall submit to the department a completed
6 application that, at a minimum, includes the following:
7 (1) a nonrefundable application fee to be determined by the
8 department;
9 (2) proof that the applicant has sufficient liquid and
10 non-liquid assets to open and operate the type of medical cannabis
11 establishment as determined by the department through regulation;
12 (3) on renewal, a financial statement reviewed by a licensed
13 certified public accountant or a licensed public accountant in
14 accordance with Generally Accepted Accounting Principles,
15 including all disclosures required by Generally Accepted
16 Accounting Principles;
17 (4) the legal name of the proposed medical cannabis
18 establishment;
19 (5) the physical address of the proposed medical cannabis
20 establishment, which:
21 (a) shall not be within one thousand feet of a public or
22 private school existing before the date of the medical cannabis
23 establishment application, except as provided in Section
24 44-53-2420;
25 (b) if a dispensary applicant, shall be located in an area
26 zoned for commercial use; and
27 (c) if a processing facility or cultivation center applicant,
28 shall be located in an area zoned for manufacturing or agriculture;
29 (6) a sworn statement certifying that the proposed medical
30 cannabis establishment is in compliance with local government
31 enacted zoning restrictions, if applicable;
32 (7) a copy of any local registration, license, or permit
33 required by local government for the proposed medical cannabis
34 establishment;
35 (8) the name, date of birth, and contact information for each
36 principal officer and board member of the proposed medical
37 cannabis establishment with a copy of a SLED criminal records
38 background check report for each officer and board member paid
39 for by the principal officer or board member;
40 (9) operating procedures for the proposed medical cannabis
41 establishment to ensure accurate recordkeeping and adequate
42 security measures;

1 (10) a security plan that meets all requirements promulgated
2 by the department, which, in connection therewith, shall consult
3 with and receive input from SLED;

4 (11) for a cultivation center applicant, documentation
5 demonstrating that the applicant has appropriate expertise in
6 agriculture and is qualified to process cannabis to sell, deliver,
7 transport, or distribute solely for use pursuant to this article;

8 (12) for a processing facility applicant, documentation
9 demonstrating that the applicant is qualified to process medical
10 cannabis into cannabis products, utilizing industry standards for
11 the safe handling of food products and consistency in production;

12 (13) for an application to operate an independent testing
13 laboratory, documentation demonstrating that the applicant meets
14 the standards and requirements for accreditation, inspection, and
15 testing established through regulation by the department;

16 (14) the applicant's plan to hire employees from within the
17 community in which it will be operating; and

18 (15) for an applicant who is applying for more than one
19 license, a notation on the application regarding the additional
20 licenses for which the applicant has applied.

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

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

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

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

35 (G) The department shall issue a renewal license within thirty
36 days of receiving a completed license renewal application and
37 renewal fee from a medical cannabis establishment if the license is
38 not under suspension or has not been revoked. Any changes in
39 board members or principal officers must be noted on the renewal
40 application, which must include their name, date of birth, contact
41 information, and SLED background check.
42

1 Section 44-53-2400. (A) A medical cannabis establishment
2 shall issue an identification card to each medical cannabis
3 establishment agent and medical cannabis establishment principal.

4 (B) A medical cannabis establishment shall request and obtain
5 a SLED criminal records check report that bears the SLED stamp
6 on every person seeking to become a medical cannabis
7 establishment principal or medical cannabis establishment agent
8 within the previous ninety days before the person is issued an
9 identification card or begins working at a medical cannabis
10 establishment.

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

- 14 (1) the person is twenty-one years of age or older;
- 15 (2) the department grants a waiver that the person has not
16 been convicted of, or pled guilty or nolo contendere to, a felony
17 drug-related offense, provided, however, that this restriction does
18 shall not apply if the person completed the sentence, including any
19 term of probation or supervised release, at least five years prior;
- 20 (3) the person is not included in a list of individuals who are
21 not allowed to serve as medical cannabis establishment agents or
22 principals, if the department maintains and disseminates such a
23 list; and
- 24 (4) the person has completed, or indicated in writing that he
25 will complete within ninety days of being hired, an educational
26 requirement approved by the department.

27 (D) Each medical cannabis establishment shall retain records of
28 agents and principals for at least five years after the end of their
29 employment.

30
31 Section 44-53-2410. (A) The department is responsible for
32 performing inspections of medical cannabis establishments and
33 investigating suspected violations of this article and of department
34 regulations and is primarily responsible for other duties with
35 respect to regulating cannabis for medical use, as are specifically
36 delegated to the department by the General Assembly.

37 (B) A medical cannabis establishment is subject to inspection
38 by the department during business hours.

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

1 (D) The department shall establish and charge an inspection fee
2 in an amount to be determined by the department that will cover
3 the expense to the department for conducting the inspection.

4 (E) The department may contract with state occupational or
5 professional licensing entities and the law enforcement division of
6 other state agencies to enforce the provisions of this article with
7 respect to inspections and audits that apply to cultivation centers,
8 processing facilities, dispensaries, and independent testing
9 laboratories, and all of their agents.

