



University Senate PROPOSAL FORM

Name:	Mikayla Hellwich
Date:	October 28th, 2013
Title of Proposal:	Proposal to Streamline the University's Marijuana Policy with State Policy
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Unit/Department/College:	College of Agriculture and Natural Resources
Constituency (faculty, staff, undergraduate, graduate):	
Description of issue/concern/policy in question:	<p>Currently, the University punishes those caught with marijuana by removing them from campus and imposing long-term drug testing. Although marijuana remains illegal both federally and at the state level, Maryland has an affirmative defense law. This law pertains to patients that receive a doctor's recommendation and states that cannabis consumption is the desired method of alleviating their particular ailment(s). This doctor's note can be used in a court of law to prevent criminal charges upon a person who may be detained on cannabis-related charges.</p> <p>See: Attachment (Darrell Putnam Compassionate Use Act)</p>
Description of action/changes you would like to see implemented and why:	<p>This proposal aims to streamline campus policy with laws already in place. This would mean that if a student could present a verifiable doctor's note upon questioning by an RA, a police officer on campus, or any other official, that this student could not be punished by University of Maryland sanctions. They would not be removed from the University, they would be allowed to keep campus housing, and they would not be subjected to drug testing. This proposal aims to protect the safety, health, dignity, education, and criminal records of patients that have already been deemed legally protected by the state.</p>

<p>Suggestions for how your proposal could be put into practice:</p>	<ul style="list-style-type: none"> - Pertains only to students with a doctor's note approving cannabis use for their ailment(s) - Pertains only to students who are enrolled in the University - Pertains only to students who live on campus - Could be implemented immediately with zero cost - Qualifying students would not be permitted to share their medicine with others who do not have a doctor's note
<p>Additional Information:</p>	<p>There are currently hundreds of known medical uses for cannabis, and there are programs all over the country and the world now that allow patients to have access to such a powerful medicine. This proposal is not to condone substance use or abuse- but simply to allow those with a medical necessity to continue to receive their education. This proposal does not ask that the University do anything that is beyond state policy- just to protect those students who wouldn't otherwise be harmed.</p> <p>This proposal would ultimately lead to no harmful changes. This proposal could result in an increase of students applying to the University because they feel safe in knowing that they will not be persecuted for their medically and legally-valid behavior. It could also lead to student patients who feel safe knowing their education is protected, and an entire student body that has pride that their University honors those who are sick and disabled.</p>

Please send your completed form and any supporting documents to senate-admin@umd.edu or University of Maryland Senate Office, 1100 Marie Mount Hall, College Park, MD 20742-7541. Thank you!

SENATE BILL 308

J1, E1

(1lr0655)

ENROLLED BILL

— *Judicial Proceedings/Health and Government Operations and Judiciary* —

Introduced by **Senators Brinkley, Raskin, Colburn, Currie, Forehand, Jacobs, Jennings, Jones-Rodwell, Kelley, King, Kittleman, Klausmeier, Madaleno, Mathias, Miller, Montgomery, Peters, Pinsky, Pugh, Reilly, Rosapepe, and Zirkin**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 ~~Public Health~~ **Medical Marijuana – Affirmative Defenses – Maryland**
3 **Medical Marijuana Model Program Workgroup**

4 FOR the purpose of ~~making marijuana a Schedule II controlled dangerous substance;~~
5 ~~prohibiting certain persons from distributing or dispensing marijuana to certain~~
6 ~~persons; providing for a certain penalty; requiring the Department of Health~~
7 ~~and Mental Hygiene (DHMH) to issue a certain request for proposals to select~~
8 ~~authorized growers of marijuana for medical use; providing for certain~~
9 ~~requirements of authorized growers; prohibiting an authorized grower from~~
10 ~~holding any other permit issued under a certain provision of law or being a~~
11 ~~physician who prepares a certain written certification; requiring DHMH, jointly~~
12 ~~with the Department of Agriculture, to adopt certain regulations; requiring~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



~~DHMH to establish a certain registration program to authorize certain entities to distribute marijuana for medical purposes; authorizing DHMH to charge a certain fee for the issuance of a certain permit; requiring certain entities and individuals to apply for a certain criminal history records check and to submit to certain drug testing; requiring the Department to assign a certain identification number to certain permit holders for certain purposes; requiring certain permit holders to display a certain permit at certain times; requiring certain permit holders to report certain changes to DHMH within a certain time period; authorizing a patient or primary caregiver to provide certain reimbursement to certain entities; prohibiting certain individuals issued a certain permit from holding any other permit issued under a certain provision of law or being a physician who prepares a certain written certification; prohibiting a physician that prepares a certain written certification from holding a permit issued under a certain provision of law; requiring DHMH, in consultation with the Board of Pharmacy and stakeholders to develop certain regulations on or before a certain date; requiring DHMH to establish a registry of qualifying patients and primary caregivers and to issue a certain registry identification card to certain individuals under certain circumstances; requiring DHMH to approve or deny an application or renewal for a registry identification card within a certain time period and in a certain manner; requiring a registry identification card to include certain information; requiring an individual who has been issued a registry identification card to provide a certain notification to DHMH under certain circumstances; requiring certain physicians to provide notice to certain patients and the Department regarding the withdrawal of a patient's written certification under certain circumstances; requiring the Department to send a certain notice; requiring certain patients and certain primary caregivers to send to the Department a certain registry identification card under certain circumstances and to dispose of any marijuana within the patient's possession within a certain number of days; requiring DHMH to maintain a confidential list of the individuals to whom DHMH has issued registry identification cards; providing that certain individuals and entities may not be subject to certain penalties or denied certain rights for the medical use of marijuana; providing that the possession of a registry identification card does not constitute probable cause to conduct a certain search by a government agency; providing that an individual may not be subject to arrest or prosecution for certain offenses for being in the presence of the medical use of marijuana; requiring certain pharmacies or dispensing centers to dispense a certain amount of usable marijuana to certain individuals for a certain period of time except under certain circumstances; prohibiting certain pharmacies and dispensing centers from dispensing more than a certain amount of marijuana to certain individuals within a certain period of time except under certain circumstances; authorizing certain pharmacies or dispensing centers to dispense more than a certain amount of marijuana to certain individuals under certain circumstances; requiring certain pharmacies and dispensing centers to maintain certain records; requiring qualifying patients, primary caregivers, and certain pharmacies and dispensing centers to follow certain procedures; providing that a patient may be registered at only one pharmacy or dispensing center at a~~

1 ~~time; establishing procedures for a patient to change an authorized pharmacy or~~
2 ~~dispensing center; requiring the Secretary of Health and Mental Hygiene to~~
3 ~~establish a system to monitor the dispensation of marijuana for medical use in~~
4 ~~the State; providing that a person who knowingly gives certain false~~
5 ~~information is subject to a certain penalty; requiring certain physicians,~~
6 ~~pharmacies, and dispensing centers to provide certain information to the~~
7 ~~Secretary; providing for the construction of this Act; providing that this Act may~~
8 ~~not be construed to provide immunity to certain persons; providing that this Act~~
9 ~~may not be construed to require certain insurance reimbursement; requiring~~
10 ~~DHMH to submit certain reports to the Governor and General Assembly on or~~
11 ~~before certain dates; requiring DHMH to adopt certain regulations on or before~~
12 ~~a certain date; authorizing DHMH to accept certain funds; requiring DHMH to~~
13 ~~use certain fees in a certain manner; requiring DHMH to distribute certain~~
14 ~~funds to drug rehabilitation programs throughout the State; defining certain~~
15 ~~terms; and generally relating to marijuana for medical use establishing that, in~~
16 ~~a prosecution for the use or possession of marijuana, the defendant may~~
17 ~~introduce and the court shall consider as an affirmative defense certain~~
18 ~~evidence of medical necessity; requiring a court to enter a finding of not guilty if~~
19 ~~the court finds that a person possessed marijuana because of a medical~~
20 ~~necessity; establishing that, in a prosecution for the use of or possession with~~
21 ~~intent to use drug paraphernalia related to marijuana, the defendant may~~
22 ~~introduce and the court shall consider as an affirmative defense certain~~
23 ~~evidence of medical necessity; requiring a court to enter a finding of not guilty if~~
24 ~~the court finds that a person used or possessed with intent to use drug~~
25 ~~paraphernalia related to marijuana or manufactured marijuana for personal~~
26 ~~use because of a medical necessity; requiring the court to make a certain finding~~
27 ~~of medical necessity if the defendant establishes certain facts by clear and~~
28 ~~convincing evidence; establishing that certain evidence may include certain~~
29 ~~statements, records, or testimony or the use or possession with intent to use drug~~
30 ~~paraphernalia related to marijuana, it is an affirmative defense that the~~
31 ~~defendant used or possessed marijuana or drug paraphernalia related to~~
32 ~~marijuana because the defendant has a certain debilitating medical condition,~~
33 ~~the debilitating medical condition is severe and resistant to conventional~~
34 ~~medicine, and marijuana is likely to provide the defendant with therapeutic or~~
35 ~~palliative relief from the debilitating medical condition; providing that a certain~~
36 ~~affirmative defense may not be used under certain circumstances; prohibiting the~~
37 ~~State Board of Physicians from reprimanding, placing on probation, or~~
38 ~~suspending or revoking a license of a licensee for providing a patient with a~~
39 ~~written statement, medical records, or testimony that, in the licensee's~~
40 ~~professional opinion, the patient is likely to receive therapeutic or palliative~~
41 ~~relief from marijuana; providing that this Act shall not be deemed to release a~~
42 ~~licensee from the duty to exercise a professional standard of care when~~
43 ~~evaluating a patient's medical condition; requiring the Secretary of Health and~~
44 ~~Mental Hygiene to convene a Work Group to develop a model program to~~
45 ~~facilitate patient access to marijuana for medical purposes; providing for the~~
46 ~~membership and staffing of the Work Group; providing for the designation of~~
47 ~~the chair of the Work Group; prohibiting a member of the Work Group from~~

1 receiving certain compensation; authorizing a member of the Work Group to
 2 receive certain reimbursement; specifying the duties of the Work Group;
 3 requiring the Work Group to make a certain report to certain committees of the
 4 General Assembly on or before a certain date; providing for the termination of a
 5 certain provision of this Act; *defining certain terms*; and generally relating to
 6 medical marijuana.

