A BILL FOR

1 An Act creating the medical marijuana Act including the creation
of compassion centers, and providing for civil and criminal
penalties and fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1240XS 83
6 rh/nh/5

1 Section 1.  Section 124.401, subsection 5, Code 2009, is
2 amended by adding the following new unnumbered paragraph:
3 NEW UNNUMBERED PARAGRAPH.  A person may knowingly or
4 intentionally possess marijuana if the possession is in
5 accordance with the provisions of chapter 124D.
6 Sec. 2.  NEW SECTION.  124D.1  CITATION.
7 This chapter shall be known and may be cited as the
8 "Medical Marijuana Act".
9 Sec. 3.  NEW SECTION.  124D.2  DEFINITIONS.
10 As used in this chapter, the following definitions shall
11 apply:
12 1.  "Cardholder" means a qualifying patient, a designated
13 caregiver, or a compassion center staff person who has been
14 issued and possesses a valid registry identification card.
15 2.  "Compassion center staff person" means a principal
16 officer, board member, employee, volunteer, or agent of a
17 registered compassion center.
18 3.  "Debilitating medical condition" means any of the
19 following:
20 a.  Cancer, glaucoma, positive status for human
21 immunodeficiency virus, acquired immune deficiency syndrome,
22 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
23 agitation of Alzheimer's disease, nail patella, or the
24 treatment of any of these conditions.
25 b.  A chronic or debilitating disease or medical condition
26 or its treatment that produces any of the following:
27 (1)  Cachexia or wasting syndrome.
28 (2)  Severe pain.
29 (3)  Severe nausea.
30 (4)  Seizures, including but not limited to those
31 characteristic of epilepsy.
32 (5)  Severe and persistent muscle spasms, including but not
33 limited to those characteristic of multiple sclerosis.
34 c.  Any other medical condition or its treatment approved
35 by the department.
2 1 4.  "Department" means the department of public health.
2 2 5.  "Designated caregiver" means a person twenty-one years
2 3 of age or older who has agreed to assist with a patient's
2 4 medical use of marijuana, and who has never been convicted of
2 5 a felony drug offense.  A designated caregiver shall not
assist more than five qualifying patients with their medical use of marijuana.

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.

Felony drug offense means a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted. "Felony drug offense" does not include any of the following:

a. An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten or more years earlier.

b. An offense that involved conduct that would have been permitted under this chapter.

"Marijuana" means the same as defined in section 124.101, subsection 19.

"Medical use" means the acquisition, possession, cultivation, manufacture, use, delivery, sale, 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 the patient's debilitating medical condition.

"Possession" means the possession, acquisition, manufacture, use, delivery, transfer, transportation, or administration of marijuana by a qualifying patient or designated caregiver possessing a valid registry identification card, for certified medical use; provided that the marijuana that may be possessed by a qualifying patient and such qualifying patient's designated caregiver does not, in total, exceed twelve plants and a total aggregate weight of two and one-half ounces of usable marijuana.

"Practitioner" means the same as defined in section 155A.3, subsection 35.

"Qualifying patient" means a person who has been diagnosed by a practitioner with a debilitating medical condition.

"Registered compassion center" means a not-for-profit organization registered pursuant to section 124D.4 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, or dispenses marijuana or related supplies and educational materials to cardholders. A registered compassion center may receive compensation for all expenses incurred in its operation.

"Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated caregiver, or a registered compassion center staff person.

"Unusable marijuana" means marijuana seeds, stalks, seedlings, and unusable roots. "Seedling" means a marijuana plant without flowers which is less than twelve inches in height and less than twelve inches in diameter.

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

"Verification system" means a secure, password-protected, internet-based system established by the department pursuant to section 124D.6, that is accessible twenty-four hours per day that law enforcement personnel and compassion center staff persons may use to verify registry identification cards established and maintained by the department pursuant to section 124D.4.

"Visiting qualifying patient" means a qualifying patient who is not a resident of this state or who has been a resident of this state for less than thirty days.

"Written certification" means a document signed by a
practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

A written certification shall be made only in the course of a bona fide practitioner-patient relationship after the practitioner has completed a full assessment of the qualifying patient's medical history. The written certification shall specify the qualifying patient's debilitating medical condition.

Sec. 4. NEW SECTION. 124D.3 MEDICAL USE OF MARIJUANA.

1. A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marijuana in accordance with this chapter, provided the marijuana possessed by the qualifying patient does not exceed the amount described in section 124D.2, subsection 10. The marijuana plants shall be kept in an enclosed, locked facility, unless the plants are being transported because the qualifying patient is moving or if the plants are being transported to the qualifying patient's property.

2. A designated caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom the designated caregiver is connected through the department's registration process with the medical use of marijuana in accordance with this chapter, provided that the marijuana possessed by the designated caregiver does not exceed the amount described in section 124D.2, subsection 10, for each qualifying patient to whom the designated caregiver is connected through the department's registration process. The marijuana plants shall be kept in an enclosed, locked facility, unless the plants are being transported because the designated caregiver or qualifying patient is moving or if the plants are being transported to a designated caregiver's or a qualifying patient's property.

