

House Bill 885 (COMMITTEE SUBSTITUTE)

By: Representatives Peake of the 141st, Watson of the 166th, Channell of the 120th, Kaiser of the 59th, Gravley of the 67th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated,
2 relating to the use of cannabis for treatment of cancer and glaucoma, so as to provide for
3 continuing research into the benefits of medical cannabis to treat certain conditions; to
4 provide for a short title; to provide for legislative findings and intent; to provide for the
5 continuation of the Controlled Substances Therapeutic Research Program; to provide for
6 definitions; to provide for selection of academic medical centers to conduct the research; to
7 provide for expansion of the review board and its duties; to establish the responsibilities of
8 academic medical centers; to provide for the selection of approved pediatric neurologists; to
9 provide for cultivation and processing by a selected academic medical center; to provide for
10 storage and distribution of research medical cannabis by the Georgia Drugs and Narcotics
11 Agency; to provide for immunity; to provide for employer and employee rights and
12 obligations; to provide for related matters; to repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 WHEREAS, the General Assembly finds and declares that clinical research has shown
16 certain benefits arising from the utilization of medical research cannabis and, most recently,
17 significant benefits of a particular strain delivered orally for the treatment of seizure
18 disorders among children.

19 WHEREAS, nothing in this legislation should be construed as encouraging or sanctioning
20 the recreational use of cannabis, nor is this legislation to be construed as any intent of the
21 General Assembly to be moving in the direction of the legalization of recreational cannabis.

22 **SECTION 2.**

23 Article 5 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to the
24 use of cannabis for treatment of cancer and glaucoma, is amended by revising the article as
25 follows:

26 "ARTICLE 5

27 43-34-120.

28 This article shall be known and may be cited as the '~~Controlled Substances Therapeutic~~
29 ~~Research~~ Haleigh's Hope Act.'

30 43-34-121.

31 (a) The General Assembly finds and declares that ~~the potential medicinal value of~~
32 ~~marijuana has received insufficient study due to a lack of financial incentives for the~~
33 ~~undertaking of appropriate research by private drug manufacturing concerns. Individual~~
34 ~~physicians cannot feasibly utilize marijuana in clinical trials because of federal~~
35 ~~governmental controls which involve expensive, time-consuming approval and monitoring~~
36 ~~procedures~~ this legislation's purpose is the compassionate potentially life-saving use of
37 medical cannabis and is not intended to sanction, encourage, or otherwise be construed as
38 a movement toward the legalization of recreational cannabis. Clinical research performed
39 over the past decades continues to show benefits arising from medical cannabis. Presently
40 there are in excess of one million United States medical cannabis patients and an increasing
41 number of physicians are recommending the therapeutic use of cannabis to their patients
42 in accordance with their respective state law. New extracts and compounds have been
43 developed demonstrating that cannabidiol, one of the most prevalent nonpsychoactive
44 cannabinoids, has significant health and wellness benefits as shown by recent publication
45 of the positive treatment of certain seizure disorders afflicting children.

46 (b) The General Assembly further finds and declares that ~~limited~~ continuing studies
47 throughout the nation indicate that ~~marijuana~~ cannabis and certain of its derivatives possess
48 valuable and, in some cases, unique therapeutic properties, including the ability to relieve
49 nausea and vomiting which routinely accompany chemotherapy and irradiation used to
50 treat cancer patients. ~~Marijuana Cannabis~~ also may be effective in reducing intraocular
51 pressure in glaucoma patients ~~who do not respond well in adjunct~~ to conventional
52 medications. Cannabis derivatives have recently shown to be effective in the treatment of
53 seizure disorders.

54 (c) The General Assembly further finds and declares that, in enabling ~~individual~~
55 ~~physicians and their~~ patients to participate in a state-sponsored program for the

56 investigational use of marijuana cannabis and its derivatives, ~~qualified physicians and~~
 57 ~~surgeons throughout the state~~ academic medical centers will be able to study the benefits
 58 of the drug in a controlled clinical setting, and additional knowledge will be gained with
 59 respect to dosage and effects.

60 (d) It is the intent of the General Assembly in enacting this article to permit research into
 61 the therapeutic and treatment applications of marijuana cannabis and its derivatives in
 62 cancer, ~~and glaucoma, and seizure disorder~~ patients. This would allow qualified ~~physicians~~
 63 academic medical centers approved by the Patient Qualification Review Board created by
 64 Code Section 43-34-124 to ~~provide~~ authorize use of the drug on a compassionate basis to
 65 seriously ill persons suffering from the severe side effects of chemotherapy or radiation
 66 treatment, ~~and to persons suffering from glaucoma who are not responding to conventional~~
 67 ~~treatment, and to persons suffering from seizure disorders,~~ which persons would otherwise
 68 have no lawful access to it. It is the further intent of the General Assembly to facilitate
 69 clinical trials of marijuana cannabis and its derivatives, particularly with respect to persons
 70 suffering from cancer, ~~and glaucoma, and seizure disorders~~ who would be benefited by use
 71 of the drug.

