A BILL TO BE ENTITLED

AN ACT

relating to authorizing the possession, use, cultivation, distribution, transportation, and delivery of cannabis for medical purposes; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 6, Health and Safety Code, is amended by adding Chapter 488 to read as follows:

CHAPTER 488. USE OF CANNABIS FOR MEDICAL PURPOSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 488.001. DEFINITIONS. In this chapter:

(1) "Allowable amount of cannabis" means:
(A) 2.5 ounces of cannabis;
(B) the quantity of edible cannabis products and cannabis-infused products as established by department rule;
(C) not more than six cannabis plants contained in a secure space at the cardholder's private residence, except the plants are not required to be in a secure space if the plants are being transported or delivered to a medical cannabis establishment; and
(D) cannabis, edible cannabis products, or any cannabis-infused products produced from allowable plants that are on the premises where the plants were grown.

(2) "Bona fide practitioner-patient relationship" means a relationship in which a treatment or consulting
relationship between a practitioner and patient exists, during the

course of which:

(A) the practitioner has completed an assessment

of the patient's medical history and current medical condition,

including an appropriate in-person physical examination;

(B) the practitioner has consulted with the

patient with respect to the patient's debilitating medical

condition; and

(C) the practitioner is available or offers to

provide follow-up care and treatment to the patient, including

patient examinations.

(3) "Cannabis-infused product" means a product that is

infused with cannabis or an extract of cannabis and is intended for

use or consumption by humans through means other than inhalation or

oral ingestion, including a topical product, ointment, oil, or

tincture.

(4) "Cannabis paraphernalia" means equipment, a

product, or material used or intended for use in the planting,

propagating, cultivating, growing, harvesting, manufacturing,

compounding, converting, producing, processing, preparing,

testing, analyzing, packaging, repackaging, storing, containing,
or concealing of cannabis, or the ingesting or inhaling of

cannabis, or other means of introducing cannabis into the human

body.

(5) "Cannabis product manufacturing facility" means a

business that:

(A) is registered with the department under this
(B) acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells edible cannabis products or cannabis-infused products to medical cannabis dispensaries.

(6) "Cannabis testing facility" or "testing facility" means an independent entity registered to analyze the safety and potency of cannabis.

(7) "Cardholder" means a qualifying patient or a designated caregiver who has been issued a valid registry identification card.

(8) "Cultivation facility" means a business that:

(A) is registered with the department under this chapter; and

(B) acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to medical cannabis establishments.

(9) "Debilitating medical condition" means:

(A) cancer, glaucoma, acquired immune deficiency syndrome, infection with human immunodeficiency virus, Crohn's disease, ulcerative colitis, agitation of Alzheimer's disease, or post-traumatic stress disorder;

(B) a chronic medical condition that produces, or the treatment of a chronic medical condition that produces:

(i) cachexia or wasting syndrome;

(ii) severe pain;

(iii) severe nausea;

(iv) seizures, including those
characteristic of epilepsy; or

(v) severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

(C) any other medical condition or symptoms caused by the treatment of a medical condition approved as a debilitating medical condition by department rule.

(10) "Department" means the Department of State Health Services.

(11) "Designated caregiver" means an individual who:

(A) is at least 21 years of age;

(B) has significant responsibility for managing the well-being of a person diagnosed with a debilitating medical condition;

(C) is designated as a caregiver under this chapter; and

(D) assists no more than five registered qualifying patients.

(12) "Edible cannabis product" means a product that:

(A) contains cannabis or an extract of cannabis;

(B) is intended for human consumption by oral ingestion; and

(C) is presented in the form of a foodstuff, extract, oil, tincture, or similar product.

(13) "Executive commissioner" means the executive commissioner of the Health and Human Services Commission.

(14) "Medical cannabis" or "cannabis" means the plant Cannabis sativa L., whether growing or not, the seeds of that plant,
and every compound, manufacture, salt, derivative, mixture, or any preparation of that plant or its seeds, including preparations containing organic delta-9 tetrahydrocannabinol (THC), organic cannabidiol (CBD), or organic resin extracted from the plant or its seeds, or a compound, manufacture, salt, derivative, mixture, or preparation of the resin. The term does not include:

(A) the mature stalks of the plant or fiber produced from the stalks;

(B) oil or cake made from the seeds of the plant;

(C) a compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake;

or

(D) the sterilized seeds of the plant that are incapable of beginning germination.

(15) "Medical cannabis dispensary" or "dispensary" means a business that:

(A) is registered with the department under this chapter; and

(B) acquires, possesses, delivers, transfers, transports, supplies, sells, or dispenses cannabis, cannabis products, cannabis-infused products, cannabis paraphernalia, or related supplies and educational materials to cardholders and nonresident cardholders.

(16) "Medical cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary.

(17) "Medical cannabis establishment agent" means an
owner, officer, board member, employee, volunteer, contractor, property owner, or landlord of a medical cannabis establishment.

(18) "Medical use" includes the acquisition, administration, cultivation, delivery, growing, harvesting, manufacture, planting, possession, preparation, propagation, transfer, transportation, or use of cannabis or cannabis paraphernalia. The term does not include planting, propagating, cultivating, growing, manufacturing, or harvesting cannabis by a nonresident cardholder.

