**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4037**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Horne, King, McCoy, G.A. Brown, Hill and Putnam

Document Path: l:\council\bills\bh\26285vr15.docx

Companion/Similar bill(s): 672

Introduced in the House on April 22, 2015

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Medical Marijuana Program Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/22/2015 House Introduced and read first time ([House Journal‑page 17](file:///h:\HJ%20Archive\2015\04-22-15.docx))

4/22/2015 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 17](file:///h:\HJ%20Archive\2015\04-22-15.docx))

2/2/2016 House Member(s) request name added as sponsor: McCoy

4/19/2016 House Member(s) request name added as sponsor: G.A.Brown

5/4/2016 House Member(s) request name added as sponsor: Hill, Putnam

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**VERSIONS OF THIS BILL**

[4/22/2015](file:///p:\pprever\2015-16\4037_20150422.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “SOUTH CAROLINA MEDICAL MARIJUANA PROGRAM ACT” BY ADDING ARTICLE 20 TO CHAPTER 53, TITLE 44 SO AS TO AUTHORIZE THE PALLIATIVE USE OF MARIJUANA BY CERTAIN INDIVIDUALS WITH CERTAIN DISEASES AND MEDICAL CONDITIONS; TO AUTHORIZE CERTAIN INDIVIDUALS TO ACT AS DESIGNATED CAREGIVERS IN ORDER TO ASSIST QUALIFYING PATIENTS WITH THE PALLIATIVE USE OF MARIJUANA; TO AUTHORIZE CERTAIN MEDICAL PROVIDERS TO RECOMMEND THE PALLIATIVE USE OF MARIJUANA UNDER CERTAIN CONDITIONS; TO CREATE A CONFIDENTIAL REGISTRY THROUGH WHICH TO ISSUE IDENTIFICATION CARDS TO REGISTERED PATIENTS AND REGISTERED CAREGIVERS; TO PROVIDE CERTAIN DEFENSES AND OTHER PROTECTIONS TO, AMONG OTHERS, REGISTERED PATIENTS, REGISTERED CAREGIVERS, MEDICAL PROVIDERS, LICENSED DISPENSARY AGENTS, LICENSED GROWERS, AGENTS OF LICENSED PROCESSORS, AGENTS OF CERTIFIED REVERSE DISTRIBUTORS, AND AGENTS OF CERTIFIED LABORATORY TESTING FACILITIES; TO PROVIDE FOR THE OPERATION OF DISPENSARIES, PROCESSORS, AND GROWERS TO CULTIVATE, GROW, AND DISPENSE MARIJUANA FOR PALLIATIVE PURPOSES; TO PROVIDE FOR THE CERTIFICATION OF REVERSE DISTRIBUTORS TO ENSURE SAFE DISPOSAL PRACTICES; TO PROVIDE FOR THE DEVELOPMENT OF A SEED‑TO‑SALE ELECTRONIC MONITORING SYSTEM TO TRACK MARIJUANA COMPONENTS FROM CULTIVATION TO POINT OF SALE; TO REQUIRE TESTING OF MARIJUANA PRODUCTS BEFORE SALE TO PROTECT PATIENT HEALTH; TO PROVIDE FOR CERTIFICATION OF TESTING LABORATORIES; TO ESTABLISH CERTAIN FEES; TO CREATE CRIMINAL PENALTIES FOR VIOLATING THE TERMS OF THE ARTICLE; AND FOR OTHER PURPOSES; AND TO REPEAL ARTICLE 4, CHAPTER 53, TITLE 44 RELATING TO CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH.

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

SECTION 1. Chapter 53, Title 44 of the 1976 Code is amended by adding:

“Article 20

South Carolina Medical Marijuana Program

Section 44‑53‑2010. As used in this article:

(1) ‘Batch’ means a lot or combination of lots that are converted by a licensed processor into a concentrated form such as oil.

(2) ‘Cultivation’ means planting, propagating, cultivating, growing, and harvesting.

(3) ‘Department’ means the South Carolina Department of Health and Environmental Control.

(4) ‘Designated caregiver’ means a person who possesses a valid registry identification card issued pursuant to Section 44‑53‑2090 authorizing the person to assist a qualifying patient with the palliative use of marijuana.

(5) ‘Director’ means the Director of the South Carolina Department of Health and Environmental Control.

(6) ‘Diversion’ means the obtaining or transferring of marijuana from a legal use or possession to an illegal use or possession by a person not authorized to use or possess marijuana pursuant to this article.

(7) ‘Divert’ means an act that constitutes diversion.

(8) ‘Edible forms of marijuana’ means food items made with marijuana or infused with marijuana oils.

(9) ‘Licensed dispensary’ or ‘dispensary’ means a for‑profit or nonprofit corporation incorporated under the laws of this State and licensed pursuant to Section 44‑53‑2180.