3. a. There shall be a presumption that a qualifying patient or designated caregiver is engaged in the medical use of marijuana pursuant to this chapter if the qualifying patient or designated caregiver does both of the following:

(1) Possesses a registry identification card.
(2) Possesses an amount of marijuana that does not exceed the amount allowed pursuant to section 124D.2, subsection 10.

b. The presumption may be rebutted by evidence that conduct related to marijuana use or possession was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this chapter.

4. A registered qualifying patient or registered designated caregiver shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for giving marijuana to a registered qualifying patient or a registered designated caregiver for the registered qualifying patient's medical use where nothing of value is transferred in return, or to offer to do the same, provided that the registered qualifying patient or registered designated caregiver is engaged in the medical use of marijuana pursuant to this chapter.

Sec. 5. MEDICAL USE OF MARIJUANA: CONDUCT RELATED TO MARIJUANA USE.

1. A qualifying patient or designated caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for giving marijuana to a registered qualifying patient or a registered designated caregiver for the registered qualifying patient's medical use where nothing of value is transferred in return, or to offer to do the same, provided that the registered qualifying patient or registered designated caregiver is engaged in the medical use of marijuana pursuant to this chapter.
6 patient or registered designated caregiver does not knowingly
7 cause the recipient to possess more marijuana than is
8 permitted in section 124D.2, subsection 10.
9 5. A school, employer, or landlord shall not refuse to
10 enroll, employ, or lease to, or otherwise penalize, a person
11 solely on the basis of the person's status as a registered
12 qualifying patient or a registered designated caregiver,
13 unless failing to do so would put the school, employer, or
14 landlord in violation of federal law or cause the school,
15 employer, or landlord to lose a federal contract or funding.
16 6. For the purposes of medical care, including organ
17 transplants, a registered qualifying patient's authorized use
18 of marijuana in accordance with this chapter shall be
19 considered the equivalent of the authorized use of any other
20 medication used at the direction of a physician, and shall not
21 constitute the use of an illicit substance.
22 7. Unless a failure to do so would put an employer in
23 violation of federal law or federal regulations, an employer
24 may not discriminate against a person in hiring, termination,
25 or any term or condition of employment, or otherwise penalize
26 a person, if the discrimination is based upon any of the
27 following:
28 a. The person's status as a registered qualifying patient
29 or registered designated caregiver.
30 b. A registered qualifying patient's positive drug test
31 for marijuana components or metabolites, unless the patient
32 used, possessed, or was impaired by marijuana on the premises
33 of the place of employment or during the hours of employment.
34 8. A person shall not be denied custody or visitation of a
35 minor for acting in accordance with this chapter, unless the
1 person's behavior is such that it creates an unreasonable
2 danger to the safety of the minor as established by clear and
3 convincing evidence.
4 9. A registered designated caregiver may receive
5 compensation for costs associated with assisting a registered
6 qualifying patient's medical use of marijuana, provided that
7 the registered designated caregiver is connected to the
8 registered qualifying patient through the department's
9 registration process. Any such compensation shall not
10 constitute the sale of controlled substances.
11 10. A practitioner shall not be subject to arrest,
12 prosecution, or penalty in any manner, or denied any right or
13 privilege, including but not limited to a civil penalty or
14 disciplinary action by the board of medicine or by any other
15 business or occupational or professional licensing board or
16 bureau, solely for providing written certifications or for
17 otherwise stating that, in the practitioner's professional
18 opinion, a patient is likely to receive therapeutic benefit
19 from the medical use of marijuana to treat or alleviate the
20 patient's debilitating medical condition or symptoms
21 associated with the debilitating medical condition, provided
22 that nothing shall prevent a professional licensing board from
23 sanctioning a practitioner for failing to properly evaluate a
24 patient's medical condition or otherwise violating the
25 standard of care for evaluating medical conditions.
26 11. A person shall not be subject to arrest, prosecution,
27 or penalty in any manner, or denied any right or privilege,
28 including but not limited to a civil penalty or disciplinary
29 action by a business or occupational or professional licensing
30 board or bureau, for providing a registered qualifying patient
31 or a registered designated caregiver with marijuana
32 paraphernalia for purposes of a qualifying patient's medical
33 use of marijuana.
34 12. Any marijuana, marijuana paraphernalia, licit
35 property, or interest in licit property that is possessed,
1 owned, or used in connection with the medical use of
2 marijuana, as allowed under this chapter, or acts incidental
3 to such use, shall not be seized or forfeited.
4 13. A person shall not be subject to arrest, prosecution,
5 or penalty in any manner, or denied any right or privilege,
including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this chapter, or for assisting a registered qualifying patient with using or administering marijuana.