(19) "Nonresident card" means a card or other documentation that is issued by a state other than this state authorizing the holder or bearer to possess and use medical cannabis.

(20) "Nonresident cardholder" means a person who:

(A) has been diagnosed with a debilitating medical condition or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person diagnosed with a debilitating medical condition;

(B) is not a resident of this state or who has been a resident of this state for less than 45 days;

(C) was issued a currently valid registry identification card or its equivalent by a state, district, or jurisdiction other than this state; and

(D) has been issued a nonresident eligibility confirmation letter under this chapter.

(21) "Practitioner" means a person who is authorized to prescribe pharmaceutical medications to humans in this state.
(22) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition.

(23) "Registry identification card" means a document issued by the department, or the functional equivalent of a document issued under this chapter, that identifies a person as a registered qualifying patient or registered designated caregiver.

(24) "Secure space" means a closet, display case, room, greenhouse, or other area equipped with locks or other security devices intended to limit access to those spaces only to medical cannabis establishment agents or cardholders.

(25) "Written certification" means a document dated and 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 cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification must:

(A) affirm that it is made in the course of a bona fide practitioner-patient relationship; and
(B) specify the qualifying patient's debilitating medical condition.

Sec. 488.002. PETITION TO ADD DEBILITATING MEDICAL CONDITION. (a) A person may submit to the department a petition to add a medical condition to the definition of "debilitating medical condition" provided by Section 488.001(9).

(b) The department shall hold a public evidentiary hearing
SUBCHAPTER B. REGISTRATION AND REGULATION OF QUALIFYING PATIENTS, DESIGNATED CAREGIVERS, AND MEDICAL CANNABIS ESTABLISHMENTS

Sec. 488.051. RULES FOR MEDICAL CANNABIS REGULATION. (a) The executive commissioner shall adopt rules as necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred on the department by this chapter, including:

(1) the establishment and maintenance of a confidential registry of qualifying patients who have applied for and are entitled to receive a registry identification card;

(2) the verification of a certification concerning a person who has applied for a registry identification card;

(3) the issuance and form of a registry identification card;

(4) the determination of the manner of adding medical conditions to the list of debilitating medical conditions, including by petition as provided by Section 488.002;

(5) the form and any additional required content of a registration application and a renewal application submitted under this chapter;

(6) the form and any additional required content of an affidavit to be used by nonresident cardholders under this chapter;

(7) fees for medical cannabis establishments, cardholders, and nonresident cardholders;

(8) the safe and responsible operation of medical
cannabis establishments, including:

(A) the manner of protecting against diversion and theft without compromising the confidentiality of cardholders and nonresident cardholders or imposing an undue burden on medical cannabis establishments;

(B) requirements for the oversight of medical cannabis establishments;

(C) requirements for the keeping of records by medical cannabis establishments;

(D) rules for random sample testing to ensure that cannabis, cannabis products, and cannabis-infused products available to cardholders and nonresident cardholders are accurately labeled for content and potency, in accordance with standards established by department rule, for the preservation of the health and safety of registered qualifying patients;

(E) rules under which the department shall notify a medical cannabis dispensary if a qualifying patient who holds a valid registry identification card has chosen the dispensary as the patient’s designated medical cannabis dispensary;

(F) certification standards for cannabis testing facilities that will test cannabis, cannabis products, and cannabis-infused products that are available to cardholders in this state; and

(G) standards for the certification of testing facilities; and

(9) the quantity of edible cannabis products and cannabis-infused products not produced from allowable plants that
cardholders and nonresident cardholders may possess.

(b) The department shall approve or deny qualifying patient registration applications or qualifying patient renewal applications under this chapter.

(c) The department may deny any registration issued under this chapter if the department determines that the applicant fails to meet the minimum criteria established by this chapter.

(d) The department may take any action with respect to a registration application in the manner provided by this chapter.

(e) The department shall develop and publish any forms, identification certificates, and applications that are necessary or convenient for the administration of this chapter or any of the rules adopted under this chapter.

Sec. 488.052. FEES. (a) Except as otherwise provided by Subsection (b), the department shall collect a fee of:

(1) not more than $20,000 for the initial issuance of a medical cannabis establishment registration certificate for a medical cannabis dispensary;

(2) not more than $10,000 for the renewal of a medical cannabis establishment registration certificate for a medical cannabis dispensary;

(3) not more than $3,000 for the initial issuance of a medical cannabis establishment registration certificate for a cultivation facility;

(4) not more than $1,000 for the renewal of a medical cannabis establishment registration certificate for a cultivation facility;
(5) not more than $3,000 for the initial issuance of a medical cannabis establishment registration certificate for a facility for the production of edible cannabis products or cannabis-infused products;

(6) not more than $2,000 for the renewal of a medical cannabis establishment registration certificate for a facility for the production of edible cannabis products or cannabis-infused products;

(7) not more than $5,000 for the initial issuance of a medical cannabis establishment registration certificate for an independent testing facility;

(8) not more than $3,000 for the renewal of a medical cannabis establishment registration certificate for an independent testing facility;

(9) not more than $50 for each registry identification card or renewal registry identification card; and

(10) an amount not to exceed the reasonable costs to the department for the issuance and processing of the prescribed affidavit of a nonresident cardholder.