(10) ‘Licensed dispensary agent’ or ‘dispensary agent’ means a person licensed as a dispensary agent pursuant to Section 44‑53‑2170.

(11) ‘Licensed grower’ or ‘grower’ means a person or for‑profit or nonprofit corporation incorporated under the laws of this State and licensed as a grower pursuant to Section 44‑53‑2190.

(12) ‘Licensed processor’ means a for‑profit or nonprofit corporation incorporated under the laws of this State and licensed to process marijuana into a concentrated form such as oil pursuant to Section 44‑53‑2185.

(13) ‘Lot’ means a plant or group of plants of the same strain harvested on the same day.

(14) ‘Marijuana’ means all parts of any plant of the cannabis genus of plants, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. ‘Marijuana’ does not mean the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of a mature stalk, except the resin extracted from the plant; and the fiber, oil, or cake, or the sterilized seeds of the plant which are incapable of germination.

(15) ‘Medical recommendation’ means the written documentation submitted by a provider to a patient with whom the provider has a provider‑patient relationship for the purpose of obtaining a registry identification card from the department verifying that the patient is a qualifying patient that could benefit from the palliative use of marijuana.

(16) ‘Organically grown marijuana’ means marijuana that is grown without the use of synthetic fertilizers or synthetic pesticides and not modified by synthetic growth regulators.

(17) ‘Palliative use’ means the acquisition, possession, cultivation, preparation, use, delivery, transfer, or distribution of marijuana or paraphernalia relating to marijuana, including the transfer of marijuana and paraphernalia relating to marijuana from the patient’s designated caregiver to the qualifying patient, to alleviate a qualifying patient’s symptoms of a qualifying medical condition or the effects of symptoms, but does not include use of marijuana by a person other than the qualifying patient.

(18) ‘Paraphernalia related to marijuana’ means equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, storing, containing or concealing, or ingesting, inhaling, or otherwise introducing into the human body, any marijuana for palliative use.

(19) ‘Provider’ means a physician licensed to prescribe drugs pursuant to Chapter 47, Title 40 and who possesses a registration from the United States Drug Enforcement Administration to prescribe controlled substances.

(20) ‘Provider‑patient relationship’ means a provider‑patient treatment relationship as part of which the provider has conducted an in‑person exam and taken a medical history of, provided a diagnosis to, and recommended a treatment plan for a patient relating to a qualifying medical condition.

(21) ‘Qualifying medical condition’ means:

(a) cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C currently receiving antiviral treatment, amyotrophic lateral sclerosis, muscular dystrophy, severe fibromyalgia, arachnoiditis , tarlov cysts, hydromyelia, syringomyelia, rheumatoid arthritis, fibrous dysplasia, Arnold‑chiari malformation and syringomyelia, spinocerebellar ataxia, Parkinson’s disease, Tourette syndrome, myoclonus, dystonia, reflex sympathetic dystrophy, complex regional pain syndromes type I and type II, causalgia, neurofibromatosis, chronic inflammatory demyelinating polyneuropathy, Sjogren’s syndrome, lupus, autism spectrum disorder, interstitial cystitis, myasthenia graves, hydrocephalus, nail‑patella syndrome, residual limb pain, seizures, post traumatic stress disorder, Crohn’s disease, agitation of Alzheimer’s disease, multiple sclerosis, chronic pancreatitis, spinal cord injury or disease, traumatic brain injury and post concussion syndrome, or an injury that significantly interferes with daily activities as documented by the patient’s provider; lateral sclerosis, or muscular dystrophy;

(b) a severely debilitating or terminal medical condition or its treatment that has produced elevated intraocular pressure, cachexia, chemotherapy‑induced anorexia, wasting syndrome, severe pain that has not responded to previously prescribed medication or surgical measures or for which other treatment options produced serious side effects, constant or severe nausea, moderate to severe vomiting, seizures, or severe, persistent muscle spasms; and

(c) any other medical condition not included in items (a) or (b) that the department determines, upon the written request of a provider who furnishes a medical recommendation to the department, is severely debilitating or terminal.

(22) ‘Qualifying patient’ means a person who has been diagnosed by a provider as having a qualifying medical condition and who possesses a valid registry identification card issued pursuant to Section 44‑53‑2090.

(23) ‘Resident’ means a person who has been a resident of South Carolina for at least thirty days before the date of application and has maintained his principal place of abode in South Carolina for at least thirty days before the date of application.

(24) ‘Registry identification card’ means the nontransferable confidential registry identification card issued by the department pursuant to Section 44‑53‑2085 that identifies a person as a qualifying patient or a designated caregiver.