7 ~~BY renumbering~~

8 ~~Article — Criminal Law~~

9 ~~Section 5-403(d), (e), and (f), respectively~~

10 ~~to be Section 5-403(e), (f), and (g), respectively~~

11 ~~Annotated Code of Maryland~~

12 ~~(2002 Volume and 2010 Supplement)~~

13 ~~BY repealing and reenacting, with amendments,~~

14 ~~Article — Criminal Law~~

15 ~~Section 5-402(d)(1)~~

16 ~~Annotated Code of Maryland~~

17 ~~(2002 Volume and 2010 Supplement)~~

18 ~~BY adding to~~

19 ~~Article — Criminal Law~~

20 ~~Section 5-403(d) and 5-611~~

21 ~~Annotated Code of Maryland~~

22 ~~(2002 Volume and 2010 Supplement)~~

23 ~~BY adding to~~

24 ~~Article — Health — General~~

25 ~~Section 13-3001 through 13-3013 to be under the new subtitle “Subtitle 30.~~

26 ~~Medical Marijuana”~~

27 ~~Annotated Code of Maryland~~

28 ~~(2009 Replacement Volume and 2010 Supplement)~~

29 BY repealing and reenacting, with amendments,

30 Article – Criminal Law

31 Section 5-601 and 5-619

32 Annotated Code of Maryland

33 (2002 Volume and 2010 Supplement)

34 BY adding to

35 Article – Health Occupations

36 Section 14-404(c)

37 Annotated Code of Maryland

38 (2009 Replacement Volume and 2010 Supplement)

39 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 40 MARYLAND, That ~~Section(s) 5-403(d), (e), and (f), respectively, of Article — Criminal~~

1 ~~Law of the Annotated Code of Maryland be renumbered to be Section(s) 5-403(e), (f),~~
 2 ~~and (g), respectively.~~

3 ~~SECTION 2. AND BE IT FURTHER ENACTED, That~~ the Laws of Maryland
 4 read as follows:

5 Article – Criminal Law

6 ~~5-402.~~

7 ~~(d) (1) A material, compound, mixture, or preparation that contains any of~~
 8 ~~the following hallucinogenic or hallucinogenic-like substances is a substance listed in~~
 9 ~~Schedule I:~~

- 10 ~~(i) bufotenine;~~
- 11 ~~(ii) diethyltryptamine;~~
- 12 ~~(iii) dimethyltryptamine;~~
- 13 ~~(iv) 4-methyl-2,5-dimethoxyamphetamine;~~
- 14 ~~(v) ibogaine;~~
- 15 ~~(vi) lysergic acid diethylamide;~~
- 16 ~~[(vii) marijuana;]~~
- 17 ~~[(viii)] (VII) mescaline;~~
- 18 ~~[(ix)] (VIII) peyote;~~
- 19 ~~[(x)] (IX) psilocybin;~~
- 20 ~~[(xi)] (X) psilocyn;~~
- 21 ~~[(xii)] (XI) tetrahydrocannabinol;~~
- 22 ~~[(xiii)] (XII) thiophene analog of phenethylidine;~~
- 23 ~~[(xiv)] (XIII) 2,5-dimethoxyamphetamine;~~
- 24 ~~[(xv)] (XIV) 4-bromo-2,5-dimethoxyamphetamine;~~
- 25 ~~[(xvi)] (XV) 4-methoxyamphetamine;~~

1 ~~[(xvii)] (XVI) 3, 4-methylenedioxyamphetamine;~~

2 ~~[(xviii)] (XVII) 3, 4-methylenedioxymethamphetamine (MDMA);~~

3 ~~[(xix)] (XVIII) 5-methoxy-3, 4-methylenedioxyamphetamine;~~

4 ~~[(xx)] (XIX) 3, 4, 5-trimethoxyamphetamine;~~

5 ~~[(xxi)] (XX) N-methyl-3-piperidyl benzilate;~~

6 ~~[(xxii)] (XXI) N-ethyl-3-piperidyl benzilate;~~

7 ~~[(xxiii)] (XXII) N-ethyl-1-phenylecyclohexylamine;~~

8 ~~[(xxiv)] (XXIII) 1-(1-phenylecyclohexyl) pyrrolidine;~~

9 ~~[(xxv)] (XXIV) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;~~

10 ~~[(xxvi)] (XXV) 1-methyl-4-phenyl-4-propionoxypiperidine~~

11 ~~(MPPP); and~~

12 ~~[(xxvii)] (XXVI) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine~~

13 ~~(PEPAP).~~

14 ~~5-403.~~

15 ~~(D) A MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT~~
 16 ~~CONTAINS MARIJUANA IS A SUBSTANCE LISTED IN SCHEDULE II.~~

17 ~~5-611.~~

18 ~~(A) A PERSON WHO IS EMPLOYED BY A PHARMACY OR A DISPENSING~~
 19 ~~CENTER REGISTERED WITH THE DEPARTMENT OF HEALTH AND MENTAL~~
 20 ~~HYGIENE TO DISPENSE MARIJUANA UNDER TITLE 13, SUBTITLE 30 OF THE~~
 21 ~~HEALTH GENERAL ARTICLE MAY NOT DISTRIBUTE OR DISPENSE MARIJUANA~~
 22 ~~EXCEPT TO A REGISTERED QUALIFYING PATIENT OR A REGISTERED PRIMARY~~
 23 ~~CAREGIVER.~~

24 ~~(B) A PERSON WHO IS REGISTERED WITH THE DEPARTMENT OF~~
 25 ~~HEALTH AND MENTAL HYGIENE AS A QUALIFYING PATIENT OR A PATIENT'S~~
 26 ~~PRIMARY CAREGIVER UNDER TITLE 13, SUBTITLE 30 OF THE~~
 27 ~~HEALTH GENERAL ARTICLE MAY NOT DISTRIBUTE OR DISPENSE MARIJUANA~~
 28 ~~TO ANOTHER PERSON WHO IS NOT A REGISTERED QUALIFYING PATIENT OR~~
 29 ~~PRIMARY CAREGIVER.~~

1 ~~(C) A PERSON WHO VIOLATES SUBSECTION (A) OR (B) OF THIS SECTION~~
2 ~~IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT~~
3 ~~NOT EXCEEDING 7 YEARS OR A FINE NOT EXCEEDING \$7,000 OR BOTH.~~

4 ~~Article Health General~~

5 ~~SUBTITLE 30. MEDICAL MARIJUANA.~~

6 ~~13-3001.~~

7 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
8 ~~INDICATED.~~

9 ~~(B) "AUTHORIZED GROWER" MEANS AN ENTITY THAT:~~

10 ~~(1) IS SELECTED BY THE DEPARTMENT UNDER THIS SUBTITLE TO~~
11 ~~CULTIVATE MARIJUANA; AND~~

12 ~~(2) MAY DISPENSE MARIJUANA CULTIVATED BY THE ENTITY TO A~~
13 ~~PHARMACY THAT HOLDS A REGISTRATION PERMIT TO DISTRIBUTE MARIJUANA~~
14 ~~UNDER THIS SUBTITLE OR TO A DISPENSING CENTER FOR A FEE.~~

15 ~~(C) "BONA FIDE PHYSICIAN PATIENT RELATIONSHIP" MEANS A~~
16 ~~RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR~~
17 ~~THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT'S MEDICAL~~
18 ~~CONDITION.~~

19 ~~(D) "DEBILITATING MEDICAL CONDITION" MEANS A CHRONIC OR~~
20 ~~DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A~~
21 ~~CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES~~
22 ~~ONE OR MORE OF THE FOLLOWING:~~

23 ~~(1) CACHEXIA OR WASTING SYNDROME;~~

24 ~~(2) SEVERE OR CHRONIC PAIN;~~

25 ~~(3) SEVERE NAUSEA;~~

26 ~~(4) SEIZURES;~~

27 ~~(5) SEVERE AND PERSISTENT MUSCLE SPASMS; OR~~

1 ~~(6) AS DOCUMENTED BY THE PHYSICIAN WITH WHOM THE~~
2 ~~PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP, ANY OTHER~~
3 ~~CONDITION THAT IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE.~~

4 ~~(E) "DISPENSING CENTER" MEANS AN ENTITY REGISTERED UNDER~~
5 ~~THIS SUBTITLE THAT ACQUIRES, POSSESSES, DELIVERS, TRANSFERS,~~
6 ~~TRANSPORTS, SUPPLIES, OR DISPENSES MARIJUANA OR RELATED SUPPLIES~~
7 ~~AND EDUCATIONAL MATERIALS.~~

8 ~~(F) "MARIJUANA" HAS THE MEANING STATED IN § 5-101 OF THE~~
9 ~~CRIMINAL LAW ARTICLE.~~

10 ~~(G) "MEDICAL USE" MEANS THE ACQUISITION, POSSESSION,~~
11 ~~CULTIVATION, MANUFACTURE, USE, DELIVERY, SALE, TRANSFER, OR~~
12 ~~TRANSPORTATION OF MARIJUANA OR PARAPHERNALIA RELATING TO THE~~
13 ~~ADMINISTRATION OF MARIJUANA TO TREAT OR ALLEVIATE A PATIENT'S~~
14 ~~CONDITION OR SYMPTOMS.~~

15 ~~(H) "PHYSICIAN" MEANS AN INDIVIDUAL LICENSED BY THE STATE~~
16 ~~BOARD OF PHYSICIANS UNDER TITLE 14 OF THE HEALTH OCCUPATIONS~~
17 ~~ARTICLE TO PRACTICE MEDICINE.~~

18 ~~(I) (1) "PRIMARY CAREGIVER" MEANS A RESIDENT OF THE STATE~~
19 ~~WHO:~~

20 ~~(i) IS AT LEAST 18 YEARS OLD;~~

21 ~~(ii) HAS AGREED TO ASSIST WITH ONLY ONE QUALIFYING~~
22 ~~PATIENT'S MEDICAL USE OF MARIJUANA AT A TIME;~~

23 ~~(iii) HAS BEEN DESIGNATED AS PRIMARY CAREGIVER ON~~
24 ~~THE QUALIFYING PATIENT'S APPLICATION OR RENEWAL FOR A REGISTRY~~
25 ~~IDENTIFICATION CARD OR IN OTHER WRITTEN NOTIFICATION TO THE~~
26 ~~DEPARTMENT; AND~~

27 ~~(iv) HAS SATISFIED THE CRIMINAL HISTORY RECORDS~~
28 ~~CHECK REQUIRED UNDER § 13-3004 OF THIS SUBTITLE.~~

29 ~~(2) "PRIMARY CAREGIVER" DOES NOT INCLUDE THE QUALIFYING~~
30 ~~PATIENT'S PHYSICIAN.~~

31 ~~(J) "QUALIFYING PATIENT" MEANS A RESIDENT OF THE STATE WHO:~~

32 ~~(1) IS AT LEAST 18 YEARS OLD; AND~~

1 ~~(2) HAS BEEN PROVIDED WITH WRITTEN CERTIFICATION BY A~~
2 ~~PHYSICIAN PURSUANT TO A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP.~~

3 ~~(K) "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT ISSUED BY~~
4 ~~THE DEPARTMENT THAT IDENTIFIES AN INDIVIDUAL AS A QUALIFYING PATIENT~~
5 ~~OR PRIMARY CAREGIVER.~~

6 ~~(L) (1) "USABLE MARIJUANA" MEANS THE DRIED LEAVES AND~~
7 ~~FLOWERS OF MARIJUANA AND ANY MIXTURE OR PREPARATION OF THE DRIED~~
8 ~~LEAVES AND FLOWERS.~~

9 ~~(2) "USABLE MARIJUANA" DOES NOT INCLUDE THE SEEDS,~~
10 ~~STALKS, OR ROOTS OF THE PLANT.~~

11 ~~(M) "WRITTEN CERTIFICATION" MEANS A CERTIFICATION THAT MEETS~~
12 ~~THE REQUIREMENTS OF § 13-3004(A)(2) OF THIS SUBTITLE.~~

