

Senate Bill 7 - Prefile

By: Senator Thompson of the 5th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and orthotics and prosthetics practice, so as to repeal provisions relating to use of marijuana for treatment of cancer and glaucoma and provide for medical use of marijuana; to provide for a short title; to provide for legislative findings; to provide for definitions; to provide for additional debilitating conditions; to provide for controlled substances therapeutic relief, limitations, and rule making; to provide for registration of marijuana dispensaries; to provide for registration of qualifying patients and designated caregivers; to provide for the issuance, revocation, suspension, and expiration of registry identification cards; to provide for facility restrictions; to provide for dispensary locations; to provide for dispensing marijuana for medical use; to provide for a verification system; to provide for notices and civil penalties; to provide for annual reporting; to provide for confidentiality; to provide for presumptions; to prohibit discrimination under certain circumstances; to provide for enforcement; to provide for fingerprinting; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, acupuncture, physician assistants, cancer and glaucoma treatment, respiratory care, clinical perfusionists, and orthotics and prosthetics practice, is amended by repealing Article 5, relating to use of marijuana for treatment of cancer and glaucoma, and adding a new Article 5 to read as follows:

"ARTICLE 5

43-34-120.

This article shall be known and may be cited as the 'Controlled Substances Therapeutic Relief Act.'

43-34-121.

The General Assembly finds and declares the following:

(1) Marijuana's recorded use as a medicine goes back nearly 5,000 years, and modern medical research has confirmed beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis, and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March, 1999;

(2) Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions. Such therapeutic value includes relief of neuropathic pain caused by multiple sclerosis, HIV/AIDS, and other illnesses that often fail to respond to conventional treatments and relief of nausea, vomiting, and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens;

(3) Marijuana currently has many accepted medical uses in the United States and has been recommended by thousands of licensed physicians to at least 260,000 patients in the states with medical marijuana laws. Marijuana's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, American College of Physicians, American Nurses Association, American Public Health Association, Leukemia & Lymphoma Society, and many others;

(4) Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the United States are made under state law rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana;

(5) Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington have removed state-level criminal penalties for the medical

use and cultivation of marijuana. Georgia joins in this effort for the health and welfare of its citizens;

(6) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this Act does not put the State of Georgia in violation of federal law;

(7) State law should make a distinction between the medical and nonmedical uses of marijuana. Hence, the purpose of this Act is to protect qualifying patients, as well as their physicians and designated caregivers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such qualifying patients engage in the medical use of marijuana; and

(8) It is the intent of the General Assembly in enacting this article to permit registered qualifying patients to use and possess medicinal marijuana and its derivatives and to allow dispensation of medicinal marijuana and its derivatives by licensed, registered, nonprofit medical marijuana dispensaries within this state.

43-34-122.

As used in this article, the term:

(1)(A) 'Allowable amount of marijuana' means:

(i) With respect to a qualifying patient:

(I) Two ounces of usable marijuana; and

(II) If the qualifying patient's registry identification card provides that the qualifying patient is authorized to cultivate marijuana plants, eight marijuana plants contained in an enclosed, locked facility, provided that such plants are not required to be in an enclosed, locked facility if such plants are being transported because the qualifying patient is moving; and

(ii) With respect to a designated caregiver, for each qualifying patient assisted by the designated caregiver under this article:

(I) Two ounces of usable marijuana; and

(II) If the designated caregiver's registry identification card provides that the designated caregiver is authorized to cultivate marijuana plants, eight marijuana plants contained in an enclosed, locked facility, provided that such plants are not required to be in an enclosed, locked facility if such plants are being transported because the designated caregiver is moving.

(B) Marijuana that is incidental to medical use, but is not usable marijuana as defined in this article, shall not be counted toward a qualifying patient's or designated caregiver's allowable amount of marijuana.

(2) 'Cardholder' means a qualifying patient, designated caregiver, or nonprofit medical marijuana dispensary agent who has been issued and possesses a valid registry identification card.

(3) 'Debilitating medical condition' means one or more of the following:

(A) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, or the treatment of such conditions;

(B) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including those characteristic of epilepsy; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

(C) Any other medical condition or its treatment added by the department pursuant to Code Section 43-34-122.1.

(4) 'Department' means the Department of Public Health or its successor agency.

(5) 'Designated caregiver' means a person who:

(A) Is at least 21 years of age;

(B) Has agreed to assist with a qualifying patient's medical use of marijuana;

(C) Has not been convicted of a felony offense;

(D) Assists no more than five qualifying patients with the medical use of marijuana; and

(E) May receive reimbursement for actual costs incurred in assisting a registered qualifying patient's medical use of marijuana if the registered designated caregiver is connected to the registered qualifying patient through the department's registration process. The designated caregiver shall not be paid any fee or compensation for his or her service as a caregiver. Payment for costs under this subparagraph shall not constitute an offense under Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled Substances Act.'

(6) 'Enclosed, locked facility' means a closet, room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by a cardholder.

(7) 'Marijuana' means all parts of any plant of the genus cannabis whether growing or not, and the seeds of such plant.

(8) 'Medical use' means the acquisition, possession, cultivation, manufacture, use, administration, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with such qualifying patient's debilitating medical condition.

(9) 'Nonprofit medical marijuana dispensary' means a Georgia not-for-profit entity that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, or dispenses marijuana or related supplies and educational materials to cardholders. A nonprofit medical marijuana dispensary may receive payment for all expenses incurred in its operation.

