

SENATE SUBSTITUTE TO HB 1:

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
 2 public health and morals, so as to provide for the possession of low THC oil under certain
 3 circumstances; to provide for definitions; to provide for penalties; to amend Title 31 of the
 4 Official Code of Georgia Annotated, relating to health, so as to create a registration within
 5 the Department of Public Health for individuals or caregivers who are authorized to possess
 6 low THC oil; to define certain terms; to provide for registration cards; to provide for
 7 procedure; to create the Georgia Commission on Medical Cannabis; to provide for
 8 membership, procedures, duties, and responsibilities; to provide for an automatic repeal of
 9 the commission; to allow the Board of Regents of the University System of Georgia to create
 10 or work with others to create a research program using low THC oil in treating certain
 11 residents of this state who have medication-resistant epilepsies; to provide for permits to be
 12 issued to program participants and others; to provide for automatic repeal of the research
 13 program; to amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating
 14 to general provisions of torts, so as to provide for limited liability for health care institutions
 15 and health care providers that permit the possession, administration, or use of low THC oil
 16 by an individual or caregiver on their premises in accordance with the laws of this state; to
 17 provide for a short title; to provide for related matters; to provide for an effective date; to
 18 repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **PART I**

21 **SECTION 1-1.**

22 This Act shall be known and may be cited as the "Haleigh's Hope Act."

23 **SECTION 1-2.**

24 Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against
25 public health and morals, is amended by adding a new article to read as follows:

26 "ARTICLE 8

27 16-12-190.

28 As used in this article, the term 'low THC oil' means an oil that contains not more than 5
29 percent by weight of tetrahydrocannabinol and an amount of cannabidiol equal to or greater
30 than the amount of tetrahydrocannabinol.

31 16-12-191.

32 (a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
33 person to possess or have under his or her control 20 fluid ounces or less of low THC oil
34 if:

35 (A) Such person is registered with the Department of Public Health as set forth in
36 Code Section 31-2A-18;

37 (B) Such person has in his or her possession a registration card issued by the
38 Department of Public Health; and

39 (C) Such substance is in a pharmaceutical container labeled by the manufacturer
40 indicating the percentage of tetrahydrocannabinol therein.

41 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses
42 or has under his or her control 20 fluid ounces or less of low THC oil without complying
43 with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished
44 as for a misdemeanor.

45 (b)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any
46 person to possess or have under his or her control 20 fluid ounces or less of low THC oil
47 if:

48 (A) Such person is involved in a clinical research program being conducted by the
49 Board of Regents of the University System of Georgia or any authorized clinical trial
50 or research study in this state or their authorized agent pursuant to Chapter 51 of Title
51 31 as:

52 (i) A program participant;

53 (ii) A parent, guardian, or legal custodian of a program participant;

54 (iii) An employee of the board of regents designated to participate in the research
55 program;

56 (iv) A program agent;

- 57 (v) A program collaborator and their designated employees;
 58 (vi) A program supplier and their designated employees;
 59 (vii) A program physician;
 60 (viii) A program clinical researcher;
 61 (ix) Program pharmacy personnel; or
 62 (x) Other program medical personnel;
 63 (B) Such person has in his or her possession a permit issued as provided in Code
 64 Section 31-51-7; and
 65 (C) Such substance is in a pharmaceutical container labeled by the manufacturer
 66 indicating the percentage of tetrahydrocannabinol therein.
 67 (2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses
 68 or has under his or her control 20 fluid ounces or less of low THC oil without complying
 69 with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished
 70 as for a misdemeanor.
 71 (c) Notwithstanding any provision of Chapter 13 of this title, any person having possession
 72 of or under his or her control more than 20 fluid ounces of low THC oil but less than 160
 73 fluid ounces of low THC oil or who manufactures, distributes, dispenses, sells, or possesses
 74 with the intent to distribute low THC oil shall be guilty of a felony, and upon conviction
 75 thereof, shall be punished by imprisonment for not less than one nor more than ten years,
 76 a fine not to exceed \$50,000.00, or both.
 77 (d) Notwithstanding any provision of Chapter 13 of this title, any person who sells,
 78 manufactures, delivers, brings into this state, or has possession of 160 or more fluid ounces
 79 of low THC oil shall be guilty of the felony offense of trafficking in low THC oil and, upon
 80 conviction thereof, shall be punished as follows:
 81 (1) If the quantity of low THC oil is at least 160 fluid ounces but less than 31,000 fluid
 82 ounces, by imprisonment for not less than five years nor more than ten years and a fine
 83 not to exceed \$100,000.00;
 84 (2) If the quantity of low THC oil is at least 31,000 fluid ounces but less than 154,000
 85 fluid ounces, by imprisonment for not less than seven years nor more than 15 years and
 86 a fine not to exceed \$250,000.00; and
 87 (3) If the quantity of low THC oil is 154,000 or more fluid ounces, by imprisonment for
 88 not less than ten years nor more than 20 years and a fine not to exceed \$1 million.
 89 (e) Subsections (c) and (d) of this Code section shall not apply to a person involved in a
 90 research program being conducted by the Board of Regents of the University System of
 91 Georgia or its authorized agent pursuant to Chapter 51 of Title 31 as an employee of the
 92 board of regents designated to participate in such program, a program agent, a program
 93 collaborator and their designated employees, a program supplier and their designated