13 ~~13-3002.~~

14 ~~(A) THE DEPARTMENT SHALL ISSUE A REQUEST FOR PROPOSALS TO~~
15 ~~SELECT AUTHORIZED GROWERS OF MARIJUANA FOR MEDICAL USE IN THE~~
16 ~~STATE.~~

17 ~~(B) (1) THE INITIAL REQUEST FOR PROPOSALS ISSUED UNDER THIS~~
18 ~~SECTION SHALL BE FOR AN AMOUNT SET BY THE DEPARTMENT IN~~
19 ~~REGULATIONS.~~

20 ~~(2) THE DEPARTMENT MAY SET THE MINIMUM PROPOSAL~~
21 ~~AMOUNT FOR ANY SUBSEQUENT REQUEST FOR PROPOSALS ISSUED BY THE~~
22 ~~DEPARTMENT UNDER THIS SECTION.~~

23 ~~(3) THE DEPARTMENT SHALL SELECT THE FEWEST NUMBER OF~~
24 ~~AUTHORIZED GROWERS UNDER THIS SECTION AS NECESSARY TO PROVIDE AN~~
25 ~~APPROPRIATE SUPPLY OF MEDICAL MARIJUANA TO MEET THE ANTICIPATED~~
26 ~~DEMAND OF ALL QUALIFYING PATIENTS IN THE STATE.~~

27 ~~(C) AN AUTHORIZED GROWER SHALL:~~

28 ~~(1) CULTIVATE THE MARIJUANA IN THE STATE;~~

29 ~~(2) MEET CERTAIN SECURITY AND SAFETY STANDARDS THAT MAY~~
30 ~~BE VERIFIED BY AN OUTSIDE ENTITY AS APPROVED BY THE DEPARTMENT;~~

1 ~~(3) SUBMIT TO PHARMACOLOGICAL TESTING OF THE MARIJUANA~~
2 ~~TO ENSURE:~~

3 ~~(I) CONSISTENCY OF THE MARIJUANA CULTIVATED UNDER~~
4 ~~THIS SUBTITLE; AND~~

5 ~~(II) THAT THERE IS NO ADULTERATION OR CONTAMINATION~~
6 ~~OF THE MARIJUANA; AND~~

7 ~~(4) SUBMIT TO A CRIMINAL HISTORY RECORDS CHECK AND TO~~
8 ~~PERIODIC DRUG TESTING, AS DETERMINED BY THE DEPARTMENT IN~~
9 ~~REGULATIONS, FOR ANY EMPLOYEE OF THE AUTHORIZED GROWER AS~~
10 ~~PROVIDED FOR IN THIS SUBTITLE.~~

11 ~~(D) AN AUTHORIZED GROWER MAY NOT:~~

12 ~~(1) HOLD ANY OTHER PERMIT ISSUED UNDER THIS SUBTITLE; OR~~

13 ~~(2) BE A PHYSICIAN WHO PREPARES A WRITTEN CERTIFICATION~~
14 ~~SUBMITTED TO THE DEPARTMENT UNDER § 13-3004 OF THIS SUBTITLE.~~

15 ~~(E) (1) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF POSSESSION~~
16 ~~OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE MAY NOT BE AN~~
17 ~~EMPLOYEE OF AN AUTHORIZED GROWER, UNLESS THE CONVICTION WAS FOR A~~
18 ~~VIOLATION OF FEDERAL LAW RELATING TO POSSESSION OR SALE OF~~
19 ~~MARIJUANA FOR CONDUCT THAT IS LEGAL UNDER THIS SUBTITLE.~~

20 ~~(2) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A FELONY MAY~~
21 ~~NOT BE AN EMPLOYEE OF AN AUTHORIZED GROWER.~~

22 ~~(F) THE DEPARTMENT, JOINTLY WITH THE DEPARTMENT OF~~
23 ~~AGRICULTURE, SHALL ADOPT REGULATIONS TO BE FOLLOWED BY AN~~
24 ~~AUTHORIZED GROWER, INCLUDING:~~

25 ~~(1) THE STANDARDS TO BE USED IN CULTIVATING THE~~
26 ~~MARIJUANA;~~

27 ~~(2) THE SECURITY FEATURES TO BE REQUIRED ON THE PREMISES~~
28 ~~AND IN TRANSPORT TO AN ENTITY THAT OBTAINS A PERMIT TO DISPENSE~~
29 ~~MARIJUANA;~~

30 ~~(3) THE LOCATION OF THE AUTHORIZED GROWER, INCLUDING~~
31 ~~THE CONSIDERATION OF THE PROXIMITY OF THE ENTITY TO SCHOOLS; AND~~

~~(4) THE ESTABLISHMENT OF A SYSTEM TO TRACK THE AMOUNT OF MARIJUANA DISPENSED AND TO WHOM THE MARIJUANA IS DISPENSED.~~

~~13-3003.~~

~~(A) (1) (i) THE DEPARTMENT SHALL ESTABLISH A REGISTRATION PROGRAM TO AUTHORIZE ENTITIES TO DISTRIBUTE MARIJUANA FOR MEDICAL PURPOSES.~~

~~(ii) THE DEPARTMENT SHALL CHARGE A REASONABLE FEE FOR THE ISSUANCE OF A REGISTRATION PERMIT UNDER THIS SECTION THAT IS BASED ON THE AMOUNT OF THE MARIJUANA DISTRIBUTED BY THE ENTITY.~~

~~(2) THE FOLLOWING ENTITIES MAY REGISTER WITH THE DEPARTMENT TO DISTRIBUTE MARIJUANA FOR MEDICAL PURPOSES:~~

~~(i) A PHARMACY THAT HOLDS A PHARMACY PERMIT ISSUED BY THE BOARD OF PHARMACY; OR~~

~~(ii) A DISPENSING CENTER AS PROVIDED FOR IN THIS SECTION.~~

~~(B) THE DEPARTMENT SHALL REQUIRE AN APPLICANT FOR A PERMIT TO PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT:~~

~~(1) THE NAME OF THE INDIVIDUAL WHO IS RESPONSIBLE FOR OPERATING THE PHARMACY OR DISPENSING CENTER;~~

~~(2) THE NAMES OF ANY EMPLOYEES, WHETHER VOLUNTEER OR PAID;~~

~~(3) THE LOCATION OF THE PHARMACY OR DISPENSING CENTER;~~

~~(4) THE SECURITY MEASURES THAT WILL BE FOLLOWED BY THE PHARMACY OR DISPENSING CENTER IN RECEIVING, STORING, AND DISPENSING THE MARIJUANA;~~

~~(5) THE METHOD BY WHICH THE PHARMACY OR DISPENSING CENTER WILL ACCOUNT FOR THE AMOUNT OF MARIJUANA RECEIVED AND DISPENSED; AND~~

~~(6) ANY OTHER INFORMATION THAT THE DEPARTMENT CONSIDERS NECESSARY.~~

1 ~~(C) (1) AN ENTITY SEEKING TO DISPENSE OR CULTIVATE MARIJUANA~~
2 ~~UNDER THIS SUBTITLE SHALL APPLY TO THE CENTRAL REPOSITORY FOR A~~
3 ~~STATE AND NATIONAL CRIMINAL HISTORY RECORDS CHECK FOR EACH~~
4 ~~EMPLOYEE OF THE ENTITY.~~

5 ~~(2) AS PART OF THE APPLICATION FOR THE CRIMINAL HISTORY~~
6 ~~RECORDS CHECK, THE ENTITY SHALL SUBMIT TO THE CENTRAL REPOSITORY:~~

7 ~~(I) TWO COMPLETE SETS OF THE EMPLOYEE'S LEGIBLE~~
8 ~~FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE~~
9 ~~CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF~~
10 ~~INVESTIGATION;~~

11 ~~(II) ANY FEE REQUIRED UNDER STATE LAW FOR ACCESS TO~~
12 ~~STATE CRIMINAL HISTORY RECORDS; AND~~

13 ~~(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE~~
14 ~~FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY~~
15 ~~RECORDS CHECK.~~

16 ~~(3) THE CENTRAL REPOSITORY SHALL FORWARD TO THE~~
17 ~~EMPLOYEE AND THE DEPARTMENT THE EMPLOYEE'S CRIMINAL HISTORY~~
18 ~~RECORD INFORMATION.~~

19 ~~(4) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY~~
20 ~~UNDER THIS SUBSECTION IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED.~~

21 ~~(5) (I) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF~~
22 ~~POSSESSION OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE MAY NOT BE~~
23 ~~ISSUED A PERMIT TO OPERATE A DISPENSING CENTER OR PHARMACY OR BE AN~~
24 ~~EMPLOYEE OF A DISPENSING CENTER OR PHARMACY, UNLESS THE CONVICTION~~
25 ~~WAS FOR A VIOLATION OF FEDERAL LAW RELATING TO POSSESSION OR SALE OF~~
26 ~~MARIJUANA FOR CONDUCT THAT IS LEGAL UNDER THIS SUBTITLE.~~

27 ~~(II) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A~~
28 ~~FELONY MAY NOT BE ISSUED A PERMIT TO OPERATE A DISPENSING CENTER OR~~
29 ~~PHARMACY OR BE AN EMPLOYEE OF A DISPENSING CENTER OR PHARMACY.~~

30 ~~(D) AN ENTITY SEEKING TO DISPENSE OR CULTIVATE MARIJUANA~~
31 ~~UNDER THIS SUBTITLE SHALL REQUIRE EACH EMPLOYEE OF THE ENTITY TO~~
32 ~~SUBMIT TO PERIODIC DRUG TESTING AS DETERMINED BY THE DEPARTMENT IN~~
33 ~~REGULATIONS.~~

1 ~~(E) (1) THE DEPARTMENT SHALL ISSUE A PERMIT TO AN INDIVIDUAL~~
2 ~~TO OPERATE A DISPENSING CENTER OR PHARMACY IF:~~

3 ~~(I) THE REQUIREMENTS OF THIS SECTION ARE MET; AND~~

4 ~~(II) THE DEPARTMENT HAS VERIFIED THE INFORMATION~~
5 ~~CONTAINED IN THE APPLICATION.~~

6 ~~(2) THE DEPARTMENT SHALL APPROVE OR DENY AN~~
7 ~~APPLICATION WITHIN 60 DAYS AFTER RECEIPT OF A COMPLETED APPLICATION.~~

8 ~~(3) (I) THE DEPARTMENT SHALL ASSIGN TO EACH INDIVIDUAL~~
9 ~~WHO HAS BEEN ISSUED A PERMIT UNDER THIS SECTION A UNIQUE DISPENSING~~
10 ~~CENTER OR PHARMACY IDENTIFICATION NUMBER.~~

11 ~~(II) THE IDENTIFICATION NUMBER ASSIGNED UNDER THIS~~
12 ~~PARAGRAPH SHALL:~~

13 ~~1. BE PRINTED ON A REGISTRY IDENTIFICATION~~
14 ~~CARD ISSUED UNDER § 13-3004 OF THIS SUBTITLE; AND~~

15 ~~2. IDENTIFY THE ONLY DISPENSING CENTER OR~~
16 ~~PHARMACY FROM WHICH THE REGISTRY IDENTIFICATION CARD HOLDER IS~~
17 ~~AUTHORIZED TO OBTAIN MARIJUANA.~~