72 (e) This article is limited to clinical trials and research into therapeutic applications of
 73 marijuana cannabis only for use in treating glaucoma, ~~and in treating the side effects of~~
 74 ~~chemotherapeutic agents and radiation, and utilizing medical cannabis for the treatment of~~
 75 seizure disorders and should not be construed as either encouraging or sanctioning the
 76 social use of cannabis marijuana. ~~Nothing in this article shall be construed to encourage~~
 77 ~~the use of marijuana in lieu of or in conjunction with other accepted medical treatment, but~~
 78 ~~only as an adjunct to such accepted medical treatment.~~

79 43-34-122.

80 As used in this article, the term:

81 (1) 'Academic medical center' means a research hospital that operates a medical
 82 residency program for physicians and conducts research that involves human subjects,
 83 including medical schools within the state that conduct translational research or clinical
 84 research programs.

85 ~~(1)~~(2) 'Board' means the Georgia Composite Medical Board.

86 ~~(2)~~(3) 'Cannabis' '~~Marijuana~~' means marijuana or tetrahydrocannabinol, as defined or
 87 listed in Article 2 of Chapter 13 of Title 16.

88 (4) 'Medical cannabis for the treatment of seizure disorders' means cannabis extracts and
 89 compounds of cannabis, including, but not limited to, those strains used to manufacture
 90 cannabidiol, a nonpsychoactive cannabinoid, that is delivered to the patient in a

91 nonsmoking delivery system whether it be in the form of liquid, pill, or injection or other
 92 delivery method that does not include smoking.

93 (5) 'Medical research cannabis' means cannabis, medical cannabis for the treatment of
 94 seizure disorders, including, but not limited to, cannabis extracts and compounds
 95 approved under this article.

96 (6) 'Pediatric neurologist' means a pediatric neurologist specializing in seizure disorders
 97 in children approved under this article to utilize medical cannabis treatment in
 98 conjunction with an approved academic medical center.

99 ~~(3)~~(7) 'Physician' means a person licensed to practice medicine pursuant to Article 2 of
 100 this chapter.

101 ~~(4)~~(8) 'Program' means the Controlled Substances Therapeutic Research Program
 102 established pursuant to Code Section 43-34-123.

103 ~~(5)~~(9) 'Review board' means the Patient Qualification Review Board established pursuant
 104 to Code Section 43-34-124.

105 43-34-123.

106 (a) There is established under the Georgia Composite Medical Board the Controlled
 107 Substances Therapeutic Research Program, which shall be administered by the board.
 108 Under the program, the board shall act as a sponsor of state-wide investigational studies,
 109 utilizing ~~as drug investigators individual physicians who elect~~ academic medical centers
 110 and approved pediatric neurologists selected by the board to participate in accordance with
 111 the guidelines and protocols developed by the board. Such guidelines and protocols shall
 112 be designed to ensure that stringent security and record-keeping requirements for ~~research~~
 113 ~~drugs~~ medical research cannabis are met and that participants in the program meet those
 114 research standards necessary to establish empirical bases for the evaluation of ~~marijuana~~
 115 cannabis as a medically recognized therapeutic substance. The board shall promulgate
 116 such rules and regulations as it deems necessary or advisable to administer the program.
 117 In promulgating such guidelines, protocols, rules, and regulations, the board shall take into
 118 consideration those pertinent rules and regulations promulgated by the ~~Federal~~ United
 119 States Drug Enforcement Agency Administration, the Food and Drug Administration, and
 120 the National Institute on Drug Abuse.

121 (b) The program shall be limited to patients who are certified to the board by a ~~physician~~
 122 selected academic medical center and pediatric neurologists as being:

123 (1) Cancer patients involved in a life-threatening situation in which treatment by
 124 chemotherapy or radiology has produced severe side effects; ~~or~~

125 (2) Glaucoma patients who are not responding to conventional controlled substances; or

126 (3) Seizure disorder patients.

127 (c) No patient may be admitted to the program without full disclosure by the ~~physician~~
 128 academic medical center of the experimental nature of the program and of the possible
 129 risks and side effects of the proposed treatment.

130 (d) The cost of any blood test required by the ~~federal~~ Food and Drug Administration prior
 131 to entrance into the program shall be paid by the patient or through the program, donated
 132 research or study funds, or other funding seeking entrance into the program.