14. 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 the medical use of marijuana by a visiting qualifying patient, shall have the same force and effect as a registry identification card issued by the department for purposes of this chapter.

Sec. 5. NEW SECTION. 124D.4 COMPASSION CENTERS.

1. The department shall register and issue a registration certificate to the compassion center, with a random twenty-digit alphanumeric identification number, within ninety days of receiving an application for registration of a compassion center if all of the following conditions are met:

   a. The prospective compassion center provided all of the following, in accordance with the department's rules:
      (1) An application or renewal fee.
      (2) The legal name of the compassion center.
      (3) The physical address of the compassion center and the physical address of one additional location, if any, where marijuana will be cultivated, neither of which may be within five hundred feet of a preexisting public or private school.
      (4) The name, address, and date of birth of each compassion center staff person.

   b. The compassion center staff persons have not been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted, unless the offense consisted of conduct for which this chapter would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this chapter or was prosecuted by an authority other than in this state.

   c. None of the prospective principal officers or board members of the compassion center have served as a principal officer or board member for a compassion center that had its registration certificate revoked.

   d. None of the principal officers or board members of the compassion center are younger than twenty-one years of age.

2. Except as provided in subsection 3, the department shall issue each compassion center staff person a registry identification card and log-in information for the verification system within ten days of receipt of the person's name, address, date of birth, and a fee in an amount established by the department. Each registry identification card shall specify that the cardholder is a compassion center staff person of a registered compassion center and shall contain all of the following information:

   a. The name, address, and date of birth of the compassion center staff person.
   b. The legal name of the registered compassion center with which the compassion center staff person is affiliated.
   c. A random twenty-digit alphanumeric identification number that is unique to the cardholder.
   d. The date of issuance and expiration date of the registry identification card.
   e. A photograph, if the department requires inclusion of a photograph by rule.
f. A statement signed by the prospective compassion center staff person pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.

3. a. The department shall not issue a registry identification card to a compassion center staff person who has been convicted of an offense that was classified as a felony in the jurisdiction where the person was convicted, unless the offense consisted of conduct for which this chapter would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this chapter or was prosecuted by an authority other than in this state. The department may conduct a background check of each compassion center staff person in order to carry out this paragraph. The department shall notify the registered compassion center in writing of the reason for denying the registry identification card.

b. The department shall not issue a registry identification card to a compassion center staff person who is under the age of twenty-one.

c. The department may refuse to issue a registry identification card to a compassion center staff person who has had a card revoked for violating this chapter.

4. a. A registered compassion center's registration certificate and the registry identification card for each compassion center staff person shall expire one year after the date of issuance. The department shall issue a renewal compassion center registration certificate within ten days to any registered compassion center that submits a renewal fee, provided that the compassion center's registration is not suspended and has not been revoked. The department shall issue a renewal registry identification card within ten days to any compassion center staff person who submits a renewal fee, except as otherwise provided.

b. A registry identification card of a compassion center staff person shall expire and the person's log-in information to the verification system shall be deactivated upon notification by a registered compassion center that such person ceases to work at the registered compassion center.

c. The department shall give at least twenty-four hours' notice of an inspection.

5. Registered compassion centers are subject to reasonable inspection by the department. The department shall give at least twenty-four hours' notice of an inspection.

6. a. A registered compassion center shall be operated on a not-for-profit basis for the mutual benefit of its members and patrons. The bylaws of a registered compassion center or its contracts with patrons shall contain such provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its not-for-profit status. However, a registered compassion center need not be recognized as tax-exempt by the Internal Revenue Service and is not required to incorporate pursuant to chapter 504.

b. A registered compassion center shall notify the department within ten days of when a compassion center staff person ceases to work at the registered compassion center.

c. A registered compassion center shall notify the department in writing of the name, address, and date of birth of any new compassion center staff person and shall submit a fee in an amount established by the department for a new registry identification card before the new compassion center staff person begins working at the registered compassion center.

d. A registered compassion center shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana including the use of enclosed, locked facilities for the storage of marijuana. The cultivation of marijuana by a registered compassion center shall take place in an enclosed, locked facility, which can only be accessed by compassion center staff persons who are cardholders.

e. The operating documents of a registered compassion center shall include...
center shall include procedures for the oversight of the registered compassion center and procedures to ensure accurate recordkeeping.

f. A registered compassion center is 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 qualifying patients' designated caregivers.

g. All principal officers and board members of a registered compassion center shall be residents of the state of Iowa.

h. The governing body of a county or city may enact reasonable limits on the number of registered compassion centers that can operate in their jurisdiction, and may enact zoning ordinances that reasonably limit registered compassion centers to certain areas of their jurisdiction.