(10) 'Nonprofit medical marijuana dispensary agent' means a principal officer, board member, employee, or volunteer of a nonprofit medical marijuana dispensary who is at least 21 years of age and has not been convicted of a felony offense.

(11) 'Physician' means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to Article 2 of this chapter, a doctor of osteopathic medicine who holds a valid and existing license to practice osteopathic medicine pursuant to this chapter, a naturopathic physician, or a homeopathic physician.

(12) 'Qualifying patient' means a person who has been diagnosed by a physician as having a debilitating medical condition.

(13) 'Registration certificate' means a document issued by the Department of Revenue to a nonprofit medical marijuana dispensary.

(14) 'Registry identification card' means a document issued by the department that identifies a person as a registered qualifying patient or a registered designated caregiver or a document issued by the Department of Revenue that identifies a person as a registered nonprofit medical marijuana dispensary agent.

(15) 'Usable marijuana' means the dried flowers of the marijuana plant, and any mixture or preparation thereof, but shall not include the seeds, stalks, and roots of the plant or the weight of any nonmarijuana ingredients combined with marijuana and prepared for consumption as food or drink.

(16) 'Verification system' means a secure, password protected, web based system established and maintained by the department and the Department of Revenue that is available to law enforcement personnel and nonprofit medical marijuana dispensary agents on a 24 hour basis for verification of registry identification cards.

(17) 'Visiting qualifying patient' means a person who:

(A) Is not a resident of Georgia or who has been a resident of Georgia for fewer than 30 days; and

(B) Has been diagnosed with a debilitating medical condition by a person who is licensed with authority to prescribe drugs to humans in the state of the person's residence or, in the case of a person who has been a resident of Georgia for fewer than 30 days, the state of the person's former residence.

(18) 'Written certification' means a document dated and signed by a physician stating that, in the physician's professional opinion, the qualifying patient is likely to receive

therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition. The physician shall:

(A) Specify the qualifying patient's debilitating medical condition in the written certification; and

(B) Sign and date the written certification only in the course of a physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history.

43-34-122.1.

The public may petition the department to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in paragraph (3) of Code Section 43-34-122. The department shall consider petitions in the manner required by department rule, including public notice and hearing. The department shall approve or deny a petition within 180 days of its submission. The approval or denial of a petition is a final decision of the department subject to judicial review pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Initial judicial review of a final decision of the department shall be held solely in the Superior Court of Fulton County.

43-34-123.

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

(1) Undertaking any task under the influence of marijuana that would constitute negligence or professional malpractice;

(2) Possessing or engaging in the medical use of marijuana:

(A) On a school bus;

(B) On the grounds of any preschool or primary or secondary school; or

(C) In any correctional facility;

(3) Smoking marijuana:

(A) On any form of public transportation; or

(B) In any public place;

(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana, provided that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment; or

(5) Using marijuana except as authorized under this article.

43-34-124.

(a) Not later than 120 days after the effective date of this article, the department shall adopt rules and regulations:

(1) Governing the manner in which it shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in paragraph (3) of Code Section 43-34-122, including public notice of, and an opportunity to comment in a public hearing upon, petitions;

(2) Establishing the form and content of qualifying patient and designated caregiver registration and renewal applications submitted under this article;

(3) Governing the manner in which it shall consider applications for and renewals of registry identification cards; and

(4) Establishing application and renewal fees for registry identification cards according to the following:

(A) The total amount of all fees shall generate revenues sufficient to implement and administer the department's responsibilities under this article, provided that fee revenue may be offset or supplemented by private donations;

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

(C) The department may consider private donations under Code Section 43-34-138 to reduce application and renewal fees.

(b) The department is authorized to adopt the rules and regulations set forth in subsection (a) of this Code section.

43-34-125.

(a) Not later than 120 days after the effective date of this article, the Department of Revenue shall adopt rules and regulations:

(1) Governing nonprofit medical marijuana dispensaries for protection against diversion and theft without imposing an undue burden on nonprofit medical marijuana dispensaries or compromising the confidentiality of cardholders, including:

(A) The manner in which the Department of Revenue shall consider applications for and renewals of registration certificates;

(B) Minimum oversight requirements for nonprofit medical marijuana dispensaries;

(C) Minimum record-keeping requirements for nonprofit medical marijuana dispensaries;

(D) Minimum security requirements for nonprofit medical marijuana dispensaries, including requirements for protection of each registered nonprofit medical marijuana dispensary location by a fully operational security alarm system; and

(E) Procedures for suspending or revoking the registration certificates of nonprofit medical marijuana dispensaries that violate the provisions of this article or the rules adopted pursuant to this Code section; and

(2) Establishing application and renewal fees for nonprofit medical marijuana dispensary registration certificates according to the following:

(A) The total amount of all fees shall generate revenues sufficient to implement and administer this article, provided that fee revenue may be offset or supplemented by private donations;

(B) Nonprofit medical marijuana dispensary application fees shall not exceed \$5,000.00;

(C) Nonprofit medical marijuana dispensary renewal fees shall not exceed \$1,000.00;

(D) The total amount of revenue from nonprofit medical marijuana dispensary application and renewal fees and registry identification card fees for nonprofit medical marijuana dispensary agents shall be sufficient to implement and administer the nonprofit medical marijuana dispensary provisions of this article, including the verification system, provided that the fee revenue may be offset or supplemented by private donations; and

(E) The Department of Revenue may consider private donations under Code Section 43-34-138.