(25) ‘Reverse distributor’ means an entity registered with the United States Drug Enforcement Agency authorized to receive controlled substances.

(26) ‘Usable marijuana’ means the dried leaves and flowers of the marijuana plant, and any mixtures or preparations of the leaves and flowers, that are appropriate for the palliative use of marijuana, but does not mean the seeds, stalks, or roots of the marijuana plant.

(27) ‘Vaporization’ means the inhalation of marijuana without the combustion of the marijuana.

Section 44‑53‑2020. (A) A qualifying patient is presumed to be lawfully in possession of marijuana if the person possesses a valid registry identification card issued pursuant to Section 44‑53‑2090 indicating he is a qualifying patient with a qualifying medical condition and possesses an amount of marijuana that does not exceed two one‑ounce packages of marijuana in leaf form, one ounce of cannabis oil concentrate, or eight ounces of diluted cannabis oil.

(B) A designated caregiver is presumed to be lawfully in possession of marijuana for the purpose of assisting a qualifying patient with the palliative use of marijuana if the person possesses a valid registry identification card issued pursuant to Section 44‑53‑2090 indicating he is a designated caregiver and possesses an amount of marijuana that does not exceed two one‑ounce packages of marijuana in leaf form, one ounce of cannabis oil concentrate, or eight ounces of diluted cannabis oil.

(C) If a qualifying patient or designated caregiver is found to be in possession of marijuana in an amount in excess of the quantities permitted in subsections (A) and (B), the excess amount is subject to seizure by law enforcement and must not be returned.

(D) The presumptions provided for in subsections (A) and (B) may be rebutted by evidence that conduct related to the use of marijuana was not for palliative purposes as allowed pursuant to this article.

Section 44‑53‑2030. (A) A qualifying patient or designated caregiver may purchase marijuana or paraphernalia related to marijuana for palliative use pursuant to this article from a licensed dispensary.

(B) A designated caregiver may purchase marijuana or paraphernalia related to marijuana to assist a qualifying patient with the palliative use of marijuana pursuant to this article from a licensed dispensary.

Section 44‑53‑2040. A qualifying patient may engage in the palliative use of marijuana on privately owned property only with written permission of the property owner. If the property owner prohibits marijuana consumption, the prohibition includes both permanent and temporary occupants.

Section 44‑53‑2050. (A) A person entitled to custody of, or visitation or parenting time with, a minor must not be denied these rights for conduct allowed pursuant to this article.

(B) There is no presumption of child abuse or neglect for conduct allowed pursuant to this article.

Section 44‑53‑2060. For purposes of medical care, including organ transplants, a qualifying patient’s use of marijuana pursuant to this article is considered the authorized use of a medication taken at the direction of a provider and does not constitute the use of an illegal substance.

Section 44‑53‑2070. (A) A qualifying patient is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for the palliative use of marijuana pursuant to this article.

(B) A designated caregiver is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for assisting a qualifying patient with the palliative use of marijuana pursuant to this article. (C) A licensed dispensary agent is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for engaging in conduct authorized pursuant to this article.

(D) A person who is a licensed grower is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for engaging in conduct authorized pursuant to this article.

(E) A licensed processing agent is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for engaging in conduct authorized by this article.

(F) A licensed laboratory agent or a licensed reverse distribution agent is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for engaging in conduct authorized by this article.

(G) A state‑chartered bank, a licensed attorney, or a certified public accountant and its employees are not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege, for engaging in conduct authorized by this article.

(H) A person is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege for being in the presence or vicinity of a qualifying patient engaged in the palliative use of marijuana, a designated caregiver assisting a qualifying patient with the palliative use of marijuana, or in the presence of a licensed dispensary agent, a licensed processing agent, a licensed grower, or a certified laboratory agent engaged in conduct authorized pursuant to this article.

Section 44‑53‑2080. A provider is not subject to arrest by state or local law enforcement, prosecution or penalty under state or local law, or the denial of a right or privilege including, but not limited to, disciplinary action by the South Carolina Board of Medicine or other occupational or professional licensing entity, for providing a medical recommendation as authorized by Section 44‑53‑2100. A provider may not be sued for medical malpractice as a result of recommending a qualifying patient’s palliative use of marijuana.

Section 44‑53‑2085. The department is responsible for:

(1) developing and facilitating a process to review applications submitted for issuance of registry identification cards for qualifying patient and designated caregiver and for issuing, denying, and revoking registry identification cards; and

(2) creating and maintaining a confidential registry that contains:

(a) a qualifying patient’s name, mailing address, date of birth, social security number, date of registry identification card issuance and expiration, a random ten‑digit identification number, the provider’s name and address, the medical recommendation signed by the provider, the registry identification number for a designated caregiver, if one, and the license number for a licensed dispensary, if any;

(b) a designated caregiver’s name, mailing address, date of birth, social security number, date of registry identification card issuance and expiration, a random ten‑digit identification number, the registry identification number for the qualifying patient for whom the caregiver has been designated, if one, and the license number of a licensed dispensary designated by the qualifying patient; and

(c) the application and information submitted by a person who applies for a registry identification card as a qualifying patient or a designated caregiver, whether or not the department approves or denies the application.