18 ~~(4) A DENIAL OF AN APPLICATION SHALL BE CONSIDERED A~~
19 ~~FINAL AGENCY DECISION FOR PURPOSES OF JUDICIAL REVIEW UNDER THE~~
20 ~~ADMINISTRATIVE PROCEDURE ACT.~~

21 ~~(F) AN INDIVIDUAL WHO HAS BEEN ISSUED A PERMIT UNDER THIS~~
22 ~~SECTION SHALL DISPLAY THE PERMIT AT THE PHARMACY OR DISPENSING~~
23 ~~CENTER AT ALL TIMES WHEN THE PHARMACY OR DISPENSING CENTER IS IN~~
24 ~~POSSESSION OF THE MARIJUANA.~~

25 ~~(G) A PERMIT HOLDER SHALL REPORT ANY CHANGE IN INFORMATION~~
26 ~~TO THE DEPARTMENT NO LATER THAN 10 DAYS AFTER THE CHANGE OR THE~~
27 ~~PERMIT WILL BE CONSIDERED VOID.~~

28 ~~(H) A PATIENT OR A PRIMARY CAREGIVER OF THE PATIENT MAY~~
29 ~~REIMBURSE THE PHARMACY OR DISPENSING CENTER FOR REASONABLE COSTS~~
30 ~~ASSOCIATED WITH THE PRODUCTION OF MARIJUANA FOR THE CARDHOLDER.~~

31 ~~(I) AN INDIVIDUAL WHO HAS BEEN ISSUED A PERMIT UNDER THIS~~
32 ~~SECTION MAY NOT:~~

1 ~~(1) HOLD ANY OTHER PERMIT ISSUED UNDER THIS SUBTITLE; OR~~

2 ~~(2) BE A PHYSICIAN WHO PREPARES A WRITTEN CERTIFICATION~~
3 ~~SUBMITTED TO THE DEPARTMENT UNDER § 13-3004 OF THIS SUBTITLE.~~

4 ~~(J) ON OR BEFORE JULY 1, 2012, THE DEPARTMENT, IN~~
5 ~~CONSULTATION WITH THE BOARD OF PHARMACY AND STAKEHOLDERS, SHALL~~
6 ~~DEVELOP REGULATIONS REGARDING THE PROCEDURES TO BE FOLLOWED BY~~
7 ~~PHARMACIES AND DISPENSING CENTERS IN DISPENSING MARIJUANA UNDER~~
8 ~~THIS SUBTITLE.~~

9 ~~13-3004.~~

10 ~~(A) (1) THE DEPARTMENT SHALL ESTABLISH A REGISTRY OF~~
11 ~~QUALIFYING PATIENTS AND SHALL ISSUE A REGISTRY IDENTIFICATION CARD~~
12 ~~WITH A PHOTOGRAPH TO A QUALIFYING PATIENT WHO SUBMITS THE~~
13 ~~FOLLOWING INFORMATION TO THE DEPARTMENT:~~

14 ~~(I) WRITTEN CERTIFICATION THAT THE INDIVIDUAL IS A~~
15 ~~QUALIFYING PATIENT;~~

16 ~~(II) AN APPLICATION OR RENEWAL FEE THAT MAY BE~~
17 ~~BASED ON A SLIDING SCALE AS DETERMINED BY THE SECRETARY;~~

18 ~~(III) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE~~
19 ~~QUALIFYING PATIENT, INCLUDING DOCUMENTATION ESTABLISHING PROOF OF~~
20 ~~IDENTITY AND RESIDENCY TO THE SATISFACTION OF THE DEPARTMENT;~~

21 ~~(IV) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF~~
22 ~~THE QUALIFYING PATIENT'S PHYSICIAN WHO PREPARED THE WRITTEN~~
23 ~~CERTIFICATION SUBMITTED UNDER ITEM (I) OF THIS PARAGRAPH; AND~~

24 ~~(V) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE~~
25 ~~QUALIFYING PATIENT'S PRIMARY CAREGIVER, IF ANY.~~

26 ~~(2) THE WRITTEN CERTIFICATION REQUIRED UNDER PARAGRAPH~~
27 ~~(1)(I) OF THIS SUBSECTION SHALL:~~

28 ~~(I) BE PREPARED BY A PHYSICIAN:~~

29 ~~1. WITH WHOM THE PATIENT HAS A BONA FIDE~~
30 ~~PHYSICIAN-PATIENT RELATIONSHIP;~~

1 ~~2. WHO IS THE PRIMARY CARE PHYSICIAN, HOSPICE~~
2 ~~PHYSICIAN, OR PHYSICIAN RESPONSIBLE FOR ONGOING TREATMENT OF THE~~
3 ~~PATIENT'S DEBILITATING MEDICAL CONDITION; AND~~

4 ~~3. WHOSE TREATMENT OF THE PATIENT MAY NOT BE~~
5 ~~LIMITED TO AUTHORIZATION FOR THE PATIENT TO USE MEDICAL MARIJUANA~~
6 ~~OR CONSULTATION FOR THAT PURPOSE; AND~~

7 ~~(H) INCLUDE A STATEMENT BY THE PHYSICIAN THAT:~~

8 ~~1. IN THE PHYSICIAN'S PROFESSIONAL OPINION,~~
9 ~~AFTER HAVING COMPLETED A FULL ASSESSMENT OF THE PATIENT'S MEDICAL~~
10 ~~HISTORY AND CURRENT MEDICAL CONDITION, THE PATIENT HAS A~~
11 ~~DEBILITATING MEDICAL CONDITION FOR WHICH:~~

12 ~~A. RECOGNIZED DRUGS OR TREATMENTS WOULD~~
13 ~~NOT BE EFFECTIVE; OR~~

14 ~~B. OTHER TREATMENT OPTIONS HAVE MORE~~
15 ~~SERIOUS SIDE EFFECTS OR A GREATER RISK OF ADDICTION; AND~~

16 ~~2. THE POTENTIAL BENEFITS OF THE MEDICAL USE~~
17 ~~OF MARIJUANA WOULD LIKELY OUTWEIGH THE HEALTH RISKS FOR THE~~
18 ~~PATIENT.~~

19 ~~(3) A PHYSICIAN WHO PREPARES A WRITTEN CERTIFICATION~~
20 ~~SUBMITTED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION MAY NOT HOLD ANY~~
21 ~~PERMIT ISSUED UNDER THIS SUBTITLE.~~

22 ~~(B) THE DEPARTMENT SHALL ESTABLISH A REGISTRY OF PRIMARY~~
23 ~~CAREGIVERS AND SHALL ISSUE A REGISTRY IDENTIFICATION CARD TO A~~
24 ~~PRIMARY CAREGIVER WHO SUBMITS THE FOLLOWING INFORMATION TO THE~~
25 ~~DEPARTMENT:~~

26 ~~(1) AN APPLICATION OR RENEWAL FEE THAT MAY BE BASED ON A~~
27 ~~SLIDING SCALE AS DETERMINED BY THE SECRETARY;~~

28 ~~(2) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE~~
29 ~~QUALIFYING PATIENT, INCLUDING DOCUMENTATION ESTABLISHING PROOF OF~~
30 ~~IDENTITY AND RESIDENCY TO THE SATISFACTION OF THE DEPARTMENT;~~

31 ~~(3) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE~~
32 ~~PATIENT'S PHYSICIAN WHO PREPARED THE WRITTEN CERTIFICATION~~
33 ~~SUBMITTED FOR THE PATIENT UNDER SUBSECTION (A) OF THIS SECTION; AND~~

1 ~~(4) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE PRIMARY~~
2 ~~CAREGIVER.~~

3 ~~(c) BEFORE ISSUING AN IDENTIFICATION CARD, THE DEPARTMENT~~
4 ~~SHALL:~~

5 ~~(1) VERIFY THE INFORMATION CONTAINED IN THE APPLICATION~~
6 ~~OR RENEWAL FORM SUBMITTED UNDER THIS SECTION; AND~~

7 ~~(2) REQUIRE THE QUALIFYING PATIENT OR THE PRIMARY~~
8 ~~CAREGIVER TO CHOOSE THE DISPENSING CENTER OR PHARMACY FROM WHICH~~
9 ~~THE REGISTRANT WILL BE OBTAINING THE MARIJUANA.~~

10 ~~(d) (1) THE DEPARTMENT SHALL:~~

11 ~~(i) APPROVE OR DENY AN APPLICATION OR RENEWAL~~
12 ~~WITHIN 30 DAYS OF RECEIPT OF THE APPLICATION OR RENEWAL; AND~~

13 ~~(ii) ISSUE A REGISTRY IDENTIFICATION CARD WITHIN 5~~
14 ~~DAYS OF APPROVING THE APPLICATION OR RENEWAL.~~

15 ~~(2) THE DEPARTMENT MAY DENY AN APPLICATION OR RENEWAL~~
16 ~~ONLY IF THE APPLICANT FAILS TO PROVIDE THE INFORMATION REQUIRED~~
17 ~~UNDER THIS SECTION OR IF THE DEPARTMENT DETERMINES THAT THE~~
18 ~~INFORMATION WAS FALSIFIED.~~

19 ~~(3) DENIAL OF THE APPLICATION SHALL BE CONSIDERED A FINAL~~
20 ~~AGENCY DECISION FOR PURPOSES OF JUDICIAL REVIEW UNDER THE~~
21 ~~ADMINISTRATIVE PROCEDURE ACT.~~

22 ~~(e) (1) THE DEPARTMENT SHALL REQUIRE EACH APPLICANT~~
23 ~~SEEKING TO SERVE AS PRIMARY CAREGIVER TO APPLY TO THE CENTRAL~~
24 ~~REPOSITORY FOR A STATE AND NATIONAL CRIMINAL HISTORY RECORDS~~
25 ~~CHECK.~~

26 ~~(2) THE DEPARTMENT SHALL PROVISIONALLY APPROVE AN~~
27 ~~APPLICATION TO SERVE AS PRIMARY CAREGIVER PENDING THE RESULTS OF A~~
28 ~~CRIMINAL HISTORY RECORDS CHECK.~~

29 ~~(3) AS PART OF THE APPLICATION FOR THE CRIMINAL HISTORY~~
30 ~~RECORDS CHECK, THE APPLICANT SHALL SUBMIT TO THE CENTRAL~~
31 ~~REPOSITORY;~~

1 ~~(I) TWO COMPLETE SETS OF THE APPLICANT'S LEGIBLE~~
2 ~~FINGERPRINTS TAKEN ON FORMS APPROVED BY THE DIRECTOR OF THE~~
3 ~~CENTRAL REPOSITORY AND THE DIRECTOR OF THE FEDERAL BUREAU OF~~
4 ~~INVESTIGATION;~~

5 ~~(II) ANY FEE REQUIRED UNDER STATE LAW FOR ACCESS TO~~
6 ~~STATE CRIMINAL HISTORY RECORDS; AND~~

7 ~~(III) THE MANDATORY PROCESSING FEE REQUIRED BY THE~~
8 ~~FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY~~
9 ~~RECORDS CHECK.~~