(b) The Department of Revenue is authorized to adopt the rules and regulations set forth in subsection (a) of this Code section.

43-34-125.1.

(a) Nonprofit medical marijuana dispensaries shall register with the Department of Revenue.

(b) Not later than 90 days after receiving an application for a nonprofit medical marijuana dispensary, the Department of Revenue shall register the nonprofit medical marijuana dispensary and issue a registration certificate and a random 20 digit alphanumeric identification number if:

(1) The prospective nonprofit medical marijuana dispensary has submitted the following:

(A) The application fee, to be set by the Department of Revenue;

(B) An application that includes:

(i) The legal name of the nonprofit medical marijuana dispensary;

(ii) The physical address of the nonprofit medical marijuana dispensary and the physical address of one additional location, if any, where marijuana will be cultivated, neither of which shall be within 500 feet of a public or private school existing before the date of the nonprofit medical marijuana dispensary application; and

(iii) The name, address, and date of birth of each nonprofit medical marijuana dispensary agent;

(C) Operating procedures consistent with Department of Revenue rules for oversight of nonprofit medical marijuana dispensaries, including procedures to ensure accurate record keeping and adequate security measures; and

(D) If the city, town, or county in which the nonprofit medical marijuana dispensary would be located has enacted zoning restrictions, a sworn statement certifying that the nonprofit medical marijuana dispensary is in compliance with the restrictions;

(2) None of the principal officers or board members has been convicted of a felony offense;

(3) None of the principal officers or board members has served as a principal officer or board member for a registered nonprofit medical marijuana dispensary that has had its registration certificate revoked; and

(4) None of the principal officers or board members is under 21 years of age.

(c) The Department of Revenue shall not issue more than one nonprofit medical marijuana dispensary registration certificate for every ten pharmacies that have registered under Code Section 16-13-72, have obtained a pharmacy permit from the State Board of Pharmacy, and operate within this state, provided that the Department of Revenue may issue nonprofit medical marijuana dispensary registration certificates in excess of this limit if necessary to ensure that the Department of Revenue issues at least one nonprofit medical marijuana dispensary registration certificate in each county in which an application has been approved.

(d) The Department of Revenue may conduct a criminal records check in order to carry out this Code section.

43-34-125.2.

(a) A nonprofit medical marijuana dispensary agent shall be registered with the Department of Revenue before working or volunteering at a nonprofit medical marijuana dispensary.

(b) A nonprofit medical marijuana dispensary may apply to the Department of Revenue for a registry identification card for a nonprofit medical marijuana dispensary agent by submitting:

(1) The name, address, and date of birth of the nonprofit medical marijuana dispensary agent;

(2) A nonprofit medical marijuana dispensary agent application;

(3) A statement signed by the prospective nonprofit medical marijuana dispensary agent pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article; and

(4) The application fee.

(c) A registered nonprofit medical marijuana dispensary shall notify the Department of Revenue within ten days after a nonprofit medical marijuana dispensary agent ceases to be employed by or volunteer at the registered nonprofit medical marijuana dispensary.

(d) No person who has been convicted of a felony offense shall be a nonprofit medical marijuana dispensary agent.

(e) The Department of Revenue may conduct a criminal records check in order to carry out this Code section.

43-34-125.3.

The Department of Revenue shall issue each nonprofit medical marijuana dispensary agent a registry identification card and log-in information for the verification system within five days of approving the application or renewal.

43-34-125.4.

Registry identification cards for nonprofit medical marijuana dispensary agents shall contain the following:

(1) The name, address, and date of birth of the nonprofit medical marijuana dispensary agent;

(2) A statement that the cardholder is a nonprofit medical marijuana dispensary agent;

(3) The legal name of the registered nonprofit medical marijuana dispensary with which the nonprofit medical marijuana dispensary agent is affiliated;

(4) A random 20 digit alphanumeric identification number that is unique to the cardholder;

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

(6) A photograph, if the Department of Revenue decides to require one.

43-34-125.5.

(a) The Department of Revenue may deny a registry identification card to a nonprofit medical marijuana dispensary agent if:

(1) The applicant does not meet the requirements of paragraph (10) of Code Section 43-34-122;

(2) The applicant or nonprofit medical marijuana dispensary did not provide the required information;

(3) The applicant previously had a registry identification card revoked for violating this article; or

(4) The applicant or nonprofit medical marijuana dispensary provides false information.

(b) The Department of Revenue may conduct a criminal records check of each nonprofit medical marijuana dispensary agent applicant to carry out this Code section.

(c) The Department of Revenue shall give written notice to the registered nonprofit medical marijuana dispensary of the reason for denying a registry identification card to a nonprofit medical marijuana dispensary agent.

(d) Denial of an application or renewal is considered a final decision of the Department of Revenue subject to judicial review pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' Initial judicial review of a final decision of the Department of Revenue shall be held solely in the Superior Court of Fulton County.

43-34-125.6.

(a) All registry identification cards and registration certificates expire one year after date of issue.