Section 44‑53‑2090. (A)(1) In order to obtain a registry identification card as a qualifying patient, a person must:

(a) be a resident of South Carolina;

(b) complete an application form provided by the department;

(c) provide a copy of a South Carolina Law Enforcement Division (SLED) criminal records check report that bears the division stamp, for which the person must pay the costs, or a copy of a valid South Carolina concealed weapons permit;

(d) submit a nonrefundable application fee of fifty dollars; and

(e) pay an annual registration fee of twenty‑five dollars.

(2) At a minimum, the application for the issuance of an initial and renewal registry identification card must include:

(a) the applicant’s name, residential and mailing address, and date of birth, unless the applicant is homeless in which case a residential address is not required;

(b) the applicant’s social security number;

(c) a recent passport‑sized photograph of the applicant’s face;

(d) the name, residential and mailing address, and telephone number of the applicant’s provider;

(e) the medical recommendation signed by the provider;

(f) the name, residential and mailing address, and phone number of the applicant’s proposed designated caregiver, if one;

(g) the name and street address of the applicant’s licensed dispensary, if one; and

(h) a statement signed by the applicant agreeing not to knowingly divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article and acknowledging that knowing diversion of marijuana is a felony and, upon conviction, results in revocation of the registry card and subjects the applicant to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both.

(3) The department must not issue a person a registry identification card as a qualifying patient if the person has been convicted of, or pled guilty or nolo contendere to, a felony drug‑related offense within the previous five years.

(4) A qualifying patient may designate only one designated caregiver at any given time. Violation of this item is a misdemeanor and, upon conviction, results in a fine of not more than one thousand dollars or imprisonment of not more than one year, or both.

(5) To prevent fraud and enhance patient safety, a registry identification card must be printed with tamper‑resistant technology and contain, at a minimum, the person’s name and address, photograph, identification number, and the card’s issuance and expiration dates.

(B)(1) In order to obtain a registry identification card as a designated caregiver, a person must:

(a) be a resident of South Carolina who is at least twenty‑one years of age;

(b) complete an application form provided by the department;

(c) provide a copy of a SLED criminal records check report that bears the division stamp, for which the person must pay the costs, or a copy of a valid South Carolina concealed weapons permit;

(d) submit a nonrefundable application fee of fifty dollars; and

(e) pay an annual registration fee of twenty‑five dollars.

(2) At a minimum, the application for the issuance of an initial and renewal registry identification card must include:

(a) the applicant’s name, residential and mailing address, and date of birth;

(b) the applicant’s social security number;

(c) a recent passport‑sized photograph of the applicant’s face;

(d) the name, residential and mailing address, and telephone number of the applicant’s qualifying patient, if one;

(e) the name and street address of the licensed dispensary designated by the qualifying patient, if one; and

(f) a statement signed by the applicant agreeing not to knowingly divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article and acknowledging that knowing diversion of marijuana is a felony and, upon conviction, results in revocation of the registry card and subjects the applicant to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both.

(3) The department has the discretion not to issue a person a registry identification card as a designated caregiver if the person has been convicted of, or pled guilty or nolo contendere to, a felony drug‑related offense within the previous five years.

(4) A designated caregiver may serve as the designated caregiver for up to five qualifying patients at any given time. Violation of this item is a misdemeanor and, upon conviction, results in a fine of not more than one thousand dollars or imprisonment of not more than one year, or both.

(5) To prevent fraud and enhance patient safety, a registry identification card must be printed with tamper‑resistant technology and contain, at a minimum, the person’s name and address, photograph, identification number, and the card’s issuance and expiration dates.

Section 44‑53‑2100. The department shall develop a medical recommendation form to be completed by a provider and submitted by a person applying for a registry identification card as a qualifying patient. The recommendation must include:

(1) the provider’s name, address, phone number, and medical license number;

(2) an acknowledgement to be signed by the provider that sets forth:

(a) the penalties for providing false information, including the department’s right to notify the medical board or other similar authority established pursuant to Chapter 47, Title 40; and

(b) definitions of:

(i) ‘provider‑patient relationship’, as defined in Section 44‑53‑2010;

(ii) ‘qualifying medical condition’, as defined in Section

44‑53‑2010; and

(iii) ‘provider’, as defined in Section 44‑53‑2010; and

(3) an affidavit for the provider to sign with the following provisions:

(a) the provider and patient have a provider‑patient relationship; and

(b) the patient has a qualifying medical condition, identifying the patient’s condition, and that the symptoms or side effects might benefit from the palliative use of marijuana.