94 employees, a physician, clinical researcher, pharmacy personnel, or other medical
 95 personnel, provided that such person has in his or her possession a permit issued as
 96 provided in Code Section 31-5-7 and such possession, sale, manufacturing, distribution,
 97 or dispensing is solely for the purposes set forth in Chapter 51 of Title 31.

98 (f) Nothing in this article shall require an employer to permit or accommodate the use,
 99 consumption, possession, transfer, display, transportation, sale, or growing of marijuana
 100 in any form, or to affect the ability of an employer to have a written zero tolerance policy
 101 prohibiting the on-duty, and off-duty, use of marijuana, or prohibiting any employee from
 102 having a detectable amount of marijuana in such employee's system while at work."

103 PART II

104 SECTION 2-1.

105 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Chapter
 106 2A, relating to the Department of Public Health, by adding a new Code section to read as
 107 follows:

108 "31-2A-18.

109 (a) As used in this Code section, the term:

110 (1) 'Board' means the Georgia Composite Medical Board.

111 (2) 'Caregiver' means the parent, guardian, or legal custodian of an individual who is less
 112 than 18 years of age or the legal guardian of an adult.

113 (3) 'Condition' means:

114 (A) Cancer, when such diagnosis is end stage or the treatment produces related wasting
 115 illness, recalcitrant nausea and vomiting;

116 (B) Amyotrophic lateral sclerosis, when such diagnosis is severe or end stage;

117 (C) Seizure disorders related to diagnosis of epilepsy or trauma related head injuries;

118 (D) Multiple sclerosis, when such diagnosis is severe or end stage;

119 (E) Crohn's disease;

120 (F) Mitochondrial disease;

121 (G) Parkinson's disease, when such diagnosis is severe or end stage; or

122 (H) Sickle cell disease, when such diagnosis is severe or end stage.

123 (4) 'Department' means the Department of Public Health.

124 (5) 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

125 (6) 'Physician' means an individual licensed to practice medicine pursuant to Article 2
 126 of Chapter 34 of Title 43.

127 (7) 'Registry' means the Low THC Oil Patient Registry.

128 (b) There is established within the department the Low THC Oil Patient Registry.

129 (c) The purpose of the registry is to provide a registration of individuals and caregivers
130 who have been issued registration cards. The department shall establish procedures and
131 promulgate rules and regulations for the establishment and operation of the registration
132 process and dispensing of registry cards to individuals and caregivers. Only individuals
133 residing in this state for at least one year or a child born in this state less than one year old
134 shall be eligible for registration under this Code section. Nothing in this Code section shall
135 apply to any Georgia residents living temporarily in another state for the purpose of
136 securing THC oil for treatment of any condition under this Code section.