(b) A registry identification card of a nonprofit medical marijuana dispensary agent shall be canceled and his or her access to the verification system shall be deactivated upon notification to the Department of Revenue by a registered nonprofit medical marijuana dispensary that the nonprofit medical marijuana dispensary agent is no longer employed by or no longer volunteers at the registered nonprofit medical marijuana dispensary.

(c) A renewal nonprofit medical marijuana dispensary registration certificate shall be issued within ten days of receipt of the prescribed renewal application and renewal fee from a registered nonprofit medical marijuana dispensary if its registration certificate is not under suspension and has not been revoked.

(d) If a nonprofit medical marijuana dispensary agent loses his or her registry identification card, he or she shall promptly notify the Department of Revenue. Within five days of the notification, and upon payment of a fee to be determined by the Department of Revenue, the Department of Revenue shall issue a new registry identification card with a new random 20 digit alphanumeric identification number to the nonprofit medical marijuana dispensary agent.

43-34-126.

(a) A qualifying patient may apply to the department for a registry identification card by submitting:

(1) Written certification issued by a physician within the 90 days immediately preceding the date of application;

(2) The application fee; and

(3) An application that includes:

(A) The name, mailing address, residence address, and date of birth of the qualifying patient, provided that, if the applicant is homeless, no address is required;

(B) The name, address, and telephone number of the qualifying patient's physician;

(C) The name, address, and date of birth of the qualifying patient's designated caregiver, if any;

(D) A statement signed by the qualifying patient pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article;

(E) A signed statement from the designated caregiver, if any, agreeing to be the qualifying patient's designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article; and

(F) A designation as to who shall be allowed to cultivate marijuana plants for the qualifying patient's medical use if a registered nonprofit medical marijuana dispensary is not operating within 35 miles of the qualifying patient's home.

(b) The application for a qualifying patient's registry identification card shall ask whether the qualifying patient would like the department to notify him or her of any clinical studies needing human subjects for research on the medical use of marijuana. The department shall notify interested qualifying patients if it is notified of studies that will be conducted in the United States.

43-34-126.1.

(a) Except as provided in subsection (b) of this Code section, the department shall:

(1) Verify the information contained in an application or renewal submitted pursuant to this article and approve or deny an application or renewal within ten days of receiving a completed application or renewal; and

(2) Issue a registry identification card to a qualifying patient and his or her designated caregiver, if any, within five days of approving the application or renewal. A designated caregiver shall have a registry identification card for each of his or her qualifying patients.

(b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian responsible for health care decisions for the qualifying patient;

(2) A custodial parent or legal guardian responsible for health care decisions for the qualifying patient submits a written certification from two physicians; and

(3) The custodial parent or legal guardian responsible for health care decisions for the qualifying patient consents in writing to:

(A) Allow the qualifying patient's medical use of marijuana;

(B) Serve as the qualifying patient's designated caregiver; and

(C) Control the acquisition of marijuana and the dosage and frequency of the medical use of marijuana by the qualifying patient.

(c) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows a visiting qualifying patient to possess or use marijuana for medical purposes in the jurisdiction of issuance shall have the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the department, provided that a visiting qualifying patient shall not be authorized to obtain marijuana from a nonprofit medical marijuana dispensary.

43-34-126.2.

(a) Registry identification cards for qualifying patients and designated caregivers shall contain the following:

(1) The name, address, and date of birth of the cardholder;

(2) A statement of whether the cardholder is a qualifying patient or designated caregiver;

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

(4) A random 20 digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;

(5) If the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting;

(6) A photograph of the cardholder; and

(7) A clear indication of whether the cardholder has been authorized by this article to cultivate marijuana plants for the qualifying patient's medical use.

(b) If the registry identification card of either a qualifying patient or designated caregiver does not state that the cardholder is authorized to cultivate marijuana plants, then the department shall give written notice to the registered qualifying patient, when the qualifying patient's registry identification card is issued, of the name and address of all registered nonprofit medical marijuana dispensaries.

43-34-126.3.

(a) The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

(1) Does not meet the requirements of paragraph (12) of Code Section 43-34-122;

447 (2) Does not provide the information required;

448 (3) Previously had a registry identification card revoked for violating this article; or

449 (4) Provides false information.

450 (b) The department may deny an application or renewal of a designated caregiver's registry
451 identification card if the applicant:

452 (1) Does not meet the requirements of paragraph (5) of Code Section 43-34-122;

453 (2) Does not provide the information required;

454 (3) Previously had a registry identification card revoked for violating this article; or

455 (4) Provides false information.

456 (c) The department may conduct a criminal records check of each designated caregiver
457 applicant to carry out this Code section.

458 (d) The department shall give written notice to the qualifying patient of the reason for
459 denying a registry identification card to such qualifying patient's designated caregiver.

460 (e) Denial of an application or renewal is considered a final decision of the department
461 subject to judicial review pursuant to Chapter 13 of Title 50, the 'Georgia Administrative
462 Procedure Act.'

463 43-34-126.4.

464 (a) All registry identification cards expire one year after date of issue.

465 (b) If a cardholder loses his or her registry identification card, he or she shall promptly
466 notify the department. Within five days of the notification, and upon payment of a fee to
467 be determined by the department, the department shall issue a new registry identification
468 card with a new random 20 digit alphanumeric identification number to the cardholder and,
469 if the cardholder is a registered qualifying patient, to the registered qualifying patient's
470 registered designated caregiver, if any.

471 43-34-127.