10 ~~(4) THE CENTRAL REPOSITORY SHALL FORWARD TO THE~~
11 ~~APPLICANT AND TO THE DEPARTMENT THE EMPLOYEE'S CRIMINAL HISTORY~~
12 ~~RECORD INFORMATION.~~

13 ~~(5) INFORMATION OBTAINED FROM THE CENTRAL REPOSITORY~~
14 ~~UNDER THIS SUBSECTION IS CONFIDENTIAL AND MAY NOT BE DISSEMINATED.~~

15 ~~(6) (I) AN APPLICANT WHO HAS BEEN CONVICTED OF~~
16 ~~POSSESSION OR SALE OF A CONTROLLED DANGEROUS SUBSTANCE MAY NOT~~
17 ~~SERVE AS A PRIMARY CAREGIVER, UNLESS THE CONVICTION OCCURRED ON OR~~
18 ~~AFTER OCTOBER 1, 2011, AND WAS FOR A VIOLATION OF FEDERAL LAW~~
19 ~~RELATING TO POSSESSION OR SALE OF MARIJUANA FOR CONDUCT THAT IS~~
20 ~~LEGAL UNDER THIS SUBTITLE.~~

21 ~~(II) AN INDIVIDUAL WHO HAS BEEN CONVICTED OF A~~
22 ~~FELONY MAY NOT BE ISSUED A REGISTRY IDENTIFICATION CARD TO SERVE AS A~~
23 ~~PRIMARY CAREGIVER.~~

24 ~~(7) ON RECEIPT OF THE CRIMINAL HISTORY RECORDS CHECK~~
25 ~~FROM THE CENTRAL REPOSITORY, THE SECRETARY SHALL NOTIFY THE~~
26 ~~APPLICANT IN WRITING OF THE APPLICANT'S QUALIFICATION OR~~
27 ~~DISQUALIFICATION FOR SERVING AS A PRIMARY CAREGIVER.~~

28 ~~(F) (1) A REGISTRY IDENTIFICATION CARD SHALL CONTAIN THE~~
29 ~~FOLLOWING INFORMATION:~~

30 ~~(I) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE~~
31 ~~QUALIFYING PATIENT;~~

32 ~~(II) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE~~
33 ~~QUALIFYING PATIENT'S PRIMARY CAREGIVER, IF ANY;~~

1 ~~(III) THE DATE OF ISSUANCE AND EXPIRATION DATE OF THE~~
2 ~~REGISTRY IDENTIFICATION CARD;~~

3 ~~(IV) PHOTO IDENTIFICATION OF THE CARDHOLDER;~~

4 ~~(V) THE IDENTIFICATION CODE OF THE AUTHORIZED~~
5 ~~DISPENSING CENTER OR PHARMACY; AND~~

6 ~~(VI) ANY OTHER INFORMATION PROVIDED FOR BY THE~~
7 ~~DEPARTMENT IN REGULATIONS.~~

8 ~~(2) (i) A PATIENT WHO HAS BEEN ISSUED A REGISTRY~~
9 ~~IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY CHANGE IN~~
10 ~~THE PATIENT'S NAME, ADDRESS, PHYSICIAN OR PRIMARY CAREGIVER, OR~~
11 ~~CHANGE IN STATUS OF THE PATIENT'S DEBILITATING MEDICAL CONDITION~~
12 ~~WITHIN 10 DAYS OF THE CHANGE OR THE REGISTRY IDENTIFICATION CARD~~
13 ~~SHALL BE CONSIDERED VOID.~~

14 ~~(ii) A PRIMARY CAREGIVER WHO HAS BEEN ISSUED A~~
15 ~~REGISTRY IDENTIFICATION CARD SHALL NOTIFY THE DEPARTMENT OF ANY~~
16 ~~CHANGE IN THE PRIMARY CAREGIVER'S NAME OR ADDRESS WITHIN 10 DAYS OF~~
17 ~~THE CHANGE OR THE REGISTRY IDENTIFICATION CARD SHALL BE CONSIDERED~~
18 ~~VOID.~~

19 ~~(iii) 1. IF THERE IS A CHANGE IN THE STATUS OF A~~
20 ~~PATIENT'S DEBILITATING MEDICAL CONDITION THAT REQUIRES A PHYSICIAN~~
21 ~~TO WITHDRAW THE PATIENT'S WRITTEN CERTIFICATION, THE PHYSICIAN SHALL~~
22 ~~PROVIDE WRITTEN NOTICE TO THE PATIENT AND THE DEPARTMENT WITHIN 10~~
23 ~~DAYS OF THE CHANGE.~~

24 ~~2. ON RECEIPT OF A PHYSICIAN'S NOTICE OF~~
25 ~~WITHDRAWAL OF A PATIENT'S WRITTEN CERTIFICATION, THE DEPARTMENT~~
26 ~~SHALL:~~

27 ~~A. REVOKE THE PATIENT'S AND, IF APPLICABLE,~~
28 ~~THE PATIENT'S PRIMARY CAREGIVER'S REGISTRY IDENTIFICATION CARD; AND~~

29 ~~B. SEND THE PATIENT AND, IF APPLICABLE, THE~~
30 ~~PATIENT'S PRIMARY CAREGIVER A REVOCATION NOTICE REQUIRING THE~~
31 ~~IMMEDIATE RETURN OF ALL REGISTRY IDENTIFICATION CARDS.~~

32 ~~3. ON RECEIPT OF A REVOCATION NOTICE UNDER~~
33 ~~SUBSUBPARAGRAPH 2 OF THIS SUBPARAGRAPH, A PATIENT AND, IF~~
34 ~~APPLICABLE, A PATIENT'S PRIMARY CAREGIVER SHALL:~~

1 ~~A. IMMEDIATELY SEND THE DEPARTMENT THE~~
2 ~~REGISTRY IDENTIFICATION CARD OF THE PATIENT AND, IF APPLICABLE, THE~~
3 ~~PATIENT'S PRIMARY CAREGIVER; AND~~

4 ~~B. HAVE 15 DAYS TO DISPOSE OF ANY MARIJUANA IN~~
5 ~~THE PATIENT'S POSSESSION.~~

6 ~~(C) (1) THE DEPARTMENT SHALL MAINTAIN A CONFIDENTIAL LIST~~
7 ~~OF THE INDIVIDUALS TO WHOM THE DEPARTMENT HAS ISSUED REGISTRY~~
8 ~~IDENTIFICATION CARDS AND THE AUTHORIZED DISPENSING CENTER OR~~
9 ~~PHARMACY OF EACH REGISTERED QUALIFYING PATIENT.~~

10 ~~(2) THE NAMES OF INDIVIDUALS AND OTHER IDENTIFYING~~
11 ~~INFORMATION OF THE LIST:~~

12 ~~(I) ARE CONFIDENTIAL;~~

13 ~~(II) MAY NOT BE CONSIDERED A PUBLIC RECORD; AND~~

14 ~~(III) MAY NOT BE DISCLOSED EXCEPT TO:~~

15 ~~1. AUTHORIZED EMPLOYEES OF THE DEPARTMENT~~
16 ~~AS NECESSARY TO PERFORM OFFICIAL DUTIES OF THE DEPARTMENT; OR~~

17 ~~2. AUTHORIZED EMPLOYEES OF STATE OR LOCAL~~
18 ~~LAW ENFORCEMENT, TO VERIFY THAT AN INDIVIDUAL WHO IS ENGAGED IN THE~~
19 ~~SUSPECTED OR ALLEGED MEDICAL USE OF MARIJUANA IS LAWFULLY IN~~
20 ~~POSSESSION OF A REGISTRY IDENTIFICATION CARD.~~

21 ~~(H) A REGISTRY IDENTIFICATION CARD IS VALID FOR 1 YEAR.~~

22 ~~13-3005.~~

23 ~~(A) ANY OF THE FOLLOWING PERSONS ACTING IN ACCORDANCE WITH~~
24 ~~THE PROVISIONS OF THIS SUBTITLE MAY NOT BE SUBJECT TO ARREST,~~
25 ~~PROSECUTION, OR ANY CIVIL OR ADMINISTRATIVE PENALTY, INCLUDING CIVIL~~
26 ~~PENALTY OR DISCIPLINARY ACTION BY A PROFESSIONAL LICENSING BOARD,~~
27 ~~NOR BE DENIED ANY RIGHT OR PRIVILEGE, FOR THE MEDICAL USE OF~~
28 ~~MARIJUANA:~~

29 ~~(1) A QUALIFYING PATIENT OR A PATIENT'S PRIMARY CAREGIVER~~
30 ~~WHO:~~

1 ~~(I) HOLDS A VALID REGISTRY IDENTIFICATION CARD; OR~~

2 ~~(H) HOLDS A VALID REGISTRY IDENTIFICATION CARD AND~~
3 ~~IS IN POSSESSION OF AN AUTHORIZED AMOUNT OF USABLE MARIJUANA~~
4 ~~PURCHASED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBTITLE;~~

5 ~~(2) AN AUTHORIZED GROWER OR AN AUTHORIZED GROWER'S~~
6 ~~EMPLOYEE;~~

7 ~~(3) A PHARMACY THAT HOLDS A REGISTRATION PERMIT UNDER~~
8 ~~THIS SUBTITLE OR A DISPENSING CENTER OR AN EMPLOYEE OF A PHARMACY OR~~
9 ~~DISPENSING CENTER;~~

10 ~~(4) A PHYSICIAN; OR~~

11 ~~(5) ANY OTHER PERSON.~~

12 ~~(B) THE POSSESSION OF, OR THE APPLICATION FOR, A REGISTRY~~
13 ~~IDENTIFICATION CARD DOES NOT ALONE CONSTITUTE PROBABLE CAUSE TO~~
14 ~~SEARCH AN INDIVIDUAL OR THE PROPERTY OF AN INDIVIDUAL POSSESSING OR~~
15 ~~APPLYING FOR THE REGISTRY IDENTIFICATION CARD, OR OTHERWISE SUBJECT~~
16 ~~THE INDIVIDUAL OR THE PROPERTY OF THE INDIVIDUAL TO INSPECTION BY A~~
17 ~~GOVERNMENTAL UNIT.~~

18 ~~(C) AN INDIVIDUAL MAY NOT BE SUBJECT TO ARREST OR PROSECUTION~~
19 ~~FOR CONSTRUCTIVE POSSESSION, CONSPIRACY, OR ANY OTHER OFFENSE FOR~~
20 ~~BEING IN THE PRESENCE OR VICINITY OF THE MEDICAL USE OF MARIJUANA AS~~
21 ~~ALLOWED UNDER THIS SUBTITLE.~~

22 ~~13-3006.~~

23 ~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS~~
24 ~~SUBSECTION, AN AGENT OF A PHARMACY THAT HOLDS A REGISTRATION PERMIT~~
25 ~~UNDER THIS SUBTITLE OR A DISPENSING CENTER MAY DISPENSE AN AMOUNT~~
26 ~~OF USABLE MARIJUANA THAT DOES NOT EXCEED 6 OUNCES FOR A 30-DAY~~
27 ~~PERIOD TO A REGISTERED QUALIFYING PATIENT OR THE QUALIFYING~~
28 ~~PATIENT'S PRIMARY CAREGIVER IF THE INDIVIDUAL:~~