Section 44‑53‑2110. A valid registry identification card, or its equivalent, that is issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a person to possess marijuana for palliative use, has the same force and effect as a valid registry identification card issued by the department in this State, provided the person:

(1) produces a statement from a physician or other medical provider stating that the person has a qualifying medical condition as defined in Section 44‑53‑2010; and

(2) does not cultivate or purchase marijuana in this State or obtain marijuana from a licensed dispensary in this State or from a South Carolina resident who is a qualifying patient.

Section 44‑53‑2120. (A) Information maintained by the department related to the registry identification card is considered protected health information that may not be released pursuant to state and federal confidentiality statutes including, but not limited to, the Health Insurance Portability and Accountability Act, as amended.

(B) Information maintained by the department related to the registry identification card is not public information subject to access pursuant to the South Carolina Freedom of Information Act. (C) If a person discloses information contained in the registry in violation of this article, the person must be fined not more than one thousand dollars. Subsequent violations are a misdemeanor and, upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than one year, or both.

Section 44‑53‑2130. A person may not have access to information related to the registry identification card, except for an authorized employee of the department in the course of his official duties and a state or local law enforcement officer who has detained or arrested a person who claims to be a qualifying patient, a designated caregiver, a licensed dispensary, a licensed dispensary agent, or licensed grower engaged in conduct authorized in this article.

Section 44‑53‑2140. (A) If a state or local law enforcement officer submits an affidavit to the department affirming that he has probable cause to believe marijuana is possessed at a specific address in violation of this article, an authorized employee for the department may disclose whether the location is associated with a qualifying patient, designated caregiver, licensed dispensary, licensed dispensary agent, or licensed grower.

(B) If a state or local law enforcement officer submits an affidavit to the department affirming that he has probable cause to believe a person possesses marijuana, an authorized employee for the department may disclose whether the person is a qualifying patient, designated caregiver, licensed dispensary, licensed dispensary agent, or licensed grower if the law enforcement officer provides the person’s name and address or name and date of birth. (C) Counsel for the department may notify a law enforcement officer about falsified or fraudulent information submitted to the department when counsel has made a legal determination that there is probable cause to believe the information is false or falsified.

Section 44‑53‑2150. (A) The department may revoke the registry identification card of a qualifying patient or designated caregiver for violation of this article or department regulations. The qualifying patient or designated caregiver also is subject to other penalties established by law.

(B) A person whose registry identification card is revoked may request a hearing in the Administrative Law Court within thirty days of receipt of written notification of the revocation.

Section 44‑53‑2160. (A) The department may not issue a registry identification card to a person under eighteen years of age who is applying as a qualifying patient unless:

(1) a custodial parent or legal guardian responsible for health care decisions of the minor submits a medical recommendation from a provider;

(2) the provider has explained the potential risks and benefits of the palliative use of marijuana to the custodial parent or legal guardian responsible for health care decisions of the minor;

(3) the custodial parent or legal guardian responsible for health care decisions of the minor consents in writing to:

(a) allow the minor’s palliative use of marijuana; and

(b) serve as the minor’s designated caregiver and control the acquisition of marijuana and the frequency of the palliative use of marijuana by the minor; and

(4) the custodial parent or legal guardian responsible for health care decisions of the minor completes an application in accordance with the requirements of Section 44‑53‑2090 on behalf of the minor.

(B) The department may not issue a registry identification card to an incapacitated person who is applying as a qualifying patient unless:

(1) a person with the legal authority to make health care decisions on behalf of the incapacitated person submits a medical recommendation from two providers documenting the incapacitated person’s qualifying medical condition and other required information;

(2) the provider has explained the potential risks and benefits of the palliative use of marijuana to the person with the legal authority to make health care decisions on behalf of the incapacitated person;

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

(a) allow the incapacitated person’s palliative use of marijuana; and

(b) serve as the incapacitated person’s designated caregiver and control the acquisition of the marijuana and the frequency of the palliative use of marijuana by the incapacitated person; and

(4) the person with the legal authority to make health care decisions for the incapacitated person completes an application in accordance with the requirements of Section 44‑53‑2090 on behalf of the incapacitated person.

Section 44‑53‑2165. The department shall develop a process to allow for the operation of licensed dispensaries, licensed grow facilities, and licensed processors, as well as for the licensing of their agents pursuant to the provisions of this article.