(b) In addition to the fees described by Subsection (a), each applicant for a medical cannabis establishment registration certificate must pay to the department a one-time, nonrefundable application fee of $2,000.

(c) The department shall deposit fees collected under this section to the credit of a fund in the general revenue fund, to be appropriated by the legislature only to the department for the purposes of administering this chapter, and to the extent that
excess funds exist, for research into the safety and efficacy of medical cannabis for medical conditions, with a preference being given for conditions that are not designated by definition or rule as debilitating medical conditions under this chapter.

Sec. 488.053. CONFIDENTIALITY OF QUALIFYING PATIENT INFORMATION. (a) Except as provided by Subsection (c) or as otherwise authorized under this chapter, the department shall maintain the confidentiality of and may not disclose:

(1) the contents of any applications, records, or other written documentation that the department creates or receives under this chapter; or

(2) the name or any other identifying information of:

(A) a certifying practitioner; or

(B) a person who has applied for or to whom the department has issued a registry identification card or nonresident confirmation letter.

(b) Except as provided by Subsection (c), the information described by Subsection (a) is confidential under Section 552.101, Government Code, and is not subject to disclosure under Chapter 552, Government Code.

(c) The department may release the name and other identifying information of a person to whom the department has issued a registry identification card or a nonresident confirmation letter to:

(1) authorized employees of the department, only as necessary to perform official duties of the department related to this chapter;
(2) authorized employees of state and local law enforcement agencies, only as necessary to verify that a person who has been discovered in possession of cannabis or cannabis paraphernalia is the lawful holder of a registry identification card or nonresident confirmation letter issued under this chapter; and

(3) medical cannabis dispensary agents, only as necessary to verify that a person is the lawful holder of a registry identification card or nonresident confirmation letter issued under this chapter and that the dispensary has been designated by the cardholder or nonresident cardholder.

Sec. 488.054. APPLICATION BY QUALIFYING PATIENT. (a) The department shall develop an application form and make that form available to a qualifying patient.

(b) The applicant must submit:

(1) a written certification issued by a practitioner not more than 90 days before the date the application is submitted;

(2) the application fee;

(3) the name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) the name, address, and telephone number of the qualifying patient's practitioner; and

(5) the name of not more than two dispensaries that the qualifying patient initially designates, if any.

Sec. 488.055. DESIGNATION OF CAREGIVER. (a) The department shall develop a form for a qualifying patient to designate a
The form must require the qualifying patient to provide the designated caregiver's full name, home address, and date of birth.

A qualifying patient may designate only one caregiver, unless the qualifying patient submits documentation satisfactory to the department showing that a greater number of designated caregivers are required due to the qualifying patient's age or disability.

The executive commissioner shall adopt rules for a qualifying patient who is a cardholder to change the patient's designated caregiver or caregivers.

The state and the medical cannabis dispensaries designated by a nonresident cardholder may recognize a nonresident card only if:
1. the state or jurisdiction from which the holder or bearer obtained the nonresident card grants an exemption from criminal prosecution for the medical use of cannabis;
2. the state or jurisdiction from which the holder or bearer obtained the nonresident card requires, as a prerequisite to the issuance of the card, that a practitioner advise the person that the medical use of cannabis may mitigate the symptoms or effects of the person's medical condition;
3. the nonresident card has an expiration date that has not yet occurred; and
4. the person to whom the nonresident card was issued signs an affidavit in a form prescribed by the department that:
(A) affirms that the holder or bearer is entitled
to engage in the medical use of cannabis in the holder's or bearer's
state or jurisdiction of residence;

(B) acknowledges the holder or bearer qualifies
for the medical use of cannabis in that state or jurisdiction; and

(C) states that the person agrees to abide by all
applicable requirements related to the medical use of cannabis in
this chapter, including the legal limits on the possession of
cannabis for medical purposes for a nonresident cardholder in this
state.

(b) While in this state, the holder or bearer of a
nonresident card may not possess cannabis for medical purposes in
excess of the allowable amount of cannabis, regardless of the
amount of medical cannabis that the holder or bearer is entitled to
possess in the holder's or bearer's state or jurisdiction of
residence.

(c) The department shall develop the affidavit described by
Subsection (a)(4) and make the affidavit available to holders or
bearers of nonresident cards.

(d) The holder or bearer of a nonresident card must submit
to the department:

(1) a signed and notarized copy of the affidavit
described by Subsection (a)(4);

(2) a copy of the holder's or bearer's identification
card or other documentation from the holder's or bearer's state or
jurisdiction of residence;

(3) the application fee;
(4) the name, address, and date of birth of the prospective nonresident cardholder, except that if the applicant is homeless, no address is required;

(5) the name, address, and telephone number of the administrative agency, department, or commission with regulatory authority over patients authorized to use medical cannabis in the holder's or bearer's state or jurisdiction; and

(6) the name of not more than two designated dispensaries.

(e) The department shall accept the affidavit if the holder or bearer of a nonresident card submits the affidavit and meets all the eligibility requirements and mail or electronically transmit a confirmation letter to the mailing address or electronic mail address designated by the applicant not later than the fifth calendar day after the date the affidavit and application are received. The confirmation shall contain:

(1) a unique, randomly assigned number identifying the nonresident cardholder;

(2) the name of the dispensary or dispensaries designated by the nonresident cardholder; and

(3) a statement to state and local law enforcement agencies indicating that the department recognizes the validity of the nonresident cardholder's status as a qualifying patient.