7. a. Before marijuana may be dispensed to a registered designated caregiver or a registered qualifying patient, a compassion center staff person shall verify the registered qualifying patient for whom the marijuana is intended, and the registered designated caregiver transporting the marijuana to the registered qualifying patient, if any, in the verification system and shall verify all of the following:

(1) That the registry identification card presented to the registered compassion center is valid.
(2) That the person presenting the registry identification card is the person identified on the card.
(3) That the amount of marijuana to be dispensed would not cause the registered qualifying patient to exceed a limit of obtaining six ounces of marijuana during any thirty-day period.

b. Upon verification of the information in paragraph "a", but before dispensing marijuana to a registered qualifying patient or a registered designated caregiver on a registered qualifying patient's behalf, a compassion center staff person shall make an entry in the verification system, specifying how much marijuana is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the registered qualifying patient's registered designated caregiver. The entry must include the date and time the marijuana was dispensed.

8. a. A registered compassion center shall not be subject to a search, except inspection by the department pursuant to subsection 5; seizure; or penalty, or be denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with this chapter and department rules to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other registered compassion centers.

b. A compassion center staff person shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, solely for working for a registered compassion center in accordance with this chapter and department rules to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense marijuana or related supplies and educational materials to registered qualifying patients, to registered designated caregivers on behalf of registered qualifying patients, or to other registered compassion centers.

9. a. A registered qualifying patient shall not directly, or through the registered qualifying patient's registered designated caregiver, obtain more than six ounces of marijuana...
14 6 from a registered compassion center in any thirty-day period.  
14 7 b. A registered compassion center may not dispense, 
14 8 deliver, or otherwise transfer marijuana to a person other 
14 9 than another registered compassion center staff person, a 
14 10 registered qualifying patient, or a registered qualifying 
14 11 patient's registered designated caregiver. 
14 12 c. A registered compassion center shall not obtain 
14 13 marijuana from outside this state.  
14 14 d. Except as otherwise provided, a person who has been 
14 15 convicted of an offense that was classified as a felony in the 
14 16 jurisdiction where the person was convicted shall not be 
14 17 eligible to be a compassion center staff person. A person who 
14 18 works as a compassion center staff person for a registered 
14 19 compassion center in violation of this paragraph is subject to 
14 20 a civil violation punishable by a penalty of up to one 
14 21 thousand dollars. A subsequent violation of this paragraph is 
14 22 an aggravated misdemeanor. In addition, such person's 
14 23 registry identification card shall be immediately revoked.  
14 24 e. A registered compassion center shall not acquire usable 
14 25 marijuana or mature marijuana plants from any person other 
14 26 than another registered compassion center, a registered 
14 27 qualifying patient, or a registered designated caregiver. A 
14 28 registered compassion center is only allowed to acquire usable 
14 29 marijuana or marijuana plants from a registered qualifying 
14 30 patient or a registered designated caregiver if the registered 
14 31 qualifying patient or registered designated caregiver receives 
14 32 no compensation for the marijuana. A registered compassion 
14 33 center in violation of this paragraph shall have its 
14 34 registration immediately revoked.  
14 35  
14 36 Sec. 6. NEW SECTION. 124D.5 DEPARTMENTAL RULES.  
15 1 1. Not later than January 1, 2010, the department shall 
15 2 adopt rules governing the manner in which the department shall 
15 3 consider petitions from the public to approve debilitating 
15 4 medical conditions in addition to those debilitating medical 
15 5 conditions set forth in section 124D.2, subsection 3. In 
15 6 considering such a petition, the department shall include 
15 7 public notice of, and an opportunity to comment in a public 
15 8 hearing upon, such petition. The department shall, after 
15 9 hearing, approve or deny such petition within sixty days of 
15 10 submission of the petition. The approval or denial of such a 
15 11 petition shall be considered a final agency action subject to 
15 12 judicial review pursuant to chapter 17A. 
15 13 2. Not later than November 1, 2009, the department shall 
15 14 adopt rules governing the manner in which the department shall 
15 15 consider applications for and renewals of registry 
15 16 identification cards and compassion center registration 
15 17 certificates. The rules shall establish application and 
15 18 renewal fees. The fees shall meet all of the following 
15 19 requirements: 
15 20 a. The total fees collected must generate revenues 
15 21 sufficient to offset all expenses of implementing and 
15 22 administering this chapter. 
15 23 b. A compassion center application fee shall not exceed 
15 24 five thousand dollars. 
15 25 c. A compassion center renewal fee shall not exceed one 
15 26 thousand dollars. 
15 27 d. The total revenue generated from fees relating to a 
15 28 single compassion center including the compassion center 
15 29 application fee, renewal fee, and registry identification card 
15 30 fees for compassion center staff persons must be sufficient to 
15 31 offset all expenses of implementing and administering the 
15 32 compassion center, including the verification system. 
15 33 e. The department may establish a sliding scale of 
15 34 application and renewal fees based upon a qualifying patient's 
15 35 family income.  
15 1 f. The department may accept donations from private 
15 2 sources in order to reduce the application and renewal fees.  
15 3 3. Not later than November 1, 2009, the department shall 
15 4 adopt rules governing the manner in which it shall consider 
15 5 applications for and renewals of registration certificates for
registered compassion centers, including reasonable rules
governing all of the following:
a. The form and content of registration and renewal applications.
b. Minimum oversight requirements for registered compassion centers.
c. Minimum recordkeeping requirements for registered compassion centers.
d. Minimum security requirements for registered compassion centers, which shall include that each registered compassion center location must be protected by a fully operational security alarm system.
e. Procedures for suspending or terminating the registration of registered compassion centers that violate this chapter or the rules adopted pursuant to this section.