472 (a) Any nursing care institution, hospice, assisted living center, assisted living facility,
473 assisted living home, residential care institution, adult day health care facility, or other
474 adult care facility licensed under Chapter 7 of Title 31 may adopt reasonable restrictions
475 on the use of marijuana by its residents or persons receiving inpatient services, including
476 that:

477 (1) The facility will not store or maintain the qualifying patient's supply of marijuana;

478 (2) The facility, caregivers, or hospice agencies serving the facility's residents are not
479 responsible for providing the marijuana for qualifying patients;

480 (3) Marijuana shall be consumed by a method other than smoking; and

481 (4) Marijuana shall be consumed only in a place specified by the facility.

(b) Nothing in this Code section requires a facility listed in subsection (a) of this Code section to adopt restrictions on the medical use of marijuana.

(c) A facility listed in subsection (a) of this Code section shall not unreasonably limit a registered qualifying patient's access to or use of marijuana authorized under this article unless failing to do so would cause such facility to lose a monetary or licensing related benefit under federal law or regulations.

43-34-128.

(a) A registered nonprofit medical marijuana dispensary shall be operated on a not-for-profit basis. The bylaws of a registered nonprofit medical marijuana dispensary shall contain such provisions relative to the disposition of revenues and receipts to establish and maintain its nonprofit character. A registered nonprofit medical marijuana dispensary need not be recognized as tax-exempt by the Internal Revenue Service and shall not be required to incorporate pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code.'

(b) The operating procedures of a registered nonprofit medical marijuana dispensary shall include procedures for the oversight of the registered nonprofit medical marijuana dispensary and procedures to ensure accurate record keeping.

(c) A registered nonprofit medical marijuana dispensary shall have a single secure entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(d) A registered nonprofit medical marijuana dispensary shall be prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the registered qualifying patients' designated caregivers.

(e) All cultivation of marijuana shall take place in an enclosed, locked facility at a physical address provided to the Department of Revenue during the registration process, and such facility shall be accessed only by registered nonprofit medical marijuana dispensary agents associated in the registry with the nonprofit medical marijuana dispensary.

(f) A registered nonprofit medical marijuana dispensary may acquire usable marijuana or marijuana plants from a registered qualifying patient or registered designated caregiver only if the registered qualifying patient or registered designated caregiver receives no compensation for the marijuana.

(g) A registered nonprofit medical marijuana dispensary shall not permit any person to consume marijuana on the property of such nonprofit medical marijuana dispensary.

(h) Registered nonprofit medical marijuana dispensaries are subject to reasonable inspection by the Department of Revenue. The Department of Revenue shall give reasonable notice of an inspection under this subsection.

43-34-128.1.

Cities, towns, and counties may enact reasonable zoning regulations that limit the use of land for registered nonprofit medical marijuana dispensaries to specified areas in the manner provided in Chapter 66 of Title 36, 'The Zoning Procedures Law.'

43-34-128.2.

(a) Before marijuana may be dispensed to a registered qualifying patient or registered designated caregiver, a nonprofit medical marijuana dispensary agent shall access the verification system and shall determine for whom the marijuana is intended and any registered designated caregiver transporting the marijuana to the registered qualifying patient and that:

(1) The registry identification card presented to the registered nonprofit medical marijuana dispensary agent is valid;

(2) Each person presenting a registry identification card is the person identified on the registry identification card presented to the nonprofit medical marijuana dispensary agent; and

(3) The amount to be dispensed would not cause the registered qualifying patient to exceed the allowable amount of marijuana during any 14 day period.

(b) After making the determinations required in subsection (a) of this Code section, but before dispensing marijuana to a registered qualifying patient or registered designated caregiver on a registered qualifying patient's behalf, a nonprofit medical marijuana dispensary agent shall enter the following information in the verification system:

(1) How much marijuana is being dispensed to the registered qualifying patient;

(2) Whether marijuana was dispensed directly to the registered qualifying patient or to the registered qualifying patient's registered designated caregiver;

(3) The date and time the marijuana was dispensed; and

(4) The registry identification card number of the nonprofit medical marijuana dispensary and of the nonprofit medical marijuana dispensary agent who dispensed the marijuana.

43-34-129.

(a) Within 120 days of the effective date of this article, the department and Department of Revenue shall establish a verification system.

(b) The verification system shall disclose:

(1) The name of the cardholder but shall not disclose the cardholder's address; and

(2) The amount of marijuana that each registered qualifying patient received from nonprofit medical marijuana dispensaries during the past 60 days.

(c) The verification system shall include the following data security features:

(1) Any time an authorized user enters five invalid registry identification numbers within five minutes, such user cannot log in to the system again for ten minutes;

(2) An authorized user's log-in information shall be deactivated after five incorrect log-in attempts until the authorized user contacts the Department of Revenue and verifies his or her identity; and

(3) The server shall reject any log-in request that is not over an encrypted connection.

43-34-130.

(a) A registered qualifying patient shall notify the department within 14 days of any change in his or her name, address, designated caregiver, or preference regarding who may cultivate marijuana plants for him or her or if he or she ceases to have his or her debilitating medical condition.

(b) A registered designated caregiver shall notify the department within 14 days of any change in his or her name or address.