(f) The department shall administer the nonresident eligibility rules in good faith so that any nonresident applicant who meets all the eligibility requirements and submits the affidavit shall promptly receive a confirmation letter. The
department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(g) A nonresident cardholder may engage in the medical use of cannabis under state law until the earlier of:

(1) the date the nonresident card from the issuing state or jurisdiction expires; or

(2) the 46th day after the date the nonresident cardholder becomes a resident of this state.

(h) If the department fails to mail or electronically transmit a confirmation letter within the period prescribed by Subsection (e), a copy of the affidavit is considered the functional equivalent of the confirmation letter.

(i) The executive commissioner shall adopt rules as necessary to implement this section.

Sec. 488.057. CONFIDENTIAL REGISTRY. The department shall establish and maintain a confidential registry of cardholders and nonresident cardholders.

Sec. 488.058. USE OF MEDICAL CANNABIS AND REGISTRATION BY QUALIFYING PATIENTS YOUNGER THAN 18 YEARS OF AGE. (a) A qualifying patient who is younger than 18 years of age may be issued a registry identification card only if the qualifying patient's parent, guardian, conservator, or other person with authority to consent to the qualifying patient's medical treatment has:

(1) given written consent; and

(2) agreed to be a designated caregiver for the qualifying patient.

(b) A parent, guardian, conservator, or other person with
authority to consent to the qualifying patient's medical treatment shall submit the registry application on behalf of the qualifying patient.

Sec. 488.059. APPROVAL OR DENIAL OF REGISTRATION AND RENEWAL. (a) The department shall approve a new or renewal registry application and issue a registry identification card to an applicant if the applicant meets all the eligibility requirements and submits all the application materials. The department shall administer the registration rules in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials receives a registry identification card. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b) The department shall, not later than the 35th calendar day after the date the department receives the completed application materials:

(1) approve the application, add the applicant to the confidential registry, and issue to the applicant a registry identification card; or

(2) deny the application and notify the applicant in writing of the denial, the grounds on which the application was denied, and the applicant's entitlement to a hearing.

(c) If the department fails to issue or renew a registry identification card or deny a registration within the period described by Subsection (b), the application is considered approved and a copy of the application and written certification is the functional equivalent of a registry identification card.
Sec. 488.060. FORM OF REGISTRY IDENTIFICATION CARD; EXPIRATION. (a) A registry identification card must contain a unique identification number.

(b) Except as otherwise provided by Subsection (c) or (d), a registry identification card is valid for one year.

(c) If the practitioner states in the written certification that the qualifying patient would benefit from the medical use of cannabis for a specified period of less than one year, the registry identification card expires on the last day of the specified period.

(d) If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the registered qualifying patient would receive therapeutic or palliative benefit from the medical use of cannabis, the department shall revoke the card. The department must provide sufficient notice to the cardholder of this change in status. The cardholder not later than the 15th day after the date of the notification shall:

(1) dispose of the cardholder's cannabis, as permitted under Section 488.103(4) or 488.155(d); or

(2) appeal the card's revocation.

Sec. 488.061. RENEWAL. (a) It is the responsibility of a cardholder to apply to renew a registry identification card before the date on which the card expires.

(b) The department shall develop a form for a cardholder to
use in renewing a registry identification card.

(c) On renewal of a nonresident cardholder's nonresident card, the nonresident cardholder may apply for a renewal of the nonresident's confirmation letter. The department shall develop a form for a nonresident renewal under this subsection.

Sec. 488.062. REVOCATION OF REGISTRY IDENTIFICATION CARD OR CONFIRMATION LETTER. (a) Subject to Subsection (b), the department may revoke a registry identification card or a confirmation letter for a nonresident cardholder if the department determines that:

(1) the practitioner who diagnosed the registered qualifying patient's debilitating medical condition, the cardholder, or the nonresident cardholder violated this chapter or rules adopted under this chapter; or

(2) the cardholder or nonresident cardholder no longer qualifies for registration.

(b) When a practitioner's violation is the basis for adverse action, the department may not revoke the registered qualifying patient's registry identification card unless the practitioner's violation is related to the issuance of a written certification to that patient.

(c) The department must provide sufficient notice to the cardholder or nonresident cardholder of a change in status of a practitioner not later than the 36th calendar day after the date of the determination.

Sec. 488.063. ADVERSE DETERMINATION; HEARING. (a) If the department denies the issuance or renewal of or revokes a registry
identification card, nonresident cardholder confirmation letter, or medical cannabis establishment registration certificate, the registrant or applicant is entitled to a hearing. The department shall give written notice of the grounds for denial or revocation to the registrant not later than the 31st day before the date of the hearing.

(b) The executive commissioner shall establish rules consistent with the requirements of Section 2001.176, Government Code, for the appeal by an aggrieved party of any final decision of the department. The decision of the department to deny an application for a new or renewal registry identification card, nonresident cardholder confirmation letter, or medical cannabis establishment registration certificate is a final decision for the purposes of judicial review.