The department shall design rules with the goal of protecting against diversion and theft, without imposing an undue burden on registered compassion centers or compromising the confidentiality of registered qualifying patients and their registered designated caregivers. Any dispensing records that a registered compassion center is required to keep shall track transactions according to the qualifying patient's, designated caregiver's, or compassion center's registry identification card number or registration certificate number, as applicable, rather than their name, to protect their confidentiality.

Sec. 7. NEW SECTION. 124D.6 REGISTRY IDENTIFICATION CARDS == APPLICATION == FEE == PENALTY.

1. The department shall issue a registry identification card to a qualifying patient who submits an application containing all of the following:
a. A written certification.
b. An application or renewal fee.
c. The name, address, and date of birth of the qualifying patient except that if the applicant is homeless, no address is required.
d. The name, address, and telephone number of the qualifying patient's practitioner.
e. The name, address, and date of birth of each designated caregiver, if any, of the qualifying patient.
f. A statement signed by the qualifying patient pledging not to divert marijuana to other persons not allowed to possess marijuana under this chapter.
g. A signed statement from the designated caregiver pledging not to divert marijuana to other persons not allowed to possess marijuana under this chapter.

2. The department shall verify the information contained in an application or renewal application submitted pursuant to this section, and shall approve or deny an application or renewal application within fifteen days of receiving the application or renewal application. The department may deny an application or a renewal application only if the applicant fails to provide the information required pursuant to this

a. The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or legal custodian of the qualifying patient.
b. The parent, guardian, or person having legal custody consents in writing to all of the following:
   (1) Allowing the qualifying patient's medical use of marijuana.
   (2) Serving as the qualifying patient's designated caregiver.
   (3) Controlling the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient.

3. The department shall verify the information contained in an application or renewal application submitted pursuant to this section, and shall approve or deny an application or renewal application within fifteen days of receiving the application or renewal application. The department may deny an application or a renewal application only if the applicant fails to provide the information required pursuant to this
section, the applicant previously had a registry identification card revoked for violating this chapter, or the department determines that the information provided was falsified. Rejection of an application or a renewal application is considered a final agency action subject to judicial review pursuant to chapter 17A.

4. The department shall issue a registry identification card to the designated caregiver, if any, who is named in a qualifying patient's approved application or renewal application, up to a maximum of one designated caregiver per qualifying patient, provided the designated caregiver meets the requirements of section 124D.2, subsection 5.

5. The department shall issue a registry identification card to a qualifying patient and to the designated caregiver within five days of approving an application or a renewal application, which shall expire one year after the date of issuance, unless a practitioner states in a written certification that the qualifying patient would benefit from the use of medical marijuana until a specified earlier or later date. In such a case, the registry identification card shall expire on that date. A registry identification card shall contain all of the following:

a. The name, address, and date of birth of the qualifying patient.
b. The name, address, and date of birth of the designated caregiver, if any, of the qualifying patient.
c. The date of issuance and expiration date of the registry identification card.
d. A random twenty-digit alphanumeric identification number containing at least four numbers and at least four letters that is unique to the cardholder.
e. If the cardholder is a designated caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting.
f. A photograph, if the department requires a photograph.

6. a. A registered qualifying patient shall notify the department of any change in the registered qualifying patient's name, address, or designated caregiver, or if the registered qualifying patient ceases to have a debilitating medical condition, within ten days of such change.
b. A registered qualifying patient who fails to notify the department of any of the changes in paragraph "a" is subject to a civil penalty of up to one hundred fifty dollars. If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient no longer suffers from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card shall become null and void upon notification by the department to the qualifying patient.
c. A registered designated caregiver or compassion center staff person shall notify the department of any change in the registered designated caregiver's or compassion center staff person's name or address within ten days of such change. A registered designated caregiver or compassion center staff person who fails to notify the department of such change is subject to a civil penalty of up to one hundred fifty dollars.
d. When a cardholder notifies the department of any changes listed in this subsection and submits a fee of ten dollars, the department shall issue the cardholder a new registry identification card within ten days of receiving the updated information. If the person notifying the department is a registered qualifying patient, the department shall also issue the patient's registered designated caregiver, if any, a new registry identification card within ten days of receiving the updated information.