29 ~~(i) PRESENTS A VALID REGISTRY IDENTIFICATION CARD~~
30 ~~WITH THE IDENTIFICATION CODE OF THE PHARMACY OR DISPENSING CENTER;~~
31 ~~AND~~

1 ~~(H) IS REGISTERED WITH THAT PHARMACY OR DISPENSING~~
2 ~~CENTER WITH THE DEPARTMENT AS THE PATIENT'S AUTHORIZED PHARMACY~~
3 ~~OR DISPENSING CENTER.~~

4 ~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS~~
5 ~~SUBSECTION, AN APPROVED PHARMACY OR DISPENSING CENTER MAY NOT~~
6 ~~DISPENSE MORE THAN 6 OUNCES OF USABLE MARIJUANA TO A REGISTERED~~
7 ~~QUALIFYING PATIENT OR THE PATIENT'S REGISTERED PRIMARY CAREGIVER IN~~
8 ~~A SINGLE 30 DAY PERIOD.~~

9 ~~(3) AN APPROVED PHARMACY OR DISPENSING CENTER MAY~~
10 ~~DISPENSE MORE THAN 6 OUNCES OF USABLE MARIJUANA TO A REGISTERED~~
11 ~~QUALIFYING PATIENT OR A PATIENT'S PRIMARY CAREGIVER IF THE PATIENT OR~~
12 ~~THE PATIENT'S PRIMARY CAREGIVER PRESENTS THE AGENT OF THE PATIENT'S~~
13 ~~DESIGNATED APPROVED PHARMACY OR DISPENSING CENTER A SIGNED,~~
14 ~~WRITTEN CERTIFICATION STATING THAT THE PATIENT NEEDS A SPECIFIED~~
15 ~~AMOUNT OF MARIJUANA THAT IS GREATER THAN 6 OUNCES FOR A SINGLE~~
16 ~~30 DAY PERIOD.~~

17 ~~(B) ON RECEIPT OF THE INFORMATION REQUIRED UNDER SUBSECTION~~
18 ~~(A) OF THIS SECTION, THE APPROVED PHARMACY OR DISPENSING CENTER~~
19 ~~SHALL VERIFY AND LOG THE INFORMATION PRESENTED.~~

20 ~~(C) (1) EACH APPROVED PHARMACY AND DISPENSING CENTER~~
21 ~~SHALL MAINTAIN INTERNAL RECORDS OF EACH MARIJUANA DISPENSING~~
22 ~~TRANSACTION.~~

23 ~~(2) THE RECORDS REQUIRED UNDER PARAGRAPH (1) OF THIS~~
24 ~~SUBSECTION SHALL INCLUDE:~~

25 ~~(I) THE AMOUNT OF MARIJUANA DISPENSED;~~

26 ~~(H) THE REGISTRY IDENTIFICATION NUMBER OF THE~~
27 ~~INDIVIDUAL TO WHOM THE MARIJUANA WAS DISPENSED AND WHETHER THAT~~
28 ~~INDIVIDUAL WAS A QUALIFYING PATIENT OR THE QUALIFYING PATIENT'S~~
29 ~~PRIMARY CAREGIVER; AND~~

30 ~~(HH) THE DATE AND TIME OF THE TRANSACTION.~~

31 ~~(3) A RECORD MAINTAINED UNDER THIS SUBSECTION:~~

32 ~~(I) IS CONFIDENTIAL; AND~~

1 ~~(H) MAY NOT INCLUDE NAMES OR OTHER PERSONAL~~
2 ~~IDENTIFYING INFORMATION.~~

3 ~~(D) (1) A PATIENT MAY BE REGISTERED AT ONLY ONE PHARMACY OR~~
4 ~~DISPENSING CENTER AT ANY TIME.~~

5 ~~(2) (i) IF A REGISTERED QUALIFYING PATIENT NEEDS TO~~
6 ~~CHANGE TO A DIFFERENT AUTHORIZED PHARMACY OR DISPENSING CENTER,~~
7 ~~THE PATIENT SHALL:~~

8 ~~1. REGISTER THE CHANGE WITH THE DEPARTMENT;~~
9 ~~AND~~

10 ~~2. PAY A \$15 FEE TO THE DEPARTMENT.~~

11 ~~(H) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A REQUEST~~
12 ~~TO CHANGE A PATIENT'S DESIGNATED PHARMACY OR DISPENSING CENTER~~
13 ~~UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE DEPARTMENT SHALL:~~

14 ~~1. UPDATE THE REGISTERED QUALIFYING~~
15 ~~PATIENT'S RECORD AND THE PATIENT'S PRIMARY CAREGIVER RECORD, IF ANY;~~
16 ~~AND~~

17 ~~2. NOTIFY THE PATIENT THAT THE DESIGNATION~~
18 ~~CHANGE REQUEST HAS BEEN PROCESSED.~~

19 ~~(H) ON RECEIPT OF A PATIENT'S OLD REGISTRY~~
20 ~~IDENTIFICATION CARD, THE DEPARTMENT SHALL ISSUE A NEW REGISTRY~~
21 ~~IDENTIFICATION CARD TO A PATIENT WHO REGISTERS WITH A DIFFERENT~~
22 ~~AUTHORIZED PHARMACY OR DISPENSING CENTER UNDER SUBPARAGRAPH (I)~~
23 ~~OF THIS PARAGRAPH.~~

24 ~~(IV) THE DEPARTMENT MAY LIMIT THE NUMBER OF TIMES A~~
25 ~~PATIENT MAY CHANGE A DESIGNATION OF A PHARMACY OR DISPENSING~~
26 ~~CENTER TO ONE TIME EVERY 30 DAYS.~~

27 ~~13-3007.~~

28 ~~THE SECRETARY SHALL ESTABLISH A SYSTEM TO MONITOR THE~~
29 ~~DISPENSATION OF MARIJUANA IN THE STATE FOR MEDICAL USE AS~~
30 ~~AUTHORIZED UNDER THIS SUBTITLE.~~

31 ~~13-3008.~~

~~A PERSON WHO KNOWINGLY GIVES FALSE INFORMATION OR MAKES A MATERIAL MISSTATEMENT IN AN APPLICATION FOR REGISTRATION OR A PERMIT OR IN AN APPLICATION FOR A RENEWAL OF A REGISTRATION OR PERMIT UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

~~13-3009.~~

~~(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO AUTHORIZE ANY INDIVIDUAL TO:~~

~~(1) OPERATE, NAVIGATE, OR BE IN ACTUAL PHYSICAL CONTROL OF ANY MOTOR VEHICLE, AIRCRAFT, OR BOAT WHILE UNDER THE INFLUENCE OF MARIJUANA;~~

~~(2) SMOKE MARIJUANA IN ANY PUBLIC PLACE;~~

~~(3) SMOKE MARIJUANA IN A MOTOR VEHICLE; OR~~

~~(4) SMOKE MARIJUANA ON PRIVATE PROPERTY THAT:~~

~~(i) 1. IS RENTED FROM A LANDLORD; AND~~

~~2. IS SUBJECT TO A POLICY THAT PROHIBITS THE SMOKING OF MARIJUANA ON THE PROPERTY; OR~~

~~(ii) IS SUBJECT TO A POLICY THAT PROHIBITS THE SMOKING OF MARIJUANA ON THE PROPERTY OF AN ATTACHED DWELLING ADOPTED BY ONE OF THE FOLLOWING ENTITIES:~~

~~1. THE BOARD OF DIRECTORS OF THE COUNCIL OF UNIT OWNERS OF A CONDOMINIUM REGIME; OR~~

~~2. THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION.~~

~~(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROVIDE IMMUNITY TO A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBTITLE FROM CRIMINAL PROSECUTION FOR A VIOLATION OF ANY LAW PROHIBITING OR REGULATING THE USE, POSSESSION, DISPENSING, DISTRIBUTION, OR PROMOTION OF CONTROLLED DANGEROUS SUBSTANCES, DANGEROUS DRUGS, DETRIMENTAL DRUGS, OR HARMFUL DRUGS OR ANY CONSPIRACY OR ATTEMPT TO COMMIT ANY OF THOSE OFFENSES.~~

1 ~~13-3010.~~

2 ~~NOTHING IN THIS SUBTITLE SHALL BE CONSTRUED TO REQUIRE A PUBLIC~~
3 ~~OR PRIVATE HEALTH INSURER TO REIMBURSE AN INDIVIDUAL FOR THE COSTS~~
4 ~~ASSOCIATED WITH THE MEDICAL USE OF MARIJUANA.~~

5 ~~13-3011.~~

6 ~~(A) BEGINNING OCTOBER 1, 2012, AND EACH OCTOBER 1~~
7 ~~THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN~~
8 ~~ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE~~
9 ~~GENERAL ASSEMBLY ON:~~

10 ~~(1) THE NUMBER OF APPLICATIONS FOR REGISTRY~~
11 ~~IDENTIFICATION CARDS;~~

12 ~~(2) THE NUMBER OF QUALIFYING PATIENTS AND PRIMARY~~
13 ~~CAREGIVERS REGISTERED;~~

14 ~~(3) THE NATURE OF THE DEBILITATING MEDICAL CONDITIONS OF~~
15 ~~THE QUALIFYING PATIENTS;~~

16 ~~(4) THE ENTITIES SELECTED TO GROW MARIJUANA;~~

17 ~~(5) THE ENTITIES RECEIVING PERMITS TO DISPENSE MARIJUANA;~~

18 ~~(6) THE NUMBER OF REGISTRY IDENTIFICATION CARDS~~
19 ~~REVOKED;~~

20 ~~(7) THE NUMBER OF PERMITS TO ENTITIES TO GROW OR~~
21 ~~DISPENSE MARIJUANA REVOKED; AND~~

22 ~~(8) THE NUMBER OF PHYSICIANS PROVIDING WRITTEN~~
23 ~~CERTIFICATIONS FOR PATIENTS.~~

24 ~~(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION~~
25 ~~MAY NOT CONTAIN ANY IDENTIFYING INFORMATION OF PATIENTS, PRIMARY~~
26 ~~CAREGIVERS, ENTITIES SELECTED TO GROW OR DISPENSE MARIJUANA, OR~~
27 ~~PHYSICIANS.~~

28 ~~(C) ON OR BEFORE OCTOBER 1, 2013, AND EVERY 2 YEARS~~
29 ~~THEREAFTER, THE SECRETARY SHALL REPORT TO THE GOVERNOR AND, IN~~

1 ~~ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE~~
2 ~~GENERAL ASSEMBLY ON:~~

3 ~~(1) WHETHER THERE ARE SUFFICIENT NUMBERS OF APPROVED~~
4 ~~PHARMACIES AND DISPENSING CENTERS TO MEET THE NEEDS OF REGISTERED~~
5 ~~QUALIFYING PATIENTS THROUGHOUT THE STATE;~~