Section 44‑53‑2170. (A) In order to be licensed as a dispensary agent, a person must:

(1) be a resident of South Carolina as defined in this article;

(2) complete an application form provided by the department;

(3) provide a copy of a SLED criminal records check report that bears the division stamp, for which the person must pay the costs, or a copy of a valid South Carolina concealed weapons permit; and

(4) submit a nonrefundable application fee of five thousand dollars.

(B) At a minimum, the application must include:

(1) the applicant’s name, residential and mailing address, and date of birth;

(2) the applicant’s social security number;

(3) a recent passport‑sized photograph of the applicant’s face; and

(4) a statement signed by the applicant agreeing not to knowingly divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article and acknowledging that knowing diversion of marijuana is a felony and, upon conviction, results in revocation of the registry card and subjects the applicant to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both.

(C) The department has the discretion not to issue a person a dispensary agent license if the person has been convicted of, or pled guilty or nolo contendere to, a felony drug‑related offense within the previous five years.

Section 44‑53‑2180. (A) In order to be licensed as a dispensary, a for‑profit or nonprofit corporation must submit:

(1) a completed application form provided by the department;

(2) a nonrefundable application fee of five thousand dollars;

(3) sufficient proof of net worth of one hundred thousand dollars; and

(4) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with Generally Accepted Accounting Principles (GAAP), including all disclosures required by GAAP.

(B) At a minimum, the application form must include:

(1) the legal name and physical address of the proposed dispensary;

(2) the name and date of birth of each principal officer and board member of the proposed dispensary with a copy of a SLED criminal records check report or a copy of a valid South Carolina concealed weapons permit for each officer and board member paid for by the person or dispensary;

(3) the physical address of a proposed facility to be operated by the applicant pursuant to Section 44‑53‑2210, if one; and

(4) operating procedures for the proposed dispensary to ensure accurate recordkeeping and adequate security measures.

Section 44‑53‑2185. (A) In order to be licensed as a processor, a for‑profit or nonprofit corporation must submit:

(1) a completed application form provided by the department;

(2) a nonrefundable application fee of five thousand dollars;

(3) sufficient proof of net worth of one hundred thousand dollars; and

(4) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP.

(B) At a minimum, the application form must include:

(1) the legal name and physical address of the proposed processor;

(2) the name and date of birth of each principal officer and board member of the proposed processor with a copy of a SLED criminal records check report or a copy of a valid South Carolina concealed weapons permit for each officer and board member paid for by the person or processor;

(3) the physical address of a proposed facility to be operated by the applicant pursuant to Section 44‑53‑2210, if one; and

(4) operating procedures for the proposed processor to ensure accurate recordkeeping and adequate security measures.

Section 44‑53‑2190. (A) In order to be licensed as a grower, a person or for‑profit or nonprofit corporation must submit:

(1) a completed application form provided by the department;

(2) a nonrefundable application fee of five thousand dollars;

(3) sufficient proof of net worth of one hundred thousand dollars;

(4) information required by the department to demonstrate that the applicant has appropriate expertise in agriculture and is qualified to cultivate marijuana and to sell, deliver, transport, or distribute marijuana solely for use pursuant to this article;

(5) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP;

(6) if a person, proof of residency; and

(7)(a) if a person, a copy of a SLED criminal records check report, for which the person must pay the costs, or a copy of a valid South Carolina concealed weapons permit; and

(b) if a corporation, the name and date of birth of each principal officer and board member with a copy of a SLED criminal records check report or a copy of a valid South Carolina concealed weapons permit for each officer and board member paid for by the person or the grow facility.

(B) At a minimum, the application for a person must include:

(1) the applicant’s name, residential and mailing address, and date of birth;

(2) the applicant’s social security number;

(3) a recent passport‑sized photograph of the applicant’s face;

(4) a statement signed by the applicant agreeing not to knowingly divert marijuana to anyone who is not allowed to possess marijuana pursuant to this article and acknowledging that knowing diversion of marijuana is a felony and, upon conviction, results in revocation of the registry card and subjects the applicant to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both; and

(5) operating procedures of the proposed grower to ensure accurate recordkeeping and adequate security measures.

(C) At a minimum, the application for a for‑profit or nonprofit corporation must include:

(1) the legal name and address of the proposed grower;

(2) the name and date of birth of each principal officer and board member of the proposed grower;

(3) the physical address of a proposed facility to be used by the applicant pursuant to Section 44‑53‑2210, if one; and

(4) operating procedures of the proposed grower to ensure accurate recordkeeping and adequate security measures.

(D) The department has the discretion not to issue a person a grower’s license if the person has been convicted of, or pled guilty or nolo contendere to, a felony drug‑related offense within the previous five years.

Section 44‑53‑2200. (A) To ensure the safe and secure disposal of unused marijuana components resulting from cultivation, processing, dispensing, and use of marijuana pursuant to this article, the department shall establish standards for and certify one or more reverse distributors.