137 (d) The department shall issue a registration card to individuals and caregivers as soon as
138 practicable but no later than September 1, 2015, when an individual has been certified to
139 the department by his or her physician as being diagnosed with a condition and has been
140 authorized by such physician to use low THC oil as treatment for such condition. The
141 board shall establish procedures and promulgate rules and regulations to assist physicians
142 in providing required uniform information relating to certification and any other matter
143 relating to the issuance of certifications. In promulgating such rules and regulations, the
144 board shall require that physicians have a doctor-patient relationship when certifying an
145 individual as needing low THC oil and physicians shall be required to be treating an
146 individual for the specific condition requiring such treatment.

147 (e) The board shall require physicians to issue quarterly reports to the board. Such reports
148 shall require physicians to provide information, including, but not limited to, dosages
149 recommended for a particular condition, clinical responses, compliance, responses to
150 treatment, side effects, and drug interactions.

151 (f) Information received and records kept by the department for purposes of administering
152 this Code section shall be confidential; provided, however, that such information shall be
153 disclosed:

154 (1) Upon written request of an individual or caregiver registered pursuant to this Code
155 section; and

156 (2) To peace officers and prosecuting attorneys for the purpose of:

157 (A) Verifying that an individual in possession of a registration card is registered
158 pursuant to this Code section; or

159 (B) Determining that an individual in possession of low THC oil is registered pursuant
160 to this Code section.

161 (g) The board shall develop a waiver form that will advise that the use of cannabinoids and
162 THC containing products have not been approved by the FDA and the clinical benefits are
163 unknown and may cause harm. Any patient or caregiver shall sign such waiver prior to his
164 or her approval for registration."

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PART III

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SECTION 3-1.

167 Said title is further amended by adding a new chapter to read as follows:

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"CHAPTER 50

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31-50-1.

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(a) There is created the Georgia Commission on Medical Cannabis.

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(b) As used in this chapter, the term 'commission' means the Georgia Commission on

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Medical Cannabis.

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31-50-2.

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(a) The commission shall consist of 17 members. The commissioner of public health, the

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director of the Georgia Bureau of Investigation, the director of the Georgia Drugs and

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Narcotics Agency, the commissioner of agriculture, the chairperson of the Georgia

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Composite Medical Board, and the Governor's executive counsel shall be permanent

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members of the commission. The permanent members of the commission may designate

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another individual to serve in his or her stead. The remaining members of the commission

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shall be appointed by the Governor on or before July 1, 2015. The remaining members

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shall be:

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(1) Two members of the Senate;

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(2) Two members of the House of Representatives;

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(3) A board certified hematologist-oncologist;

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(4) A board certified neurologist;

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(5) A board certified gastroenterologist;

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(6) A board certified pharmacist;

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(7) An attorney employed by the Prosecuting Attorneys' Council of the State of Georgia

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or a prosecuting attorney;

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(8) A sheriff; and

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(9) A police chief.

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(b) In the event of death, resignation, disqualification, or removal for any reason of any

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member of the commission, the vacancy shall be filled in the same manner as the original

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appointment, and the successor shall serve for the unexpired term.

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(c) Membership on the commission shall not constitute public office, and no member shall

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be disqualified from holding public office by reason of his or her membership.

197 (d) The Governor shall designate a chairperson of the commission from among the
 198 members, which chairperson shall serve in that position at the pleasure of the Governor.
 199 The chairperson shall only vote to break a tie. The commission may elect such other
 200 officers and committees as it considers appropriate.

201 (e) The commission, with the approval of the Governor, may employ such professional,
 202 technical, or clerical personnel as deemed necessary to carry out the purposes of this
 203 chapter. The commission may create committees from among its membership as well as
 204 appoint other persons to serve in an advisory capacity to the commission in implementing
 205 this chapter.

206 (f) The commission shall be attached for administrative purposes only to the Department
 207 of Public Health in accordance with Code Section 50-4-3. The Department of Public
 208 Health may use any funds specifically appropriated to it to support the work of the
 209 commission.

210 31-50-3.

211 (a) The commission may conduct meetings at such places and times as it deems necessary
 212 or convenient to enable it to exercise fully and effectively its powers, perform its duties,
 213 and accomplish the objectives and purposes of this chapter. The commission shall hold
 214 meetings at the call of the chairperson.

215 (b) A quorum for transacting business shall be a majority of the members of the
 216 commission.