e. When a registered qualifying patient ceases to be a registered qualifying patient or changes the registered qualifying patient's registered designated caregiver, the
6 department shall notify the designated caregiver within ten
days. The registered designated caregiver's protections as
provided in this chapter shall expire ten days after
notification by the department.
f. If a cardholder loses their registry identification
card, the cardholder shall notify the department and submit a
two fee of ten dollars within ten days of losing the card. Within
five days after such notification, the department shall issue
a new registry identification card with a new random
identification number to the cardholder, and if the cardholder
is a registered qualifying patient, to the registered
qualifying patient's registered designated caregiver, if any.
7. Possession of, or application for, a registry
identification card shall not constitute probable cause or
reasonable suspicion and shall not be used to support the
search of the person or property of the person possessing or
applying for the registry identification card.
8. The following confidentiality rules shall apply to all
of the following:
a. Applications and supporting information submitted by a
qualifying patient or designated caregiver, including
information regarding the qualifying patient's designated
caregiver and practitioner, are confidential.
b. Applications and supporting information submitted by a
compassion center or compassion center staff person operating
in compliance with this chapter, including the physical
address of a compassion center, are confidential.
c. The department shall maintain a confidential list of
the persons to whom the department has issued registry
identification cards. Individual names and other identifying
information on the list shall be confidential and not subject
to disclosure, except to authorized employees of the
department as necessary to perform official duties of the
department.
d. Not later than November 1, 2009, the department shall
establish a secure, password-protected, internet-based
verification system that is operational twenty-four hours each
day, which law enforcement personnel and compassion center
staff persons can use to verify registry identification cards.
The verification system must allow law enforcement personnel
and compassion center staff persons to enter a registry
card number to determine whether or not the number
corresponds with a current, valid registry identification
card. The system shall disclose the name and photograph of
the cardholder, but shall not disclose the cardholder's
address. The system shall also display the amount and
quantity of marijuana that each registered qualifying patient
received from compassion centers during the past sixty days.
The system shall allow compassion center staff persons to add
the amount of marijuana dispensed to registered qualifying
patients, directly or through their designated caregivers, and
the date and time the marijuana was dispensed. The
verification system shall include all of the following data
security features:
(1) Any time an authorized user enters five invalid
registry identification numbers within five minutes, that user
cannot log in to the system again for ten minutes.
(2) The server must reject any log-in request that is not
over an encrypted connection.
e. Any records, including computer hard drives, containing
cardholder information must be destroyed once they are no
longer in use, and the department shall retain a signed
statement from a department employee confirming the
destruction.
f. (1) A person, including an employee or official of the
department or another state agency or local government, who
breaches the confidentiality of information obtained pursuant
to this chapter commits a serious misdemeanor punishable by
imprisonment of up to one hundred days and a fine of up to one
thousand dollars.
(2) Notwithstanding this paragraph "f", this section does not prevent the following notifications:

(a) Department employees may notify law enforcement about falsified or fraudulent information submitted to the department, if the employee who suspects that falsified or fraudulent information has been submitted confers with the employee's supervisor or at least one other employee of the department and the employee and the employee's supervisor or the employee and the employee's coemployee agree that circumstances exist that warrant reporting.

(b) The department may notify state or local law enforcement about apparent criminal violations of this chapter, provided that the employee who suspects the offense confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.

(c) A compassion center staff person may notify the department of a suspected violation or attempted violation of this chapter or the rules adopted pursuant to this chapter.

9. The department shall submit an annual report to the general assembly by January 15 of each year that does not disclose any identifying information about cardholders, compassion centers, or practitioners, but does contain, at a minimum, all of the following information:

a. The number of applications and renewal applications submitted for registry identification cards.

b. The number of registered qualifying patients and registered designated caregivers in each county.

c. The nature of the debilitating medical conditions of the qualifying patients.

d. The number of registry identification cards revoked.

e. The number of practitioners providing written certifications for qualifying patients.

f. The number of registered compassion centers.

g. The number of compassion center staff persons.

10. If a state or local law enforcement agency encounters an individual who, during the course of an investigation, credibly asserts that the individual is a registered cardholder or an entity whose personnel credibly assert that it is a compassion center, the law enforcement agency shall not provide any information from any marijuana-related investigation of the person to any law enforcement authority that does not recognize the protection of this chapter. Any prosecution of the individual or entity for a violation of this chapter shall be conducted pursuant to the laws of this state.

11. The application for a qualifying patient's registry identification card shall include a question on whether the patient would like the department to notify the patient about any clinical studies regarding marijuana's risks or efficacy that seek human subjects.

Sec. 8. NEW SECTION. 124D.7 SCOPE OF CHAPTER.

1. This chapter does not permit any person to do any of the following nor does it prevent the imposition of any civil, criminal, or other penalties for such actions:

a. Undertake any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice.

b. Possess marijuana, or otherwise engage in the medical use of marijuana, in any of the following places:

  (1) In a school bus.