(B) In order to be certified as a reverse distributor, a for‑profit or nonprofit corporation shall submit:

(1) a completed application form provided by the department;

(2) a nonrefundable application fee of five thousand dollars;

(3) sufficient proof of net worth of one hundred thousand dollars;

(4) detailed plans for ensuring the safe and secure disposal of unused marijuana components cultivated, processed, dispensed, and used pursuant to this article; and

(5) information required by the department to demonstrate that the applicant has appropriate knowledge and expertise in controlled substances, public health, environmental protection, and in any other subject matter required by the department;

(6) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant in accordance with GAAP, including all disclosures required by GAAP.

(C) At a minimum, the application form must include:

(1) the legal name and physical address of the proposed reverse distributor with a copy of a SLED criminal records check report or a copy of a valid South Carolina concealed weapons permit;

(2) the name and date of birth of each principal officer and board member of the proposed reverse distributor with a copy of a SLED criminal records check report or a valid South Carolina concealed weapons permit for each officer and board member paid for by the person or reverse distributor;

(3) the physical address of the proposed reverse distributor’s disposal facility; and

(4) operating procedures for the proposed reverse distributor to ensure accurate recordkeeping and adequate security measures.

(D) A reverse distributor shall develop a process to facilitate the reverse distribution of unused marijuana components from dispensaries, growers, processors, and testing laboratories to safely dispose of all unused marijuana components. A dispensary, dispensary agent, grower, processor, and laboratory testing facility shall comply with the requirements of a certified reverse distributor and the department before disposing of any unused marijuana component. A dispensary, dispensary agent, grower, processor, or testing laboratory that knowingly violates a requirement of a reverse distributor or department regulations relating to reverse distribution is guilty of a felony and, upon conviction, is subject to a fine of not more than five thousand dollars or imprisonment of not more than five years, or both.

(E) A reverse distributor shall create alternatives for collecting unused marijuana components and paraphernalia relating to marijuana from qualifying patients and designated caregivers for safe disposal, which may include take‑back events, mail‑back programs, and collection receptacle locations. A licensed dispensary may administer mail‑back programs and maintain collection receptacles.

Section 44‑53‑2210. Licensed growers and licensed processors are authorized to have a facility for the cultivation and processing of the marijuana plant, which must be a secure enclosed facility equipped with locks or other security devices that permit access only by a cardholder allowed to cultivate or process the plants.

Section 44‑53‑2220. A licensed grow facility, a licensed processing facility, and a licensed dispensary shall remit to the department an annual fee based on the size of the dispensary, the grow facility, or the processing facility. A grow facility up to twenty‑five thousand square feet shall pay an annual fee of fifteen thousand dollars. A grow facility between twenty‑five thousand one square feet and fifty thousand square feet shall pay an annual fee of twenty‑five thousand dollars. A processing facility up to ten thousand square feet shall pay an annual fee of ten thousand dollars. A dispensary up to five thousand square feet shall pay an annual fee of five thousand dollars.

Section 44‑53‑2230. The department shall develop a system to track inventory, purchasing, and any other records required by the department and shall promulgate implementing regulations.

Section 44‑53‑2240. (A) To prevent diversion and protect public safety, the department shall require the use of a single real‑time seed‑to‑sale tracking system used by both the licensees and the department, which complies with Health Insurance Portability and Accountability Act (HIPAA) guidelines, is hosted on a platform that allows for dynamic allocation of resources, provides data redundancy, and is capable of recovering from natural disasters within hours.

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

(1) tracking all plants, products, packages, patients, waste, transfers, conversions, packages, sales, and returns, and with unique identification numbers;

(2) tracking lot and batch information throughout the entire chain of custody;

(3) tracking all product, conversions, and derivatives throughout the entire seed‑to‑sale chain of custody;

(4) tracking plant, batch, and product destruction;

(5) tracking transportation of product;

(6) performing complete batch recall tracking capabilities that must be able to clearly identify all of the following details relating to the specific batch subject to the recall:

(a) all sold product;

(b) product available for sale (product that is in finished inventory, but not sold);

(c) product that is in the transfer process;

(d) work in progress (product that is being converted); and

(e) raw material (product that is in the post‑harvest process, such as drying, trimming, and curing);

(7) reporting and tracking loss, theft, or diversion of product containing marijuana;

(8) reporting and tracking all inventory discrepancies to the department;

(9) reporting and tracking patient response to medication efficacy;

(10) reporting and tracking all sales and refunds to the department;

(11) tracking and enforcing patient purchase limits as set forth in this article;

(12) receiving testing results electronically from the licensed testing facility via a secure application program interface (API) into the seed‑to‑sale tracking system and directly attaching the testing results to the source batch and/or sample;

(13) restricting the altering of test results by the operator;

(14) restricting product sales to a qualified patient, or designated caregiver, of product that has not passed the required tests;

(15) restricting patients from designating multiple primary caregivers simultaneously;

(16) restricting physicians from providing additional patient recommendations;

(17) providing the department with real‑time access to the database;

(18) providing real‑time analytics to the department regarding key performance indicators including, but not limited to:

(a) total daily sales;

(b) total plants in production;

(c) total patients assigned to each dispensary and/or grow facility;

(d) total plants destroyed; and

(e) total inventory adjustments; and

(19) providing other information specified by the department.