SUBCHAPTER C. CULTIVATION, POSSESSION, AND TRANSPORTATION OF MEDICAL CANNABIS

Sec. 488.101. LIMITED CULTIVATION AND POSSESSION FOR REGISTERED QUALIFYING PATIENTS. (a) Notwithstanding any other law, a registered qualifying patient who possesses a valid registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for engaging in the medical use of cannabis under this chapter, provided that the registered qualifying patient does not possess more than the allowable amount of cannabis or an amount of cannabis allowed the patient in accordance with Subsection (b), if
applicable.

(b) A registered qualifying patient may engage in the medical use of cannabis in amounts greater than the allowable amount of cannabis if the qualifying patient obtains written documentation from the qualifying patient's practitioner stating that greater amounts are necessary based on the qualifying patient's debilitating medical condition.

Sec. 488.102. LIMITED CULTIVATION AND POSSESSION OF MEDICAL CANNABIS BY DESIGNATED CAREGIVER. Notwithstanding any other law, a designated caregiver who possesses a valid registry identification card is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for:

(1) assisting a registered qualifying patient with the medical use of cannabis under this chapter, provided that the designated caregiver does not possess more than the allowable amount of cannabis or an amount of cannabis allowed the patient in accordance with Section 488.101(b), if applicable; and

(2) receiving compensation from the designated caregiver's registered qualifying patient for direct costs incurred by the designated caregiver for assisting with the registered qualifying patient's medical use of cannabis.

Sec. 488.103. ADDITIONAL PROTECTIONS FOR REGISTERED QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS. Notwithstanding any other law, a cardholder who has been issued a valid registry identification card is not subject to arrest, prosecution, or
penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for:

(1) transferring cannabis to a cannabis testing facility for testing;

(2) compensating a dispensary or a testing facility for goods or services provided;

(3) selling, transferring, or delivering cannabis, including seeds, produced by the cardholder to a cultivation facility under this chapter; or

(4) offering or providing cannabis to another cardholder or nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the cardholder giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis, or an amount of cannabis allowed the recipient in accordance with Section 488.101(b), if applicable.

Sec. 488.104. PROTECTIONS FOR NONRESIDENT CARDHOLDER. Notwithstanding any other law, a nonresident cardholder is not subject to arrest, prosecution, or penalty in any manner, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for engaging in the medical use of cannabis under this chapter, provided that the nonresident cardholder does not possess more than the allowable amount of cannabis or more than the quantity of edible cannabis products or cannabis-infused products as established by department rule.
Sec. 488.105. ADDITIONAL MEDICAL CANNABIS PROTECTIONS.

Notwithstanding any other law, a person may not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

(1) providing or selling cannabis paraphernalia to a cardholder, a nonresident cardholder, or a medical cannabis establishment on presentation of a valid registry identification card, its equivalent, or a registration certificate;

(2) being in the presence or vicinity of the medical use of cannabis as defined under this chapter; or

(3) assisting a registered qualifying patient with the act of using or administering medical cannabis.

Sec. 488.106. PROTECTIONS FOR MEDICAL CANNABIS ESTABLISHMENTS AND MEDICAL CANNABIS ESTABLISHMENT AGENTS.

Notwithstanding any other law, a medical cannabis establishment or a medical cannabis establishment agent who engages in conduct in compliance with all applicable requirements related to medical cannabis in which the establishment or agent is registered to engage is not subject to:

(1) search or inspection except by the department under this chapter;

(2) seizure, or penalty in any manner;

(3) denial of any right or privilege, including a civil penalty or disciplinary action by a court or business licensing board or entity; or
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(4) criminal prosecution for engaging in conduct authorized by this chapter.

Sec. 488.107. PROTECTIONS FOR PROPERTY ASSOCIATED WITH MEDICAL USE OF CANNABIS. (a) Except as provided by Subsection (c), property that is seized by a peace officer or law enforcement agency in connection with the prosecution of an offense involving the manufacture, cultivation, distribution, delivery, possession, or use of cannabis by a cardholder or nonresident cardholder is not considered contraband and is not subject to forfeiture under Chapter 59, Code of Criminal Procedure.

(b) Property described by Subsection (a) may not be harmed, neglected, injured, or destroyed while in the possession of a peace officer or law enforcement agency.

(c) If a property owner is convicted of or placed on deferred adjudication community supervision for an offense in connection with property described by Subsection (a), that property is contraband subject to forfeiture under Chapter 59, Code of Criminal Procedure.

(d) A law enforcement agency shall return property described by Subsection (a) to the property owner if:

(1) the property owner is acquitted of the offense charged;

(2) the charges against the property owner are dismissed or quashed;

(3) the statute of limitations for bringing charges against the property owner has expired; or

(4) the attorney representing the state certifies that
the attorney declines to prosecute the property owner for an
offense connected to the property.