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

15 (G) Department counsel may not:

16 (1) make determinations as to reporting fraudulent
17 information submitted to the department but rather may advise
18 department employees as needed; or

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

22
23 Section 44-53-2420. (A) Except as provided in this section, a
24 medical cannabis establishment may not be located within one
25 thousand feet of a school. This distance must be computed by
26 following the shortest route of ordinary pedestrian or vehicular
27 travel along the public thoroughfare from the nearest point of the
28 grounds in use as part of the school.

29 (B) The department has the discretion to allow an exception to
30 the prohibition in subsection (A) if it is shown by the applicant that
31 the exception is necessary to provide adequate access to patients.
32 The department may require as part of granting an exception that
33 the medical cannabis establishment undertake additional security
34 or other restrictions to protect children as determined by the
35 department.

36
37 Section 44-53-2430. (A) A local government may enact
38 ordinances or regulations not in conflict with this article or with
39 regulations enacted pursuant to this article, governing the time,
40 place, manner, and number of medical cannabis establishment
41 operations in the locality. A local government may establish
42 penalties for the violation of an ordinance or regulations governing

1 the time, place, and manner of a medical cannabis establishment
2 that may operate in the locality.

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

7 (C) The burden for compliance with zoning or land use
8 regulations and the requirements for seeking a variance should be
9 no greater for a cannabis-related business than for any other
10 similar business.

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

14
15 Section 44-53-2440. (A) Medical cannabis establishments
16 shall implement appropriate security measures in accordance with
17 regulations promulgated by the department, which shall be
18 developed by the department after consulting with and receiving
19 input from SLED, designed to deter and prevent the theft of
20 cannabis and unauthorized entrance into areas containing cannabis.

21 (B) All cultivation, harvesting, processing, and packaging of
22 cannabis must take place in a secure facility at a physical address
23 provided to the department and SLED during the processing
24 facility or cultivation center's license application process. The
25 secure facility may be accessed only by medical cannabis
26 establishment agents, medical cannabis establishment principals,
27 authorized department personnel, law enforcement personnel,
28 emergency personnel, and adults who are twenty-one years of age
29 and older who are accompanied by medical cannabis establishment
30 agents or principals.

31 (C) All locations at which cultivation, harvesting, processing,
32 and packaging of cannabis takes place are subject to random
33 inspection by the department and SLED in accordance with
34 regulations promulgated by the department, which shall be
35 developed by the department after consulting with and receiving
36 input from SLED.

37
38 Section 44-53-2450. (A) The department shall require, at a
39 minimum, routine testing of cannabis and cannabis products by a
40 cultivation center and processing facility.

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

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

3
4 Section 44-53-2460. (A) All cultivation center cannabis
5 by-product, scrap, and harvested cannabis not intended for
6 distribution to a dispensary, processing facility, or independent
7 testing laboratory must be destroyed and disposed of in accordance
8 with department regulations. Documentation of destruction and
9 disposal must be retained by the cultivation center for a period of
10 not less than one year. The cultivation center shall maintain a
11 record of the date of destruction and the amount destroyed.

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

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

20
21 Section 44-53-2470. (A) Each dispensary must contract with
22 or employ at least one pharmacist, physician assistant, or clinical
23 practice nurse who is licensed by the State and who has completed
24 a department-approved medical cannabis continuing education
25 course. The pharmacist, physician assistant, or clinical practice
26 nurse must be reasonably available during business hours to advise
27 and educate patients, in person or by telemedicine. A pharmacist,
28 physician assistant, or clinical practice nurse may contract with
29 multiple dispensaries.

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

33 (C)(1) All items sold at a dispensary must be properly labeled
34 and contained in a child-resistant package. The label must comply
35 with state laws and regulations and, at a minimum, must include:

- 36 (a) the name of the licensed dispensary;
- 37 (b) the percentage of tetrahydrocannabinol and the
38 percentage of cannabidiol within a profile tolerance range of ten
39 percent. For edible cannabis products, the cannabinoid profile
40 should be listed by milligrams per serving;
- 41 (c) the name of the cultivation center and processing
42 facility; and

1 (d) a conspicuous statement printed in all capital letters
2 and in a color that provides a clear contrast to the background that
3 reads, 'NOT FOR RESALE. FOR MEDICAL USE ONLY. KEEP
4 OUT OF THE REACH OF CHILDREN AND ANIMALS.'