133 (e) Only the following persons shall have access to the names and other identifying
 134 characteristics of patients in the program for whom ~~marijuana~~ medical research cannabis
 135 has been prescribed under this article:

136 (1) The board;

137 (2) The review board created by Code Section 43-34-124;

138 (3) The Attorney General or his or her designee;

139 (4) Any person directly connected with the program who has a legitimate need for the
 140 information; ~~and~~

141 (5) Any federal agency having responsibility for the program;

142 (6) Any academic medical center operating a program under this article;

143 (7) Any approved pediatric neurologist working in conjunction with an academic
 144 medical center operating a program under this article; and

145 (8) Any patient program participant's attending physician.

146 43-34-124.

147 (a) The board shall appoint the Patient Qualification Review Board. Each member of the
 148 review board shall be approved for such membership by a majority vote of the board and
 149 shall serve at the pleasure of the board. The review board shall be composed of:

150 (1) A board certified physician in ophthalmology;

151 (2) A board certified physician in surgery;

152 (3) A board certified physician in internal medicine and medical oncology;

153 (4) A board certified physician in psychiatry;

154 (5) A board certified physician in radiology; ~~and~~

155 (6) A pharmacist licensed under Chapter 4 of Title 26, relating to pharmacists, pharmacy,
 156 and drugs;

157 (7) A board certified physician in pediatric neurology;

158 (8) A board certified physician in pain management; and

159 (9) A board certified pediatric epitologist.

160 (b) The review board shall elect from its members a chairperson and a vice chairperson.
 161 The review board shall hold regular meetings at least once every 60 days and shall meet
 162 at such additional times as shall be called by the chairperson of the review board or the

163 chairperson of the board. Each member of the review board shall receive for services for
 164 each day's attendance upon meetings of such board the same amount authorized by law for
 165 members of the General Assembly for attendance upon meetings of the General Assembly.

166 (c) The board shall adopt such rules and regulations as it deems necessary for the
 167 performance of the duties of the review board.

168 (d) ~~The review board; shall review all patient applicants for the program and their~~
 169 ~~physicians and shall certify those qualified for participation in the program. The review~~
 170 ~~board shall additionally certify pharmacies which are licensed by the state and which are~~
 171 ~~otherwise qualified and certify physicians regarding the distribution of marijuana pursuant~~
 172 ~~to Code Section 43-34-125. Meetings of the review board to certify patients, physicians,~~
 173 ~~or pharmacies shall not be open to the public, as otherwise required by Chapter 14 of Title~~
 174 ~~50~~

175 (1) Shall review, evaluate, and rate applications for medical cannabis use programs
 176 submitted by academic medical centers and approved pediatric neurologists based on the
 177 procedures and guidelines established by the board;

178 (2) Shall develop request applications for programs;

179 (3) Shall approve or deny applications for programs, approve or deny applications for
 180 renewal of such programs, and monitor and oversee programs approved for operation
 181 under this article;

182 (4) Shall approve or deny applications for pediatric neurologists to utilize medical
 183 cannabis in the treatment of patients in conjunction with an approved academic medical
 184 center.

185 (5) May rescind approval of a program if the board finds that the program is not in
 186 compliance with the conditions of approval established by the board;

187 (6) Shall set application fees and renewal fees that cover its expenses in reviewing and
 188 approving applications and providing oversight to programs; and

189 (7) May accept any gifts, donations, contributions, grants, bequests of funds or property,
 190 or other funds.

191 43-34-125.

192 (a) ~~The board~~ An academic medical center operating a program approved under this article
 193 ~~shall~~ may apply to contract with the National Institute on Drug Abuse for receipt of
 194 ~~marijuana~~ cannabis pursuant to this article and pursuant to regulations promulgated by the
 195 National Institute on Drug Abuse, the Food and Drug Administration, and the ~~Federal~~
 196 United States Drug Enforcement Agency Administration or obtain such cannabis,
 197 cannabinoid, or any other derivative, compound, or substantially similar products from any
 198 available legal source.

199 ~~(b) The board shall cause marijuana approved for use in the program to be transferred to~~
 200 ~~a certified pharmacy, licensed by the state, for distribution to the certified patient by a~~
 201 ~~licensed pharmacist upon a written order for research medication of the certified physician,~~
 202 ~~pursuant to this article. Any reasonable costs incurred by the board in obtaining or testing~~
 203 ~~marijuana shall be charged to participating physicians who may seek reimbursement from~~
 204 ~~their research subjects utilizing the marijuana. An academic medical center approved~~
 205 ~~under this article may obtain research cannabis, cannabinoid, or any other derivative,~~
 206 ~~compound, or substantially similar products from an academic medical center designated~~
 207 ~~under Code Section 43-34-127.~~

208 ~~(c) Upon receipt of the research cannabis, its extracts, compounds, or derivatives, or any~~
 209 ~~other substantially similar product, regardless of its source including the product produced~~
 210 ~~pursuant to Code Section 43-34-127, the academic medical center shall test the~~
 211 ~~specifications of such product. Upon completion of its testing of such product, the~~
 212 ~~academic medical center shall notify the Georgia Drugs and Narcotics Agency.~~