SUBCHAPTER D. MEDICAL CANNABIS ESTABLISHMENTS
Sec. 488.151. APPLICATION FOR REGISTRATION. (a) A medical
cannabis establishment must register with the department.
(b) A person may not operate a medical cannabis
establishment without approval from the department. An applicant
must seek department approval by submitting an application to the
department on the form prescribed by the department. An applicant
must submit a separate application and receive approval for each
single type of a medical cannabis establishment.
(c) Except as otherwise provided by this subchapter, not
later than the 91st day after the date the department receives an
application to operate a medical cannabis establishment, the
department shall register the medical cannabis establishment and
issue a medical cannabis establishment registration certificate
and a random alphanumeric identification number, provided that:

(1) the person who wishes to operate the proposed
medical cannabis establishment has submitted to the department:

(A) the application fee; and

(B) an application, which must include:

(i) the legal name of the proposed medical
cannabis establishment and the physical address of any co-owned
additional or otherwise associated medical cannabis
establishments;

(ii) the physical address where the
proposed medical cannabis establishment will be located, which may
not be within 1,000 feet of a public or private school that provides
formal education traditionally associated with preschool or
kindergarten through grade 12 and that existed on the date on which
the application for the proposed medical cannabis establishment was
submitted to the department;

(iii) evidence that the applicant controls
not less than $50,000 in liquid assets to cover the initial expenses
of opening the proposed medical cannabis establishment and other
expenses in compliance with the provisions of this chapter and
department rules;

(iv) evidence that the applicant owns the
property on which the proposed medical cannabis establishment will
be located or has the written permission of the property owner to
operate the proposed medical cannabis establishment on that
property;

(v) the name, address, and date of birth of
each person who is proposed to be an owner, officer, or board member
of the proposed medical cannabis establishment;

(vi) proposed operating procedures
consistent with department rule for oversight of the proposed
medical cannabis establishment, including procedures to ensure the
use of adequate security measures;

(vii) if the proposed medical cannabis
establishment will manufacture, sell, or deliver edible cannabis
products or cannabis-infused products, proposed operating
procedures preapproved by the department for handling those
products;
(viii) if the municipality or, in the case of a location in an unincorporated area, the county in which the proposed medical cannabis establishment will be located has enacted zoning restrictions or licensing requirements, proof of licensure with the applicable local governmental authority or an affirmation signed by the applicant that the proposed medical cannabis establishment will be in compliance with any local restrictions and satisfies all applicable zoning requirements; and

(ix) any other information required by department rule; and

(2) none of the persons who are proposed to be owners, officers, or board members of the proposed medical cannabis establishment:

(A) have served as an owner, officer, or board member for a medical cannabis establishment that has had its medical cannabis establishment registration certificate revoked; or

(B) are under 21 years of age.

(d) Except as otherwise provided in this subchapter, if an application for registration as a medical cannabis establishment satisfies the requirements of this section and the establishment is not disqualified from being registered as a medical cannabis establishment under this section or other law, the department shall issue to the establishment a medical cannabis establishment registration certificate.

(e) A medical cannabis establishment registration certificate expires two years after the date of issuance and may be
renewed on:

(1) an application for renewal that contains the information required by this section for an original application; and

(2) payment of the renewal fee.

Sec. 488.152. DEPARTMENT AUTHORITY AND REQUIREMENTS. (a) The executive commissioner shall adopt any rule necessary or proper for the department to carry out the purposes and intent of this chapter and to enable the department to exercise its powers and perform its duties under this chapter.

(b) The department shall approve or deny an application for cultivating, manufacturing, testing, transporting, and distributing medical cannabis, edible cannabis products, and cannabis-infused products under this chapter.

(c) The department may deny a new or renewal application for a medical cannabis establishment registration certificate issued under this chapter if the department determines that the applicant fails to meet the minimum criteria established by this chapter.

(d) The department may take any action with respect to a new or renewal application for a medical cannabis establishment registration certificate in the manner prescribed by this chapter.

(e) The department shall develop and publish any forms, identification certificates, and applications that are necessary or convenient for the administration of this chapter or the rules adopted under this chapter.

Sec. 488.153. GROUNDS FOR REVOCATION. (a) Except as otherwise provided by this section, the following acts constitute
grounds for suspension or revocation of a medical cannabis establishment registration certificate:

(1) dispensing, delivering, or otherwise transferring cannabis to a person other than a medical cannabis establishment agent, another medical cannabis establishment, or a cardholder or nonresident cardholder;

(2) acquiring usable cannabis or mature cannabis plants from any person other than a medical cannabis establishment agent, another medical cannabis establishment, or a cardholder or nonresident cardholder; or

(3) violating a provision of this chapter or a department rule, the violation of which is provided by rule as grounds for suspension or revocation of a medical cannabis establishment registration certificate.

(b) The following are not grounds for suspension or revocation:

(1) a medical cannabis establishment, agent or cardholder obtains or acquires cannabis seeds from any party; or

(2) a medical cannabis establishment agent or cardholder provides seeds to a medical cannabis establishment agent or cardholder.

Sec. 488.154. LOCATION, LAND USE, APPEARANCE, AND SIGNAGE.

(a) A local government may enact:

(1) reasonable zoning rules that limit the use of land for medical cannabis establishments to specified areas; and

(2) ordinances, orders, or other rules that regulate the time, place, and manner of medical cannabis establishment
operations.

(b) A local government may not prohibit medical cannabis establishments, either expressly or through the enactment of ordinances, orders, or other rules, that make the operation of any establishment within the jurisdiction impracticable.

(c) A medical cannabis establishment must:

(1) be located in a building or facility that is in a commercial or industrial zone, district or overlay, or, in the case of a cultivation facility, in a commercial or industrial zone, district or overlay, or agricultural zone or district;

(2) comply with all local ordinances, orders, and rules pertaining to zoning, land use, signage, and licensing;

(3) have an appearance, both as to the interior and exterior, that is professional, orderly, dignified, and, in the case of a dispensary or testing facility, consistent with the traditional style of pharmacies and medical offices; and

(4) have discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices.