6 ~~(2) WHETHER THE MAXIMUM AMOUNT OF MEDICAL MARIJUANA~~
7 ~~ALLOWED UNDER THIS SUBTITLE IS SUFFICIENT TO MEET THE MEDICAL NEEDS~~
8 ~~OF QUALIFYING PATIENTS; AND~~

9 ~~(3) WHETHER ANY APPROVED PHARMACY OR DISPENSING~~
10 ~~CENTER HAS CHARGED EXCESSIVE PRICES FOR MARIJUANA THAT THE~~
11 ~~PHARMACY OR CENTER DISPENSED.~~

12 ~~13-3012.~~

13 ~~ON OR BEFORE JANUARY 1, 2012, THE DEPARTMENT SHALL ADOPT~~
14 ~~REGULATIONS TO IMPLEMENT THIS SUBTITLE.~~

15 ~~13-3013.~~

16 ~~(A) THE DEPARTMENT MAY ACCEPT FROM ANY SOURCE GRANTS OR~~
17 ~~CONTRIBUTIONS TO BE USED IN CARRYING OUT THIS SUBTITLE.~~

18 ~~(B) ANY FEES COLLECTED UNDER THIS SUBTITLE SHALL BE USED TO~~
19 ~~OFFSET THE COST OF THE DEPARTMENT'S ADMINISTRATION OF THIS SUBTITLE.~~

20 ~~(C) ANY FUNDS RECEIVED BY THE DEPARTMENT IN EXCESS OF THE~~
21 ~~AMOUNT REQUIRED TO FULFILL THIS SUBTITLE SHALL BE DISTRIBUTED TO~~
22 ~~DRUG REHABILITATION PROGRAMS THROUGHOUT THE STATE.~~

23 ~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
24 ~~October 1, 2011.~~

25 ~~5-601.~~

26 (a) Except as otherwise provided in this title, a person may not:

27 (1) possess or administer to another a controlled dangerous substance,
28 unless obtained directly or by prescription or order from an authorized provider acting
29 in the course of professional practice; or

1 (2) obtain or attempt to obtain a controlled dangerous substance, or
2 procure or attempt to procure the administration of a controlled dangerous substance
3 by:

4 (i) fraud, deceit, misrepresentation, or subterfuge;

5 (ii) the counterfeiting or alteration of a prescription or a written
6 order;

7 (iii) the concealment of a material fact;

8 (iv) the use of a false name or address;

9 (v) falsely assuming the title of or representing to be a
10 manufacturer, distributor, or authorized provider; or

11 (vi) making, issuing, or presenting a false or counterfeit
12 prescription or written order.

13 (b) Information that is communicated to a physician in an effort to obtain a
14 controlled dangerous substance in violation of this section is not a privileged
15 communication.

16 (c) (1) Except as provided in paragraphs (2) and (3) of this subsection, a
17 person who violates this section is guilty of a misdemeanor and on conviction is subject
18 to imprisonment not exceeding 4 years or a fine not exceeding \$25,000 or both.

19 (2) A person whose violation of this section involves the use or
20 possession of marijuana is subject to imprisonment not exceeding 1 year or a fine not
21 exceeding \$1,000 or both.

22 (3) (i) ~~In a prosecution for the use or possession of marijuana, the~~
23 ~~defendant may introduce and the court shall consider as [a mitigating factor] AN~~
24 ~~AFFIRMATIVE DEFENSE any evidence of medical necessity.~~

25 (ii) ~~Notwithstanding paragraph (2) of this subsection, if the~~
26 ~~court finds that the person used or possessed marijuana because of medical necessity,~~
27 ~~[on conviction of a violation of this section, the maximum penalty that the court may~~
28 ~~impose on the person is a fine not exceeding \$100] THE COURT SHALL ENTER A~~
29 ~~FINDING OF NOT GUILTY.~~

30 ~~(iii) 1. THE COURT SHALL FIND THAT MARIJUANA WAS~~
31 ~~USED OR POSSESSED BECAUSE OF MEDICAL NECESSITY IF THE DEFENDANT~~
32 ~~ESTABLISHES BY CLEAR AND CONVINCING EVIDENCE THAT THE DEFENDANT IS~~
33 ~~SUFFERING FROM AN ILLNESS OR AILMENT, OR SYMPTOMS CREATED BY~~

~~TREATMENT OF AN ILLNESS OR AILMENT, FOR WHICH THE DEFENDANT IS
LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.~~

~~2. EVIDENCE OF MEDICAL NECESSITY MAY INCLUDE:~~

~~A. A WRITTEN STATEMENT FROM A LICENSED
PHYSICIAN STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE
DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM
MARIJUANA;~~

~~B. MEDICAL RECORDS DEMONSTRATING ILLNESS OR
AILMENT, OR SYMPTOMS CREATED BY TREATMENT OF AN ILLNESS OR AILMENT,
FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR
PALLIATIVE RELIEF FROM MARIJUANA; OR~~

~~C. TESTIMONY BY THE DEFENDANT'S LICENSED
PHYSICIAN THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE
DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM
MARIJUANA.~~

~~1. IN THIS PARAGRAPH THE FOLLOWING WORDS
HAVE THE MEANINGS INDICATED.~~

~~2. "BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP"
MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING
RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT'S
MEDICAL CONDITION.~~

~~3. "DEBILITATING MEDICAL CONDITION" MEANS A
CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE
TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION
THAT PRODUCES ONE OR MORE OF THE FOLLOWING, AS DOCUMENTED BY A
PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN-PATIENT
RELATIONSHIP:~~

~~A. CACHEXIA OR WASTING SYNDROME;~~

~~B. SEVERE OR CHRONIC PAIN;~~

~~C. SEVERE NAUSEA;~~

~~D. SEIZURES;~~

~~E. SEVERE AND PERSISTENT MUSCLE SPASMS; OR~~

1 F. ANY OTHER CONDITION THAT IS SEVERE AND
 2 RESISTANT TO CONVENTIONAL MEDICINE.

3 (II) 1. In a prosecution for the use or possession of
 4 marijuana, the defendant may introduce and the court shall consider as a mitigating
 5 factor any evidence of medical necessity.

6 [(ii)] 2. Notwithstanding paragraph (2) of this subsection, if the
 7 court finds that the person used or possessed marijuana because of medical necessity,
 8 on conviction of a violation of this section, the maximum penalty that the court may
 9 impose on the person is a fine not exceeding \$100.

10 (III) 1. IN A PROSECUTION FOR THE USE OR POSSESSION
 11 OF MARIJUANA UNDER THIS SECTION, IT IS AN AFFIRMATIVE DEFENSE THAT THE
 12 DEFENDANT USED OR POSSESSED MARIJUANA BECAUSE:

13 A. THE DEFENDANT HAS A DEBILITATING MEDICAL
 14 CONDITION THAT HAS BEEN DIAGNOSED BY A PHYSICIAN WITH WHOM THE
 15 DEFENDANT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP;

16 B. THE DEBILITATING MEDICAL CONDITION IS
 17 SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE; AND

18 C. MARIJUANA IS LIKELY TO PROVIDE THE
 19 DEFENDANT WITH THERAPEUTIC OR PALLIATIVE RELIEF FROM THE
 20 DEBILITATING MEDICAL CONDITION.

21 2. THE AFFIRMATIVE DEFENSE MAY NOT BE USED IF
 22 THE DEFENDANT WAS:

23 A. USING MARIJUANA IN A PUBLIC PLACE; OR

24 B. IN POSSESSION OF MORE THAN 1 OUNCE OF
 25 MARIJUANA.

26 5-619.

27 (a) To determine whether an object is drug paraphernalia, a court shall
 28 consider, among other logically relevant factors:

29 (1) any statement by an owner or a person in control of the object
 30 concerning its use;

31 (2) any prior conviction of an owner or a person in control of the object
 32 under a State or federal law relating to a controlled dangerous substance;

1 (3) the proximity of the object, in time and space, to a direct violation
2 of this section or to a controlled dangerous substance;

3 (4) a residue of a controlled dangerous substance on the object;

4 (5) direct or circumstantial evidence of the intent of an owner or a
5 person in control of the object to deliver it to another who, the owner or the person
6 knows or should reasonably know, intends to use the object to facilitate a violation of
7 this section;

8 (6) any instructions, oral or written, provided with the object
9 concerning its use;

10 (7) any descriptive materials accompanying the object that explain or
11 depict its use;

12 (8) national and local advertising concerning use of the object;

13 (9) the manner in which the object is displayed for sale;

14 (10) whether the owner or a person in control of the object is a licensed
15 distributor or dealer of tobacco products or other legitimate supplier of related items to
16 the community;

17 (11) direct or circumstantial evidence of the ratio of sales of the object
18 to the total sales of the business enterprise;

19 (12) the existence and scope of legitimate uses for the object in the
20 community; and

21 (13) expert testimony concerning use of the object.

22 (b) The innocence of an owner or a person in control of the object as to a
23 direct violation of this section does not prevent a finding that the object is intended for
24 use or designed for use as drug paraphernalia.

25 (c) (1) Unless authorized under this title, a person may not use or possess
26 with intent to use drug paraphernalia to:

27 (i) plant, propagate, cultivate, grow, harvest, manufacture,
28 compound, convert, produce, process, prepare, test, analyze, pack, repack, store,
29 contain, or conceal a controlled dangerous substance; or

30 (ii) inject, ingest, inhale, or otherwise introduce into the human
31 body a controlled dangerous substance.

1 (2) A person who violates this subsection is guilty of a misdemeanor
2 and on conviction is subject to:

3 (i) for a first violation, a fine not exceeding \$500; and

4 (ii) for each subsequent violation, imprisonment not exceeding 2
5 years or a fine not exceeding \$2,000 or both.

6 (3) A person who is convicted of violating this subsection for the first
7 time and who previously has been convicted of violating subsection (d)(4) of this
8 section is subject to the penalty specified under paragraph (2)(ii) of this subsection.