(c) When a cardholder notifies the department of any changes listed in subsection (a) of this Code section but remains eligible under this article, the department shall issue the cardholder a new registry identification card with a new random 20 digit alphanumeric identification number within ten days of receiving the updated information and a fee to be determined by the department. If the cardholder notifying the department is a registered qualifying patient, the department shall also issue his or her registered designated caregiver, if any, a new registry identification card with a new random 20 digit alphanumeric identification number within ten days of receiving the updated information.

(d) If the registered qualifying patient's certifying physician notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the physician no longer believes the qualifying patient would receive therapeutic or palliative benefit from the medical use of marijuana, the registry identification card shall be void upon notification by the department to the qualifying patient.

(e) When a registered qualifying patient ceases to be a registered qualifying patient or changes registered designated caregiver, the department shall promptly notify the former designated caregiver that his or her duties and rights under this article as to that qualifying patient shall expire 15 days after notification by the department is sent.

587 (f) A registered qualifying patient or registered designated caregiver who fails to comply
588 with subsection (a) or (b) of this Code section shall be subject to a civil penalty of not more
589 than \$150.00.

590 43-34-130.1

591 (a) A nonprofit medical marijuana dispensary agent shall notify the Department of
592 Revenue within 14 days of any change in his or her name or address.

593 (b) When such cardholder notifies the Department of Revenue of any changes listed in
594 subsection (a) of this Code section but remains eligible under this article, the Department
595 of Revenue shall issue the cardholder a new registry identification card with a new random
596 20 digit alphanumeric identification number within ten days of receiving the updated
597 information and a fee to be determined by the Department of Revenue.

598 (c) A nonprofit medical marijuana dispensary agent who fails to comply with subsection
599 (a) of this Code section shall be subject to a civil penalty of not more than \$150.00.

600 43-34-131.

601 The department and the Department of Revenue shall submit to the General Assembly an
602 annual report that shall not disclose any identifying information about cardholders,
603 nonprofit medical marijuana dispensaries, or physicians but shall contain all of the
604 following information:

- 605 (1) The number of registry identification card applications and renewals;
606 (2) The number of qualifying patients and designated caregivers approved in each
607 county;
608 (3) The nature of the debilitating medical conditions of the qualifying patients;
609 (4) The number of registry identification cards revoked;
610 (5) The number of physicians providing written certifications for qualifying patients;
611 (6) The number of registered nonprofit medical marijuana dispensaries; and
612 (7) The number of nonprofit medical marijuana dispensary agents in each county.

613 43-34-132.

614 (a) The following information received and records kept by the department and the
615 Department of Revenue for purposes of administering this article shall be confidential, in
616 accordance with this Code section except as necessary for authorized employees of the
617 department and the Department of Revenue to perform official duties of the department and
618 the Department of Revenue pursuant to this article:

619 (1) Applications or renewals, their contents, and supporting information submitted by
620 qualifying patients and designated caregivers, including information regarding their
621 designated caregivers and physicians;

622 (2) Applications or renewals, their contents, and supporting information submitted by or
623 on behalf of nonprofit medical marijuana dispensaries in compliance with this article,
624 including the physical addresses of nonprofit medical marijuana dispensaries; and

625 (3) The individual names and other information identifying cardholders.

626 (b) Any dispensing information that is required to be kept under Code Section 43-34-128.2
627 or department or Department of Revenue regulations shall identify cardholders by their
628 registry identification numbers and shall not contain names or other personally identifying
629 information.

630 (c) Any department and Department of Revenue hard drive or other data recording media
631 that are no longer in use and that contain cardholder information shall be destroyed. The
632 department and the Department of Revenue shall retain a signed statement from a
633 department or Department of Revenue employee confirming the destruction.

634 (d) Data subject to this Code section shall not be combined or linked in any manner with
635 any other list or data base, and it shall not be used for any purpose not provided for in this
636 article.

637 (e) Nothing in this Code section precludes the following notifications:

638 (1) Department employees and Department of Revenue employees may notify law
639 enforcement about falsified or fraudulent information submitted to the department and
640 Department of Revenue if the employee who suspects that falsified or fraudulent
641 information has been submitted has conferred with his or her supervisor and both agree
642 that the circumstances warrant reporting;

643 (2) The department and the Department of Revenue may notify state or local law
644 enforcement about apparent criminal violations of this article if the employee who
645 suspects the offense has conferred with his or her supervisor and both agree that the
646 circumstances warrant reporting; and

647 (3) Nonprofit medical marijuana dispensary agents may notify the Department of
648 Revenue of a suspected violation or attempted violation of this article or Department of
649 Revenue rules.

650 (f) Nothing in this Code section precludes submission of the annual report to the General
651 Assembly under Code Section 43-34-131. Such annual report shall be subject to Article
652 4 of Chapter 18 of Title 50, relating to open records.

653 43-34-133.

654 (a)(1) There shall be a presumption that a qualifying patient or designated caregiver is
655 engaged in the medical use of marijuana pursuant to this article.

656 (2) The presumption exists if the qualifying patient or designated caregiver is:

657 (A) In possession of a registry identification card; and

658 (B) In possession of an amount of marijuana that does not exceed the allowable amount
659 of marijuana.

660 (3) The presumption may be rebutted by evidence that conduct related to marijuana was
661 not for the purpose of treating or alleviating the qualifying patient's debilitating medical
662 condition or symptoms associated with the qualifying patient's debilitating medical
663 condition pursuant to this article.