Sec. 488.155. OPERATING DOCUMENTS; SECURITY MEASURES; OVERSIGHT. (a) The operating documents of a medical cannabis establishment must include procedures for:

(1) providing the oversight of the medical cannabis establishment; and

(2) ensuring accurate recordkeeping.

(b) A medical cannabis establishment may not acquire, possess, cultivate, manufacture, deliver, transfer, transport,
supply, or dispense cannabis for any purpose except to directly or
indirectly assist registered qualifying patients, designated
caregivers who have been issued registry identification cards, or
authorized nonresident cardholders.

(c) All cultivation or production of cannabis that a
cultivation facility carries out or causes to be carried out must
take place in a secure facility at the physical address provided to
the department during the registration process. The facility may
not be accessible to persons other than:

(1) medical cannabis establishment agents who are
lawfully associated with the cultivation facility;

(2) persons 18 years of age or older supervised by a
medical cannabis establishment agent; and

(3) persons who are otherwise lawfully present,
including department agents, representatives of law enforcement,
or emergency services personnel.

(d) A medical cannabis dispensary or a cultivation facility
may acquire cannabis or cannabis plants from a cardholder. A
cardholder may donate cannabis and cannabis plants to medical
cannabis establishments no more frequently than once every 30 days.

(e) Medical cannabis establishments are subject to
reasonable inspection by the department at any time during business
hours. A person who holds a medical cannabis establishment
registration certificate or the person's designee must be
personally available and present for any inspection of the
establishment by the department.

Sec. 488.156. DUTIES OF MEDICAL CANNABIS DISPENSARIES
RELATING TO SALE OF MEDICAL CANNABIS. (a) Each medical cannabis
dispensary shall ensure that the concentration of delta-9
tetrahydrocannabinol (THC) and cannabidiol (CBD) in all cannabis,
edible cannabis products, and cannabis-infused products that the
dispensary offers is clearly and accurately stated on the product
sold.

(b) The dispensary may not sell or deliver to a cardholder
or nonresident cardholder, in any 14-day period, an amount of
cannabis for medical purposes that exceeds the allowable amount of
cannabis.

(c) A dispensary may not sell or deliver more than six
cannabis plants to a cardholder in any 180-day period.

Sec. 488.157. DESIGNATION OF MEDICAL CANNABIS
DISPENSARIES. (a) Each qualifying patient who holds a valid
registry identification card and each nonresident cardholder may
select in accordance with department rule not more than two medical
cannabis dispensaries to serve as the patient’s designated medical
cannabis dispensary at any one time.

(b) A qualifying patient who designates a medical cannabis
dispensary under Subsection (a) shall communicate the designation
to the department within the time specified by the department. A
patient may change the patient's dispensary designation not more
than once in a 30-day period.

Sec. 488.158. CANNABIS TESTING FACILITIES. (a) Each
cannabis testing facility must be able to determine accurately,
with respect to cannabis, edible cannabis products, and
cannabis-infused products that are sold or will be sold at medical
cannabis dispensaries in this state:

(1) the concentration of delta-9 tetrahydrocannabinol (THC) and cannabidiol (CBD) contained in the cannabis or product, in accordance with the standards set by the department; and

(2) the presence and identification of contaminants that exceed standards established by the department.

(b) To obtain certification by the department on behalf of an independent testing facility, an applicant must:

(1) apply for certification under this chapter; and

(2) pay the required fee.

SUBCHAPTER E. LIMITATIONS

Sec. 488.201. LIMITATIONS. This chapter does not authorize or prevent the imposition of any civil, criminal, or other penalty for the following conduct:

(1) undertaking any task while intoxicated due to the introduction of cannabis, when doing so would constitute negligence or professional malpractice;

(2) possessing cannabis or otherwise engaging in the medical use of cannabis:

(A) in a school bus;

(B) on the grounds of a preschool or primary or secondary school; or

(C) in a correctional facility;

(3) smoking cannabis on any form of public transportation or in a public place; or

(4) operating, navigating, or being in actual physical control of a motor vehicle, aircraft, train, or motorboat, or
otherwise committing an offense under Chapter 49, Penal Code, while
intoxicated due to the introduction of cannabis.

SUBCHAPTER F. EMPLOYERS OF REGISTERED QUALIFYING PATIENTS
Sec. 488.251. RIGHTS OF EMPLOYERS. (a) An employer is not
required to authorize or accommodate the medical use of cannabis on
the employer's premises or any work site, except as required by
federal law.

(b) Except as provided in this subchapter and
notwithstanding other law, a person who is a registered qualifying
patient, including a nonresident cardholder, and engages in the
medical use of cannabis shall be afforded all the same rights under
state and local law, including those guaranteed under Chapter 21,
Labor Code, as the person would be afforded if the person were
solely prescribed pharmaceutical medications, as it pertains to:

(1) any interaction with a person's employer;
(2) drug testing by a person's employer; or
(3) drug testing required by any state or local law,
agency, or government official.

(c) The rights provided by this section do not apply to the
extent that they conflict with an employer's obligations under
federal law or regulations or to the extent that they would
disqualify an employer from a monetary or licensing-related benefit
under federal law or regulations.