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

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

10

11 Section 44-53-2480. After consulting with medical
12 professionals who are knowledgeable about the risks and benefits
13 of cannabis, the department shall develop a scientifically accurate
14 safety information flyer, which shall be provided to each patient
15 applying for a registry identification card when the department
16 sends the patient the identification card. The flyer must be offered
17 at every dispensary when medical cannabis is dispensed. It must
18 include:

19 (1) advice about the potential risks of the use of medical
20 cannabis, including:

21 (i) the variability of quality and concentration of
22 cannabis;

23 (ii) the risk of cannabis use disorder and where to reach
24 out for help;

25 (iii) any potential exacerbation of psychotic disorders and
26 any adverse cognitive effects for children and young adults;

27 (iv) potential adverse events and other risks, including falls
28 or fractures;

29 (v) the risks of using cannabis during pregnancy or breast
30 feeding; and

31 (vi) the need to safeguard all cannabis and cannabis
32 products from children and pets or other domestic animals;

33 (2) a notification to the patient or caregiver that the medical
34 cannabis is for the patient's use only and the cannabis or cannabis
35 products should not be donated or otherwise supplied to another
36 individual;

37 (3) a notification of the variability and lack of
38 standardization of cannabis preparations and their potential effects;
39 and

40 (4) a warning to patients not to drive or operate heavy
41 machinery while under the influence of medical cannabis.

42

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

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

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

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

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

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

23 (G) If a medical cannabis establishment's license is denied,
24 suspended, or revoked, then the medical cannabis establishment
25 may request a hearing in the Administrative Law Court, and is not
26 subject to the requirements set forth in Section 44-1-60, within
27 thirty days of receipt of written notification of the denial,
28 suspension or revocation.

29
30 Section 44-53-2500. The department may develop, seek any
31 necessary federal approval for, and carry out research programs
32 relating to the medical use of cannabis. Participation in any
33 research program must be voluntary on the part of the qualifying
34 patient, designated caregiver, or physician.

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

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

41
42 Section 44-53-2510. (A) The department shall provide a report
43 to the General Assembly by the second Tuesday of each year

1 addressing the effectiveness of the medical cannabis program
2 operated pursuant to this article and recommendations for any
3 changes to the program.

4 (B) The report must, without disclosing any identifying
5 information about cardholders, physicians, qualified patients,
6 designated caregivers, or medical cannabis establishments, contain
7 the following, at a minimum:

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

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

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

16 (4) the efficacy or satisfaction of medical cannabis on a
17 yes-no questionnaire basis as submitted by the patients in a
18 voluntary, anonymous survey, which may be conducted online or
19 through licensed dispensaries;

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

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

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

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

30
31 SECTION 4. Section 12-36-2120(69) of the 1976 Code is
32 amended to read:

33
34 “(69) ~~Reserved~~ cannabis sold by a dispensary to a cardholder
35 pursuant to Article 20, Chapter 53, Title 44.”

36
37 SECTION 5. Article 4, Chapter 53, Title 44 of the 1976 Code is
38 repealed.

39
40 SECTION 6. The repeal or amendment by this act of any law,
41 whether temporary, permanent, civil, or criminal, does not affect
42 pending actions, rights, duties, or liabilities founded thereon or
43 alter, discharge, release, or extinguish any penalty, forfeiture, or

1 liability incurred under the repealed or amended law unless the
2 repealed or amended provision shall so expressly provide. After
3 the effective date of this act, all laws repealed or amended by this
4 act must be taken and treated as remaining in full force and effect
5 for the purpose of sustaining any pending or vested right, civil
6 action, special proceeding, criminal prosecution, or appeal existing
7 as of the effective date of this act and for the enforcement of rights,
8 duties, penalties, forfeitures, and liabilities as they stood under the
9 repealed or amended laws.

10
11 SECTION 7. If any section, subsection, paragraph, subparagraph,
12 sentence, clause, phrase, or word of this act is for any reason held
13 to be unconstitutional or invalid, then such holding shall not affect
14 the constitutionality or validity of the remaining portions of this
15 act, the General Assembly hereby declaring that it would have
16 passed this act and each and every section, subsection, paragraph,
17 subparagraph, sentence, clause, phrase, and word thereof,
18 irrespective of the fact that any one or more other sections,
19 subsections, paragraphs, subparagraphs, sentences, clauses,
20 phrases, or words hereof may be declared to be unconstitutional,
21 invalid, or otherwise ineffective.

22
23 SECTION 8. (A) After the effective date of this act, the South
24 Carolina Department of Health and Environmental Control shall:

- 25 (1) create a commission pursuant to Section 44-53-2340, as
26 added by this act, within thirty days;
- 27 (2) develop a written certification form pursuant to Section
28 44-53-2080, as added by this act, after no later than ninety days;
- 29 (3) promulgate regulations pursuant to Section 44-53-
30 2100(A), as added by this act, after no later than one hundred
31 twenty days;
- 32 (4) engage a company to create the necessary software for an
33 electronic patient registry pursuant to Section 44-53-2100(B), as
34 added by this act, after no later than one hundred twenty days;
- 35 (5) develop a safety information flyer pursuant to Section
36 44-53-2480, as added by this act, after no later than one hundred
37 twenty days;
- 38 (6) establish a secure phone or web-based verification
39 system pursuant to Section 44-53-2190(B), as added by this act,
40 within one hundred eighty days;
- 41 (7) promulgate regulations pursuant to Section 44-53-2350,
42 as added by this act, after no later than one year; and

1 (8) issue registrations pursuant to Section 44-53-2390, as
2 added by this act, after no later than eighteen months.

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

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

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15 SECTION 9. This act takes effect upon approval by the Governor.

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