664 (b) A registered qualifying patient or registered designated caregiver shall not be subject
665 to arrest, prosecution or penalty in any manner, or denial of any right or privilege,
666 including any civil penalty or disciplinary action by a court or occupational or professional
667 licensing board or bureau:

668 (1) For the registered qualifying patient's medical use of marijuana pursuant to this
669 article if the registered qualifying patient does not possess more than the allowable
670 amount of marijuana;

671 (2) For the registered designated caregiver's assistance to a registered qualifying patient
672 to whom he or she is connected through the department's registration process with the
673 registered qualifying patient's medical use of marijuana pursuant to this article if the
674 registered designated caregiver does not possess more than the allowable amount of
675 marijuana; or

676 (3) For offering or providing marijuana to a registered qualifying patient or registered
677 designated caregiver for the registered qualifying patient's medical use or to a registered
678 nonprofit medical marijuana dispensary if nothing of value is transferred in return and the
679 person giving the marijuana does not knowingly cause the recipient to possess more than
680 the allowable amount of marijuana.

681 (c) A physician shall not be subject to arrest, prosecution, or penalty in any manner or
682 denied any right or privilege, including but not limited to civil penalty or disciplinary
683 action by the Georgia Composite Medical Board or by any other business, occupational,
684 or professional licensing board or bureau, based solely on providing written certifications
685 or for otherwise stating that, in the physician's professional opinion, a qualifying patient
686 is likely to receive therapeutic or palliative benefit from the medical use of marijuana to
687 treat or alleviate the qualifying patient's debilitating medical condition or symptoms
688 associated with the debilitating medical condition, but nothing in this article shall prevent
689 a professional licensing board from sanctioning a physician for failing to properly evaluate

a qualifying patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(d) No person shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

(1) Providing a registered qualifying patient, registered designated caregiver, or registered nonprofit medical marijuana dispensary with marijuana paraphernalia for purposes of a qualifying patient's medical use of marijuana;

(2) Being in the presence or vicinity of the medical use of marijuana authorized under this article; or

(3) Assisting a registered qualifying patient with administering marijuana as authorized by this article.

(e) A registered nonprofit medical marijuana dispensary shall not be subject to prosecution, search, inspection, except by the Department of Revenue pursuant to subsection (h) of Code Section 43-34-128, seizure, or penalty in any manner and shall not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this article and department or Department of Revenue regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, or dispense marijuana or related supplies and educational materials to registered qualifying patients, registered designated caregivers on behalf of registered qualifying patients, or other registered nonprofit medical marijuana dispensaries.

(f) A registered nonprofit medical marijuana dispensary agent shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner and shall not be denied any right or privilege, including civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, for working or volunteering for a registered nonprofit medical marijuana dispensary pursuant to this article and Department of Revenue regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, or dispense marijuana or related supplies and educational materials to registered qualifying patients, registered designated caregivers on behalf of registered qualifying patients, or other registered nonprofit medical marijuana dispensaries.

(g) Property, including all interests in the property, otherwise subject to forfeiture under Code Section 16-13-49 that is possessed, owned, or used in connection with the medical use of marijuana authorized under this article or acts incidental to the medical use of marijuana authorized under this article shall not be subject to seizure or forfeiture. This subsection shall not prevent civil forfeiture if the basis for the forfeiture is unrelated to the medical use of marijuana.

(h) Mere possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

(i) No school, landlord, or employer shall be penalized or denied any benefit under state law for enrolling, leasing to, or employing a registered qualifying patient or registered designated caregiver.

43-34-134.

(a) No school or landlord shall refuse to enroll or lease to and shall not otherwise penalize a person solely for his or her status as a cardholder unless failing to do so would cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

(b) Unless a failure to do so would cause an employer to lose a monetary or licensing related benefit under federal law or regulations, an employer shall not discriminate against a person in hiring, terminating, or imposing any term or condition of employment or otherwise penalize a person based upon either:

(1) The person's status as a cardholder; or

(2) A registered qualifying patient's positive drug test for marijuana components or metabolites, unless the qualifying patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

(c) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana shall be considered the equivalent of the use of any other medication under the direction of a physician and shall not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

(d) No person shall be denied custody of or visitation or parenting time with a minor, and there shall be no presumption of neglect or child endangerment, for conduct allowed under this article, unless the person's behavior creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

43-34-135.

(a) Nothing in this article shall require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana;

(2) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in such property; or

(3) An employer to allow the ingestion of marijuana in any workplace or any employee to work while under the influence of marijuana, provided that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

(b) Nothing in this article shall prohibit an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

43-34-136.

(a) The Department of Revenue shall immediately revoke the registry identification card of a nonprofit medical marijuana dispensary agent who violates subsection (d) of Code Section 43-34-125.2 or subsection (b) of Code Section 43-34-137. The Department of Revenue shall suspend or revoke the registry identification card of a nonprofit medical marijuana dispensary agent for other violations of this article.

(b) The Department of Revenue shall immediately revoke the registration certificate of a registered nonprofit medical marijuana dispensary that violates subsection (b) or (c) of Code Section 43-34-137, and its board members and principal officers shall not serve as the board members or principal officers for any other registered nonprofit medical marijuana dispensary.

(c) Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this article shall have his or her registry identification card revoked and shall be subject to other penalties for the unauthorized sale of marijuana and other applicable offenses.