Section 44‑53‑2250. (A) The department shall require, at a minimum, routine testing of the product by both a licensed grower and a licensed processor.

(B) A licensed grower shall test each strain’s cannabidiol profile at least three times a year with the first test conducted on the first harvested lot.

(C) A licensed processor shall test each extraction batch.

Section 44‑53‑2260. (A) The department shall establish standards for and certify one or more private and independent testing laboratories to test marijuana that is to be sold in the State. All marijuana‑derived products, before transport or sale, must be sampled by a certified testing laboratory.

(B) A testing laboratory is responsible for selecting, picking up, and testing product samples and must be able to determine accurately the concentration of THC and cannabidiol, whether the testing material is organic or nonorganic, moisture content, potency analysis, foreign matter inspection, microbiological screening, residual solvent testing, the presence and identification of fungi, including molds, the presence and concentration of fertilizers and other nutrients, and any other determinations required by the department.

(C) A certified testing laboratory shall report the results of all testing required by the department to the department’s electronic monitoring system.

Section 44‑53‑2270. All items sold at a licensed dispensary must be properly labeled. The label must comply with state laws and regulations and, at a minimum, must include:

(1) the name and the physical address of the licensed dispensary;

(2) the name of the product being sold;

(3) the percentage of tetrahydrocannabinol (THC) and the percentage of cannabidiol (CBD) within a profile tolerance range of ten percent;

(4) the name and the address of the licensed grower or the licensed processor; and

(5) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads:

‘NOT FOR RESALE. KEEP OUT OF THE REACH OF CHILDREN AND ANIMALS’.

Section 44‑53‑2280. (A) It is not unlawful for a licensed grower, licensed dispensary, or licensed processor to:

(1) possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store marijuana;

(2) deliver, sell, supply, transfer, or transport marijuana, paraphernalia related to marijuana, and educational materials to licensed growers and licensed dispensaries;

(3) deliver, transfer, or transport marijuana to a reverse distributor; and

(4) purchase or otherwise acquire marijuana from a licensed grower.

(B) It is not unlawful for a licensed dispensary to sell marijuana or paraphernalia related to marijuana to a qualifying patient or designated caregiver in accordance with the requirements of this article.

Section 44‑53‑2300. A licensed dispensary, a licensed grower, a licensed processor, a certified reverse distributor, or a certified testing laboratory is subject to inspection by the department. During an inspection, the department may review the dispensary, grower, processor, reverse distributor, or testing laboratory facility’s records required pursuant to this article and department regulations. Records must track patient‑specific and caregiver‑specific information by registry identification number to protect confidentiality.

Section 44‑53‑2310. (A) The department may revoke the license of a dispensary, dispensary agent, grower, or processor and the certification of the reverse distributor or testing laboratory as a result of violation of this article or department regulations.

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

(C) Operators of dispensaries, cultivation facilities, and processing facilities must be granted a reasonable resolution period established by the department to implement corrective actions acceptable to the department.

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

Section 44‑53‑2320. Marijuana used by qualifying patients is subject to the tax imposed pursuant to Article 25, Chapter 21, Title 12.

Section 44‑53‑2330. Nothing in this article may be construed to require:

(1) a health insurance provider, health care plan, or medical assistance program to be liable for or reimburse a claim for the palliative use of marijuana;

(2) a person or entity in lawful possession of property to allow a guest, client, customer, or other visitor to engage in the palliative use of marijuana while on the property;

(3) an employer to accommodate the palliative use of marijuana at his place of employment; or

(4) a jail, detention center, correctional facility, or other type of penal institution to allow the palliative use of marijuana on its premises.

Section 44‑53‑2340. The department shall provide a report to the General Assembly by December thirty‑first of each year addressing the effectiveness of this program and recommendations for any changes to the program.

Section 44‑53‑2350. Subject to Chapter 35, Title 11, the South Carolina Consolidated Procurement Code, the department is authorized to procure services of qualified contractors to assist the department in implementing this article, including testing, auditing, inspection, registry management, diversion control, and other compliance services.”

SECTION 2. Article 4, Chapter 53, Title 44 of the 1976 Code is repealed.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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