(d) An employer is not required to allow an employee to work
while intoxicated. A registered qualifying patient may not be
considered to be intoxicated or under the influence of cannabis
solely because of the presence of metabolites or components of
cannabis that appear in insufficient concentration to cause
impairment.

SUBCHAPTER G. EQUAL PROTECTION IN MEDICAL CARE
Sec. 488.301. ORGAN TRANSPLANTS AND OTHER MEDICAL CARE. For the purposes of medical care, including organ and tissue
transplants, a registered qualifying patient's medical use of
cannabis in accordance with this chapter is considered equivalent
to the use of pharmaceutical medication in accordance with a
prescription issued by a practitioner and does not constitute the
use of an illicit substance or otherwise disqualify a registered
qualifying patient from needed medical care.

SUBCHAPTER H. PRIVATE PROPERTY RIGHTS
Sec. 488.351. PRIVATE PROPERTY RIGHTS. Nothing in this
chapter requires any person or establishment in lawful possession
of property to allow a guest, client, customer, or other visitor to
use or possess cannabis on or in that property.

SUBCHAPTER I. HEALTH BENEFIT PLANS
Sec. 488.401. HEALTH BENEFIT PLAN REIMBURSEMENT NOT
REQUIRED. This chapter does not require a health benefit plan
issuer to provide reimbursement for medical cannabis or for a
service related to medical cannabis.

Sec. 488.402. APPLICABILITY OF SUBCHAPTER. (a) This
subchapter applies to any health benefit plan that provides
benefits for medical or surgical expenses incurred as a result of a
health condition, accident, or sickness, including an individual,
group, blanket, or franchise insurance policy or insurance
agreement, a group hospital service contract, or a small or large
employer group contract or similar coverage document that is offered by:

(1) an insurance company;
(2) a group hospital service corporation operating under Chapter 842, Insurance Code;
(3) a fraternal benefit society operating under Chapter 885, Insurance Code;
(4) a stipulated premium company operating under Chapter 884, Insurance Code;
(5) a reciprocal exchange operating under Chapter 942, Insurance Code;
(6) a health maintenance organization operating under Chapter 843, Insurance Code;
(7) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846, Insurance Code; or
(8) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844, Insurance Code.

(b) This subchapter applies to group health coverage made available by a school district in accordance with Section 22.004, Education Code.

(c) Notwithstanding Section 172.014, Local Government Code, or any other law, this subchapter applies to health and accident coverage provided by a risk pool created under Chapter 172, Local Government Code.

(d) Notwithstanding any provision in Chapter 1551, 1575, 1579, or 1601, Insurance Code, or any other law, this subchapter applies to:
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(1) a basic coverage plan under Chapter 1551, Insurance Code;
(2) a basic plan under Chapter 1575, Insurance Code;
(3) a primary care coverage plan under Chapter 1579, Insurance Code; and
(4) basic coverage under Chapter 1601, Insurance Code.

(e) Notwithstanding any other law, this subchapter applies to coverage under:

(1) the child health plan program under Chapter 62 or the health benefits plan for children under Chapter 63; and
(2) the medical assistance program under Chapter 32, Human Resources Code.

SECTION 2. Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 170 to read as follows:

CHAPTER 170. AUTHORITY TO RECOMMEND MEDICAL CANNABIS TO CERTAIN REGISTERED QUALIFYING PATIENTS WITH DEBILITATING MEDICAL CONDITIONS

Sec. 170.001. DEFINITIONS. In this chapter, "bona fide practitioner-patient relationship," "cannabis," "debilitating medical condition," "medical cannabis," and "written certification" have the meanings assigned by Section 488.001, Health and Safety Code.

Sec. 170.002. RECOMMENDATION OF MEDICAL CANNABIS. (a) A practitioner licensed under this subtitle who has examined and treated a patient with a debilitating medical condition may recommend the use by the patient of medical cannabis and may sign a written certification if:
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(1) A bona fide practitioner-patient relationship exists;

(2) the practitioner determines the risk of the use of medical cannabis by the patient is reasonable in light of the potential benefit for the patient; and

(3) the practitioner has explained the risks and benefits of the medical use of cannabis to the patient and, if the patient is younger than 18 years of age, to at least one custodial parent, guardian, conservator, or other person with authority to consent to the qualifying patient's medical treatment.

(b) An agency, including a law enforcement agency, of this state or a political subdivision of this state may not initiate an administrative, civil, or criminal investigation into a practitioner licensed to practice medicine in this state solely on the ground that the practitioner:

(1) discussed the use of medical cannabis as a treatment option with a patient of the practitioner; or

(2) signed a written certification or otherwise made a written or oral statement that, in the practitioner's professional opinion, the potential benefits of the use of medical cannabis would likely outweigh the health risks for a particular patient.

(c) A practitioner may not be denied any right or privilege or be subject to any disciplinary action solely for signing a written certification or for otherwise making a written or oral statement that, in the practitioner's professional opinion, the potential benefits of the use of medical cannabis would likely outweigh the health risks for a particular patient.
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SECTION 3. Not later than December 1, 2015, the executive commissioner of the Health and Human Services Commission shall adopt rules as required to implement, administer, and enforce Chapter 488, Health and Safety Code, as added by this Act, including rules to establish the confidential registry required by that chapter.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.