  (2) On the grounds of any preschool or primary or secondary school.

  (3) In any correctional facility.

c. Smoke marijuana in any of the following:

  (1) Any form of public transportation.

  (2) Any public place.

d. Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana. However, a registered qualifying patient shall not be considered to be under the influence of marijuana when operating, navigating, or being in actual physical control of a motor vehicle, aircraft, or motorboat if such use is in accordance with rules adopted by the department.
marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

e. Use marijuana if that person does not have a serious or debilitating medical condition.

2. Nothing in this chapter shall be construed to require any of the following:

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

b. A person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property. This chapter shall not limit a person or entity in lawful possession of property from removing a person who uses marijuana without permission and from seeking civil and criminal penalties for the unauthorized use of marijuana on their property.

c. An employer to accommodate the ingestion of marijuana in any workplace or any employee working while under the influence of marijuana, provided that a 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. This section shall not limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

3. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution is a simple misdemeanor, punishable by a fine of five hundred dollars, 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 chapter.

Sec. 9. NEW SECTION. 124D.8 AFFIRMATIVE DEFENSES == DISMISSAL.

1. Except as provided in section 124D.7, a qualifying patient may assert the medical purpose for using marijuana as a defense to any prosecution of an offense involving marijuana intended for the patient's medical use, and this defense shall be presumed valid where the evidence shows all of the following:

a. A practitioner has stated that, in the practitioner's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

b. The patient and the patient's designated caregiver, if any, were collectively in possession of a quantity of marijuana that was not more than was reasonably necessary to ensure the uninterrupted availability of marijuana for the purpose of treating or alleviating the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

c. The patient was engaged in the acquisition, possession, cultivation, manufacture, use, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

2. A person may assert the medical purpose for using marijuana in a motion to dismiss and the charges shall be dismissed following an evidentiary hearing where the person shows all of the elements listed in subsection 1.

3. If a patient or a patient's designated caregiver demonstrates the patient's medical purpose for using marijuana...
pursuant to this section, the patient and the patient's
designated caregiver shall not be subject to any of the
following for the patient's use of marijuana for medical
purposes:
a. Disciplinary action by a business or occupational or
professional licensing board or bureau.
b. Forfeiture of any interest in or right to nonmarijuana,
licit property.

Sec. 10. NEW SECTION. 124D.9 ENFORCEMENT.
1. If the department fails to issue a valid registry
identification card in response to a valid application or
renewal application submitted pursuant to this chapter within
twenty days of its submission, the registry identification
card shall be deemed granted and a copy of the registry
identification application or renewal application shall be
deemed a valid registry identification card.
2. If at any time after January 1, 2010, including if it
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 section 124D.6, together with a written
certification, shall be deemed a valid registry identification
card.

Sec. 11. NEW SECTION. 124D.10 SEVERABILITY CLAUSE.
If any provision of this chapter or its application to any
person or circumstance is held invalid, the invalidity does
not affect other provisions or application of this chapter
which can be given effect without the invalid provision or
application, and to this end the provisions of this chapter
are severable.

Sec. 12. Section 453B.6, Code 2009, is amended by adding
the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. A person who is in possession of
marijuana for medical purposes in accordance with chapter 124D
is in lawful possession of a taxable substance and is not
subject to the requirements of this chapter.

EXPLANATION
This bill establishes Code chapter 124D, the medical
marijuana Act, relating to the possession and use of marijuana
for therapeutic purposes, provides for the creation of
compassion centers, and provides for civil and criminal
penalties and fees.

The bill provides that a qualifying patient who has been
issued and possesses a registry identification card shall not
be subject to arrest, prosecution, or civil penalty, or denied
any right or privilege, for the qualifying patient's medical
use of marijuana pursuant to the provisions of the bill,
provided the qualifying patient possesses an amount of
marijuana that does not exceed 12 marijuana plants and 2.5
ounces of usable marijuana. Such marijuana plants shall be
kept in an enclosed, locked facility unless the plants are
being transported because the qualifying patient is moving or
if the plants are being transported to the qualifying
patient's property. The same qualifications apply to a
designated caregiver assisting a qualifying patient.