(d) The department or Department of Revenue may revoke the registry identification card of any cardholder who knowingly violates this article, and the cardholder shall be subject to other penalties for the applicable offense.

(e) Revocation under this Code section is a final decision of the department or the Department of Revenue subject to judicial review pursuant to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

43-34-137.

(a) A registered qualifying patient shall not directly, or through his or her designated caregiver, obtain more than two ounces of marijuana from registered nonprofit medical marijuana dispensaries in any 14 day period.

(b) A registered nonprofit medical marijuana dispensary or registered nonprofit medical marijuana dispensary agent shall not dispense, deliver, or otherwise transfer marijuana to

a person other than another registered nonprofit medical marijuana dispensary, a registered qualifying patient, or a registered qualifying patient's registered designated caregiver.

(c) A registered nonprofit medical marijuana dispensary shall not acquire usable marijuana or mature marijuana plants from any person other than another registered nonprofit medical marijuana dispensary, a registered qualifying patient, or a registered designated caregiver.

A knowing violation of this subsection shall be a Class II felony.

(d) It shall be a Class I misdemeanor for any person, including an employee or official of the department, the Department of Revenue, or another state agency or local government, to breach the confidentiality of information obtained pursuant to this article.

(e) Making false statements to a law enforcement official about any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is subject to a civil penalty of not more than \$500.00, which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this article.

43-34-138.

(a) All fees received and civil penalties imposed under this article shall be deposited in the state treasury in accordance with Part 1 of Article 4 of Chapter 12 of Title 45, the 'Budget Act.' The General Assembly declares its intent to appropriate for the purposes of funding this article each fiscal year an amount equal to that generated by the prior year's fees and civil penalties as provided for in this article. In accordance with Article III, Section IX, Paragraph IV(c) of the Constitution of Georgia, all unexpended funds shall lapse to the general fund of the state treasury.

(b) The department and the Department of Revenue may accept private grants, gifts, donations, contributions, and devises to assist in carrying out the provisions of this article.

43-34-139.

(a) If the department or the Department of Revenue fails to issue a registry identification card within 45 days of the submission of a valid application or renewal, the registry identification card shall be deemed issued, and a copy of the registry identification card application or renewal shall be deemed a valid registry identification card.

(b) If at any time after the 120 days following the effective date of this article the department is not accepting applications or has not promulgated rules allowing qualifying patients to submit applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to paragraph (3) of subsection (a) of Code Section 43-34-126, together with a written certification issued by a physician within the 90

829 days immediately preceding the notarized statement, shall be deemed a valid registry
830 identification card.

831 43-34-139.1.

832 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
833 verdict of guilty or plea of guilty or nolo contendere with regard to any crime regardless
834 of whether an appeal of the conviction has been sought.

835 (b) The department shall be authorized to obtain conviction data with respect to each
836 person applying as a designated caregiver as authorized in this Code section. The
837 department shall submit to the Georgia Crime Information Center two complete sets of
838 fingerprints of the applicant for appointment or employment, the required records search
839 fees, and such other information as may be required. Upon receipt of such material, the
840 Georgia Crime Information Center shall promptly forward one set of fingerprints to the
841 Federal Bureau of Investigation for a search of bureau records and the preparation of an
842 appropriate report concerning such records search and shall retain the other set and
843 promptly conduct a search of its own records and all records to which the center has access.
844 The Georgia Crime Information Center shall notify the department in writing of any
845 derogatory finding, including, but not limited to, any conviction data regarding the
846 fingerprint records check or if there is no such finding. All conviction data received by the
847 department shall not be a public record, shall be privileged, and shall not be disclosed to
848 any other person or agency except as provided in this Code section and except to any
849 person or agency that otherwise has a legal right to inspect the employment file. All such
850 records shall be maintained by the department pursuant to the laws regarding such records
851 and the rules and regulations of the Federal Bureau of Investigation and the Georgia Crime
852 Information Center, as applicable.

853 (c) The Department of Revenue shall be authorized to obtain conviction data with respect
854 to each person applying as a nonprofit medical marijuana dispensary agent as authorized
855 in this Code section. The Department of Revenue shall submit to the Georgia Crime
856 Information Center two complete sets of fingerprints of the applicant for appointment or
857 employment, the required records search fees, and such other information as may be
858 required. Upon receipt of such material, the Georgia Crime Information Center shall
859 promptly forward one set of fingerprints to the Federal Bureau of Investigation for a search
860 of bureau records and the preparation of an appropriate report concerning such records
861 search and shall retain the other set and promptly conduct a search of its own records and
862 all records to which the center has access. The Georgia Crime Information Center shall
863 notify the Department of Revenue in writing of any derogatory finding, including, but not
864 limited to, any conviction data regarding the fingerprint records check or if there is no such

865 finding. All conviction data received by the Department of Revenue shall not be a public
866 record, shall be privileged, and shall not be disclosed to any other person or agency except
867 as provided in this Code section and except to any person or agency that otherwise has a
868 legal right to inspect the employment file. All such records shall be maintained by the
869 Department of Revenue pursuant to the laws regarding such records and the rules and
870 regulations of the Federal Bureau of Investigation and the Georgia Crime Information
871 Center, as applicable.
872 (d) The department and the Department of Revenue shall promulgate rules and regulations
873 as are necessary to implement and effectuate the provisions of this Code section."

874 **SECTION 2.**

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