217 (c) Any legislative members of the commission shall receive the allowances provided for
 218 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the
 219 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or
 220 transportation allowance authorized for state employees. Members of the commission who
 221 are state officials, other than legislative members, or state employees shall receive no
 222 compensation for their services on the commission, but shall be reimbursed for expenses
 223 incurred in the performance of their duties as members of the commission in the same
 224 manner as reimbursements are made in their capacity as state officials or state employees.
 225 The funds necessary for the reimbursement of the expenses of state officials, other than
 226 legislative members, and state employees shall come from funds appropriated to or
 227 otherwise available to their respective departments.

228 31-50-4.

229 (a) The commission shall have the following duties:

230 (1) To establish comprehensive recommendations regarding the potential regulation of
 231 medical cannabis in this state. Such recommendations shall include, without limitations,

232 specification of the department or departments to have responsibility for the oversight of
 233 a state-sanctioned system related to medical cannabis. A detailed report, which shall be
 234 submitted no later than December 31, 2015, including a review of the conditions, needs,
 235 issues, and problems related to medical cannabis and any recommended action or
 236 proposed legislation which the commission deems necessary or appropriate shall be
 237 provided to the executive counsel of the Governor, the Office of Planning and Budget,
 238 and the chairpersons of the House Committee on Appropriations, the Senate
 239 Appropriations Committee, the House Committee on Judiciary, Non-civil, the Senate
 240 Judiciary, Non-civil Committee, the House Committee on Health and Human Services,
 241 and the Senate Health and Human Services Committee; and

242 (2) To evaluate and consider the best practices, experiences, and results of legislation in
 243 other states with regard to medical cannabis.

244 (b) The commission shall have the following powers:

245 (1) To evaluate how the laws and programs affecting medical cannabis should operate
 246 in this state;

247 (2) To request and receive data from and review the records of appropriate state agencies
 248 to the greatest extent allowed by state and federal law;

249 (3) To authorize entering into contracts or agreements through the commission's
 250 chairperson necessary or incidental to the performance of its duties;

251 (4) To establish rules and procedures for conducting the business of the commission; and

252 (5) To conduct studies, hold public meetings, collect data, or take any other action the
 253 commission deems necessary to fulfill its responsibilities.

254 (c) Subject to the availability of funds, the commission shall be authorized to retain the
 255 services of attorneys, consultants, subject matter experts, economists, budget analysts, data
 256 analysts, statisticians, and other individuals or organizations as determined appropriate by
 257 the commission.

258 31-50-5.

259 This chapter shall stand repealed on June 30, 2016."

260 **PART IV**

261 **SECTION 4-1.**

262 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
 263 a new chapter to read as follows:

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"CHAPTER 51265 31-51-1.266 (a) As used in this chapter, the term 'low THC oil' shall have the same meaning as set forth
267 in Code Section 16-12-190.268 (b) The Board of Regents of the University System of Georgia may cause to be designed,
269 developed, implemented, and administered a low THC oil research program to develop
270 rigorous data that will inform and expand the scientific community's understanding of
271 potential treatments for individuals under 18 years of age with medication-resistant
272 epilepsies.273 (c) Any such program shall adhere to the regulatory process established by the federal
274 Food, Drug, and Cosmetic Act, as well as other federal laws and regulations governing the
275 development of new medications containing controlled substances.276 (d) Any universities and nonprofit institutions of higher education that conduct research
277 may continue any research that is permitted under federal law as well as any additional
278 research is permitted under this chapter.279 31-51-2.280 To the extent permissible under this chapter, any research program developed pursuant to
281 this chapter shall be designed to permit the voluntary enrollment of all individuals under
282 18 years of age having medication-resistant epilepsies who are residents of this state and
283 who:284 (1) Have been residents of this state for the 24 month period immediately preceding their
285 entry into the program; or286 (2) Have been residents of this state continuously since birth if they are less than 24
287 months old at the time of their entry into the program.288 31-51-3.289 (a) For purposes of this chapter, the board of regents may act through a unit of the
290 University System of Georgia, a nonprofit corporation research institute, or a nonprofit
291 institution of higher education that conducts research, or any combination thereof.292 (b) Any nonprofit corporation research institute approved by the board of regents to
293 participate in the research program established under this chapter shall be required to have
294 the necessary experience, expertise, industry standards and security procedures, and
295 infrastructure to implement such research in accordance with accepted scientific and
296 regulatory standards.