9 ~~(4) (i) In a prosecution under this subsection involving drug~~
10 ~~paraphernalia related to marijuana, the defendant may introduce and the court shall~~
11 ~~consider as [a mitigating factor] AN AFFIRMATIVE DEFENSE any evidence of medical~~
12 ~~necessity.~~

13 ~~(ii) Notwithstanding paragraph (2) of this subsection, if the~~
14 ~~court finds that the person used or possessed drug paraphernalia related to marijuana~~
15 ~~because of medical necessity, [on conviction of a violation of this subsection, the~~
16 ~~maximum penalty that the court may impose on the person is a fine not exceeding~~
17 ~~\$100] THE COURT SHALL ENTER A FINDING OF NOT GUILTY.~~

18 ~~(H) 1. THE COURT SHALL FIND THAT THE DRUG~~
19 ~~PARAPHERNALIA RELATED TO MARIJUANA WAS USED OR POSSESSED BECAUSE~~
20 ~~OF MEDICAL NECESSITY IF THE DEFENDANT ESTABLISHES BY CLEAR AND~~
21 ~~CONVINCING EVIDENCE THAT THE DEFENDANT IS SUFFERING FROM AN ILLNESS~~
22 ~~OR AILMENT, OR SYMPTOMS CREATED BY TREATMENT OF AN ILLNESS OR~~
23 ~~AILMENT, FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR~~
24 ~~PALLIATIVE RELIEF FROM MARIJUANA.~~

25 ~~2. EVIDENCE OF MEDICAL NECESSITY MAY INCLUDE:~~

26 ~~A. A WRITTEN STATEMENT FROM A LICENSED~~
27 ~~PHYSICIAN STATING THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE~~
28 ~~DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM~~
29 ~~MARIJUANA;~~

30 ~~B. MEDICAL RECORDS DEMONSTRATING ILLNESS OR~~
31 ~~AILMENT, OR SYMPTOMS CREATED BY TREATMENT OF AN ILLNESS OR AILMENT,~~
32 ~~FOR WHICH THE DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR~~
33 ~~PALLIATIVE RELIEF FROM MARIJUANA; OR~~

34 ~~C. TESTIMONY BY THE DEFENDANT'S LICENSED~~
35 ~~PHYSICIAN THAT, IN THE PHYSICIAN'S PROFESSIONAL OPINION, THE~~

~~DEFENDANT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.~~

(4) (i) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

2. “BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP” MEANS A RELATIONSHIP IN WHICH THE PHYSICIAN HAS ONGOING RESPONSIBILITY FOR THE ASSESSMENT, CARE, AND TREATMENT OF A PATIENT’S MEDICAL CONDITION.

3. “DEBILITATING MEDICAL CONDITION” MEANS A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION OR THE TREATMENT OF A CHRONIC OR DEBILITATING DISEASE OR MEDICAL CONDITION THAT PRODUCES ONE OR MORE OF THE FOLLOWING, AS DOCUMENTED BY A PHYSICIAN WITH WHOM THE PATIENT HAS A BONA FIDE PHYSICIAN–PATIENT RELATIONSHIP:

A. CACHEXIA OR WASTING SYNDROME;

B. SEVERE OR CHRONIC PAIN;

C. SEVERE NAUSEA;

D. SEIZURES;

E. SEVERE AND PERSISTENT MUSCLE SPASMS; OR

F. ANY OTHER CONDITION THAT IS SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE.

(II) 1. In a prosecution under this subsection involving drug paraphernalia related to marijuana, the defendant may introduce and the court shall consider as a mitigating factor any evidence of medical necessity.

[(ii)] 2. Notwithstanding paragraph (2) of this subsection, if the court finds that the person used or possessed drug paraphernalia related to marijuana because of medical necessity, on conviction of a violation of this subsection, the maximum penalty that the court may impose on the person is a fine not exceeding \$100.

(III) 1. IN A PROSECUTION UNDER THIS SUBSECTION INVOLVING DRUG PARAPHERNALIA RELATED TO MARIJUANA, IT IS AN

1 AFFIRMATIVE DEFENSE THAT THE DEFENDANT USED OR POSSESSED DRUG
 2 PARAPHERNALIA RELATED TO MARIJUANA BECAUSE:

3 A. THE DEFENDANT HAS A DEBILITATING MEDICAL
 4 CONDITION THAT HAS BEEN DIAGNOSED BY A PHYSICIAN WITH WHOM THE
 5 DEFENDANT HAS A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP;

6 B. THE DEBILITATING MEDICAL CONDITION IS
 7 SEVERE AND RESISTANT TO CONVENTIONAL MEDICINE; AND

8 C. MARIJUANA IS LIKELY TO PROVIDE THE
 9 DEFENDANT WITH THERAPEUTIC OR PALLIATIVE RELIEF FROM THE
 10 DEBILITATING MEDICAL CONDITION.

11 2. THE AFFIRMATIVE DEFENSE MAY NOT BE USED IF
 12 THE DEFENDANT WAS:

13 A. USING MARIJUANA IN A PUBLIC PLACE; OR

14 B. IN POSSESSION OF MORE THAN 1 OUNCE OF
 15 MARIJUANA.

16 (d) (1) Unless authorized under this title, a person may not deliver or sell,
 17 or manufacture or possess with intent to deliver or sell, drug paraphernalia, knowing,
 18 or under circumstances where one reasonably should know, that the drug
 19 paraphernalia will be used to:

20 (i) plant, propagate, cultivate, grow, harvest, manufacture,
 21 compound, convert, produce, process, prepare, test, analyze, pack, repack, store,
 22 contain, or conceal a controlled dangerous substance; or

23 (ii) inject, ingest, inhale, or otherwise introduce into the human
 24 body a controlled dangerous substance.

25 (2) A person who violates this subsection is guilty of a misdemeanor
 26 and on conviction is subject to:

27 (i) for a first violation, a fine not exceeding \$500; and

28 (ii) for each subsequent violation, imprisonment not exceeding 2
 29 years or a fine not exceeding \$2,000 or both.

30 (3) A person who is convicted of violating this subsection for the first
 31 time and who previously has been convicted of violating paragraph (4) of this

1 subsection is subject to imprisonment not exceeding 2 years or a fine not exceeding
2 \$2,000 or both.

3 (4) If a person who is at least 18 years old violates paragraph (1) of
4 this subsection by delivering drug paraphernalia to a minor who is at least 3 years
5 younger than the person, the person is guilty of a separate misdemeanor and on
6 conviction is subject to imprisonment not exceeding 8 years or a fine not exceeding
7 \$15,000 or both.

8 (e) (1) A person may not advertise in a newspaper, magazine, handbill,
9 poster, sign, mailing, or other writing or publication, or by sound truck, knowing, or
10 under circumstances where one reasonably should know, that the purpose of the
11 advertisement, wholly or partly, is to promote the sale or delivery of drug
12 paraphernalia.

13 (2) A person who violates this subsection is guilty of a misdemeanor
14 and on conviction is subject to:

15 (i) for a first violation, a fine not exceeding \$500; and

16 (ii) for each subsequent violation, imprisonment not exceeding 2
17 years or a fine not exceeding \$2,000 or both.

18 **Article – Health Occupations**

19 **14-404.**

20 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
21 **SUBSECTION, THE BOARD MAY NOT REPRIMAND, PLACE ON PROBATION, OR**
22 **SUSPEND OR REVOKE A LICENSE OF A LICENSEE FOR PROVIDING A PATIENT**
23 **WITH A WRITTEN STATEMENT, MEDICAL RECORDS, OR TESTIMONY THAT, IN THE**
24 **LICENSEE’S PROFESSIONAL OPINION, THE PATIENT IS LIKELY TO RECEIVE**
25 **THERAPEUTIC OR PALLIATIVE RELIEF FROM MARIJUANA.**

26 **(2) NOTHING IN THIS SUBSECTION SHALL BE DEEMED TO**
27 **RELEASE A LICENSEE FROM THE DUTY TO EXERCISE A PROFESSIONAL**
28 **STANDARD OF CARE WHEN EVALUATING A PATIENT’S MEDICAL CONDITION.**

29 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

30 **(a) The Secretary of Health and Mental Hygiene shall convene a Work Group**
31 **to develop a model program to facilitate patient access to marijuana for medical**
32 **purposes.**

33 **(b) The Work Group shall include the following members:**

1 (1) two members of the Senate of Maryland, appointed by the
2 President of the Senate;

3 (2) two members of the House of Delegates, appointed by the Speaker
4 of the House;

5 (3) the Secretary of Health and Mental Hygiene, or the Secretary's
6 designee; and

7 (4) the following members, appointed by the Governor:

8 (i) one member of the public who supports the use of marijuana
9 for medical purposes;

10 (ii) one member of the public designated by the *Maryland*
11 *Chapter of the National ~~Coalition on Alcohol and Other Drug Dependencies~~ Council on*
12 *Alcoholism and Drug Dependence;*

13 (iii) three physicians licensed in the State, who specialize in
14 addiction, pain, oncology, neurology, or clinical research;

15 (iv) one nurse licensed in the State, with experience in hospice
16 care, nominated by a State research institution or trade association;

17 (v) one pharmacist licensed in the State, nominated by a State
18 research institution or trade association;

19 (vi) one scientist with experience in the science of marijuana,
20 nominated by a State research institution;

21 (vii) one representative of the Maryland State's Attorneys'
22 Association;

23 (viii) one representative of the Maryland Chiefs of Police;

24 (ix) one representative of the Maryland Sheriffs' Association;

25 (x) one representative of the Maryland Fraternal Order of
26 Police; and

27 (xi) an attorney who is knowledgeable about medical marijuana
28 laws in the United States.

29 (c) The Governor shall designate the chair of the Work Group.

30 (d) The Department of Health and Mental Hygiene and the Governor's Office
31 of Crime Control and Prevention shall provide staff for the Work Group.

1 (e) A member of the Work Group:

2 (1) may not receive compensation as a member of the Work Group; but

3 (2) is entitled to reimbursement for expenses under the Standard
4 State Travel Regulations, as provided in the State budget.

5 (f) (1) (i) The Work Group shall assess the feasibility of and develop a
6 State-specific proposal, including draft legislation, for providing access to marijuana
7 to patients in the State for medical purposes.

8 (ii) The proposal required under subparagraph (i) of this
9 paragraph shall strongly consider a program model that is analogous to a
10 compassionate use protocol for unapproved drugs.

11 (2) The draft legislation required under paragraph (1) of this
12 subsection shall:

13 (i) outline the key elements of the program model; and

14 (ii) include provisions that:

15 1. provide for oversight and responsibility by programs
16 located in academic medical research institutions in the State;

17 2. provide for the licensing of a program by the State;

18 3. establish a program application and review process
19 that includes consideration of best practices and procedures for obtaining review input
20 that is external to the Department of Health and Mental Hygiene;

21 4. expand the base of information on the use of
22 marijuana for medical purposes on a scientific and policy implementation basis; and

23 5. implement a program as soon as feasible and
24 incorporate the goals of:

25 A. regulations adopted and applications received by
26 September 1, 2012; and

27 B. program operation beginning in January 2013.

28 (3) The Work Group shall provide guidance on the criteria for
29 assessing program applications, including an applying program's plans for:

1 (i) determining the medical conditions to be treated and the
2 duration of therapy proposed;

3 (ii) identifying sources of marijuana;

4 (iii) determining patient eligibility and informed consent;

5 (iv) conducting any associated research projects;

6 (v) reporting data and outcomes;

7 (vi) instituting strict controls against illegal diversion; and

8 (vii) securing grants or other sources of funding to facilitate the
9 affordability of the program.

10 (g) The Work Group may consult with experts and stakeholders in
11 conducting its duties.

12 (h) On or before December 1, 2011, the Secretary shall report, in accordance
13 with § 2-1246 of the State Government Article, to the Senate Judicial Proceedings
14 Committee, the House Health and Government Operations Committee, and the House
15 Judiciary Committee on the findings of the Work Group, including draft legislation
16 that establishes a program to provide access to marijuana to patients in the State for
17 medical purposes under a model analogous to a compassionate use protocol for
18 unapproved drugs.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 June 1, 2011. Section 2 of this Act shall remain effective for a period of 1 year and, at
21 the end of May 31, 2012, with no further action required by the General Assembly,
22 Section 2 of this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.