213 ~~(d) Upon notification by the academic medical center, the Georgia Drugs and Narcotics~~
 214 ~~Agency shall take possession of the research product acquired under subsection (a) of this~~
 215 ~~Code section and retain such product until such time as the product shall be distributed by~~
 216 ~~the agency to the academic medical center.~~

217 ~~(e) The Georgia Drugs and Narcotics Agency shall establish rules and regulations for the~~
 218 ~~storage and distribution of the research cannabis.~~

219 ~~(f) An approved pediatric neurologist shall be authorized to receive research cannabis~~
 220 ~~through his or her approved affiliated academic medical center.~~

221 43-34-126.

222 ~~Patient participants in the program are immune from state prosecution for possession of~~
 223 ~~marijuana as authorized by this article and under the program established in this article.~~
 224 ~~A person authorized under this program shall not possess an amount of marijuana in excess~~
 225 ~~of the amount prescribed under the authority of this article. The amount prescribed shall~~
 226 ~~be maintained in the container in which it was placed at the time the prescription was filled.~~
 227 ~~Physician, pharmacy, and pharmacist participants in the program are immune from state~~
 228 ~~prosecution for possession, distribution, and any other use of marijuana, which use is~~
 229 ~~authorized such persons by this article. Any such possession, distribution, or other use not~~
 230 ~~authorized by this article shall be enforced and punished as provided in Chapter 13 of Title~~
 231 ~~16, relating to controlled substances and dangerous drugs, and Chapter 4 of Title 26,~~
 232 ~~relating to pharmacists and pharmacies.~~

233 (a) The academic medical center operating a program approved under this article shall
 234 report annually or more frequently as the board deems necessary to the board in a manner
 235 specified by the board that includes the following:

236 (1) The number of patients served through the program and their county of residence;

237 (2) The conditions treated under the program; and

238 (3) Any outcome data on the results of the treatment through the program.

239 (b) An academic medical center operating a program approved under this article shall
 240 apply annually to the board for renewal of approval of the program, in accordance with
 241 procedures established by the board.

242 (c) An academic medical center operating a program under this article shall be subject to
 243 inspection by the board to ensure that the program is operating according to the conditions
 244 of approval established by the board.

245 43-34-127.

246 (a) The board shall approve at least one academic medical center to cultivate and process
 247 medical research cannabis to provide medical research cannabis to programs approved for
 248 operation under this article.

249 (b) The academic medical center approved to cultivate and process medical research
 250 cannabis under this Code section shall cultivate, process, and transfer such cannabis
 251 pursuant to Code Section 43-34-125.

252 (c) The board shall establish requirements for security and the manufacturing process that
 253 such academic medical center shall meet in order to be approved for the cultivation and
 254 processing of such cannabis under this article, including a requirement for the tracking of
 255 such cannabis.

256 (d) The board may revoke this agreement if the academic medical center is found by the
 257 board to have violated any of the requirements established under this Code section.

258 43-34-128.

259 Reserved.

260 43-34-129.

261 Any of the following persons acting in accordance with the provisions of this article shall
 262 not be subject to arrest, prosecution, or any civil or administrative penalty, including a civil
 263 penalty or disciplinary action by a professional licensing board, or be denied any right or
 264 privilege, for the medical use, prescription, administration, manufacture, or distribution of
 265 medical research cannabis:

266 (1) A patient enrolled in a program approved under this article who is in possession of
 267 an amount of medical research cannabis authorized under the program or such patient's
 268 caregiver, parent, or guardian; or

269 (2) An academic medical center, an employee of an academic medical center, or any
 270 other person associated with the operation of a program approved under this article for
 271 activities conducted in accordance with the program approved under this article.

272 43-34-130.

273 A state employee is eligible for reimbursement for incurred counsel fees under Code
 274 Section 45-12-26 in the event of a federal criminal investigation or prosecution solely
 275 related to the employee's good faith discharge of public responsibilities under this article.

276 43-34-131.

277 (a) The consumption of medical cannabis in accordance with this article shall be an
 278 acceptable explanation to a positive test under subsection (d) of Code Section 34-9-415 of
 279 the Drug Free Workplace Act or any other lawful drug test administered by an employer.

280 (b) Nothing in this article shall affect an employer's rights under Code Section 34-9-17.

281 (c) A patient's participation in treatment under this article and the consumption of medical
 282 cannabis shall not relieve the patient of the obligation to notify his or her employer if such
 283 participation impairs his or her ability to safely perform the duties of his or her job.

284 (d) Nothing in this article shall require an employer to accommodate an employee's use
 285 of medical cannabis as an approved treatment."

286 **SECTION 3.**

287 All laws and parts of laws in conflict with this Act are repealed.