297 (c) The board of regents and its authorized agent may enter into such agreements, among
298 themselves and with other parties, as are reasonable and necessary to implement the
299 provisions of this chapter.

300 31-51-4.

301 (a) The board of regents or its authorized agent may designate an FDA approved supplier
302 of low THC oil and collaborate with a designated supplier to develop a clinical trial or
303 research study protocol to study the use of low THC oil in the treatment of individuals
304 under 18 years of age with medication-resistant epilepsies, which trial or research study
305 shall be conducted at one or more locations in this state. Such supplier shall be required
306 to supply a source of low THC oil that has been standardized and tested in keeping with
307 such standards.

308 (b) The board of regents or its authorized agent shall work with any supplier of low THC
309 oil to commit personnel and other resources to such collaboration and to supply low THC
310 oil for a collaborative study under reasonable terms and conditions to be agreed upon
311 mutually.

312 31-51-5.

313 Any public record, as defined by Code Section 50-18-70, produced pursuant to this chapter
314 shall be exempt from disclosure to the extent provided by Code Section 50-18-72.

315 31-51-6.

316 All activities undertaken pursuant to this chapter shall be subject to availability of funds
317 appropriated to the board of regents or to any other academic or research institution or
318 otherwise made available for purposes of this chapter.

319 31-51-7.

320 (a)(1) Research program participants and their parents, guardian, or legal custodian,
321 employees of the board of regents designated to participate in the research program,
322 program agents and collaborators and their designated employees, and program suppliers
323 of low THC oil and their designated employees shall be immune from state prosecution
324 as provided in Code Section 16-12-191.

325 (2) Physicians, clinical researchers, pharmacy personnel, and all medical personnel in
326 the research program authorized by this chapter shall be immune from state prosecution
327 as provided in Code Section 16-12-191.

328 (b) For purposes of providing proof of research program participation, the board of regents
329 or its agent which administers the research program authorized by this chapter shall provide

330 appropriate permits, suitable for carrying on their persons or display, as applicable, to
 331 research program participants and their parents, guardian, or legal custodian, employees
 332 of the board of regents designated to participate in the research program, program agents
 333 and collaborators and their designated employees, program suppliers of low THC oil and
 334 their designated employees, physicians, clinical researchers, pharmacy personnel, and all
 335 medical personnel in the program.

336 31-51-8.

337 The board of regents may establish fees for program participants in such amounts as are
 338 reasonable to offset program costs.

339 31-51-9.

340 The board of regents may adopt such rules and regulations as are reasonable and necessary
 341 for purposes of this chapter.

342 31-51-10.

343 This chapter shall stand repealed on July 1, 2020."

344 **PART V**
 345 **SECTION 5-1.**

346 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
 347 provisions of torts, is amended by adding a new Code section to read as follows:

348 "51-1-29.6.

349 (a) As used in this Code section, the term:

350 (1) 'Caregiver' shall have the same meaning as set forth in Code Section 31-2A-18.

351 (2) 'Health care institution' shall have the same meaning as set forth in Code Section
 352 51-1-29.5.

353 (3) 'Health care provider' means any person licensed, certified, or registered under
 354 Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title 43 or Chapter 4 of
 355 Title 26.

356 (4) 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

357 (b) A health care institution shall not be subject to any civil liability, penalty, licensing
 358 sanction, or other detrimental action and a health care provider shall not be subject to any
 359 civil liability, penalty, denial of a right or privilege, disciplinary action by a professional
 360 licensing board, or other detrimental action for allowing an individual or caregiver to
 361 possess, administer, or use low THC oil on the premises of a health care institution or

362 offices of a health care provider provided that the possession of such substance is in
363 accordance with the laws of this state."

364 **PART VI**

365 **SECTION 6-1.**

366 This Act shall become effective upon its approval by the Governor or upon its becoming law
367 without such approval.

368 **SECTION 6-2.**

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