The bill defines a qualifying patient as a person who has
been diagnosed by a practitioner with a debilitating medical
condition defined as 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, nail patella, or a
chronic or debilitating medical condition that produces one or
more of the following: cachexia or wasting syndrome, severe
pain, severe nausea, certain seizures, or certain muscle
spasms. A designated caregiver is defined as a person, 21 or
older, who has agreed to assist with a patient's medical use
of marijuana who has never been convicted of a felony drug
offense. A designated caregiver shall not assist more than
five qualifying patients. A practitioner is defined as a
physician, dentist, podiatric physician, veterinarian, or
6 other person licensed or registered to distribute or dispense 
7 a prescription drug or device in the course of professional 
8 practice in Iowa or a person licensed by another state in a 
9 health field in which, under Iowa law, licensees in this state 
10 may legally prescribe drugs. 
11 The bill provides for the creation of compassion centers. 
12 The bill defines a registered compassion center as a 
13 not-for-profit organization registered by the department that 
14 acquires, possesses, cultivates, manufactures, delivers, 
15 transfers, transports, supplies, or dispenses marijuana or 
16 related supplies and educational materials to qualifying 
17 patients, designated caregivers, and compassion center staff 
18 persons who possess a valid registry identification card. 
19 "Compassion center staff person" is defined as a principal 
20 officer, board member, employee, volunteer, or agent of a 
21 compassion center. The bill provides specific guidelines for 
22 regulation of compassion centers and compassion center staff 
23 persons by the department including rules specific to the 
24 creation of a verification system to verify registry 
25 identification cards. A person who was convicted of a felony 
26 offense shall not work in a compassion center, unless 
27 otherwise permitted by the department. A first violation of 
28 this provision is punishable by a civil penalty of up to 
29 $1,000. A subsequent violation is an aggravated misdemeanor. 
30 The bill provides that the department of public health 
31 (department) shall adopt rules for implementing the bill 
32 including rules relating to the consideration of petitions 
33 from the public to add additional debilitating medical 
34 conditions to the list of debilitating medical conditions 
35 specified in the bill, rules relating to applications and 
36 renewal applications for registry identification cards issued 
37 to qualifying patients and designated caregivers, and rules 
38 relating to registered compassion center registration 
39 certificates. The department shall establish fees which shall 
40 meet certain requirements. 
41 The bill provides that the department shall issue a 
42 registry identification card to a qualifying patient who 
43 submits certain specified information to the department. The 
44 department shall not issue a registry identification card to a 
45 qualifying patient who is under the age of 18 unless the 
46 qualifying patient's practitioner has explained the potential 
47 risks and benefits of the medical use of marijuana to the 
48 qualifying patient and to the qualifying patient's parent, 
49 guardian, or legal representative and such persons provide the 
50 appropriate consent. The department shall also issue a 
51 registry identification card to each designated caregiver 
52 named in a qualifying patient's approved application for a 
53 registry identification card, up to a maximum of one 
54 designated caregiver per qualifying patient. The bill 
55 requires the department to submit an annual report to the 
56 general assembly by January 15 of each year concerning 
57 information related to registry identification cards. 
58 The bill provides that a registered qualifying patient or a 
59 registered designated caregiver who loses their registration 
60 identification card or who makes changes to certain 
61 information relevant to their registration identification card 
62 shall submit a fee of $10 for each replacement card. A 
63 registered qualifying patient or a registered designated 
64 caregiver who fails to notify the department of any changes in 
65 information relevant to the registration identification card 
66 is subject to a civil penalty of up to $150. 
67 The bill provides that applications and supporting 
68 information submitted by a qualifying patient, designated 
69 caregiver, practitioner, compassion center, or compassion 
70 center staff persons, are confidential. The bill also 
71 provides that a person, including an employee or official of 
72 the department, who disseminates information received in 
73 connection with an application for a registry identification 
74 card pursuant to the bill, is guilty of a serious misdemeanor 
75 and is subject to confinement in jail for up to 100 days and a
The bill provides that the bill does not permit a
registered qualifying patient to undertake any task under the
influence of marijuana when doing so would constitute
negligence or professional malpractice. The bill prohibits
the possession and use of medical marijuana in certain places
and during certain activities. The bill provides that any
fraudulent representation to a law enforcement official
relating to the use of medical marijuana is a simple
misdemeanor, punishable by a fine of up to $500.

The bill provides that a patient or a patient's designated
caregiver, who is not a cardholder, may assert the medical
purpose for using marijuana as a defense to any prosecution
involving marijuana where the evidence shows that a
practitioner has stated that the patient who is a patient of
the practitioner is likely to receive therapeutic or
palliative benefit from the medical use of marijuana to treat
or alleviate the patient's debilitating medical condition, the
patient and the patient's designated caregiver, if any, were
collectively in possession of a quantity of marijuana that was
not more than was reasonably necessary to ensure the
uninterrupted availability of marijuana for the purpose of
treating or alleviating the patient's debilitating medical
condition, and the patient and the patient's caregiver, if
any, were engaged in the acquisition, possession, cultivation,
manufacture, use, delivery, transfer, or transportation of
marijuana or paraphernalia relating to the administration of
marijuana to treat or alleviate the patient's debilitating
medical condition.

The bill amends Code section 124.401, relating to
prohibited acts involving controlled substances, to provide
that it is lawful for a person to knowingly or intentionally
possess marijuana if the possession is in accordance with the
provisions of the bill. The bill also amends Code section
453B.6, relating to tax stamps for controlled substances, to
specify that possession in accordance with the provisions of
the bill is lawful possession and a tax stamp is not required.