House Bill 722

By: Representatives Peake of the 141st, Powell of the 32nd, Meadows of the 5th, England of the 116th, Gravley of the 67th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to provide for a patient registry program for the use of medical cannabis; to authorize rule making; to establish duties of patients, designated caregivers, physicians, and manufacturers of medical cannabis; to establish a medical cannabis tracking system; to provide for confidentiality of records; to establish patient protections; to impose penalties; to provide for nursing facilities; to establish fees; to establish a task force; to require impact assessment of medical cannabis therapeutic research; to require reports and audits; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by repealing Code Section 31-2A-18, relating to the establishment of the Low THC Oil Patient Registry, definitions, purpose, registration cards, quarterly reports, and waiver forms, and designating said Code section as reserved.

SECTION 2.

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

″CHAPTER 2B

31-2B-1.

As used in this chapter, the term:

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

(2) 'Disqualifying felony offense' means a violation of a state or federal controlled substance law that is a felony under Georgia law, or would be a felony if committed in Georgia, regardless of the sentence imposed, unless the commissioner determines that the

person's conviction was for the medical use of cannabis or assisting with the medical use of cannabis.

(3) 'Health records' means a patient's health record as defined in Code Section 31-33-1.

(4) 'Intractable pain' means a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and in which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Reasonable efforts for relieving or curing the cause of the pain may be determined on the basis of, but are not limited to, the following:

(A) When treating a nonterminally ill patient for intractable pain, evaluation by the attending physician and one or more physicians specializing in pain medicine or the treatment of the area, system, or organ of the body perceived as the source of the pain; or

(B) When treating a terminally ill patient, evaluation by the attending physician who does so in accordance with the level of care, skill, and treatment that would be recognized by a reasonably prudent physician under similar conditions and circumstances.

(5) 'Medical cannabis' means any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, which is delivered in a liquid or pill form, including but not limited to oils or a vaporized delivery method using liquid or oil but which does not require the use of dried leaves or plant matter, or any other method, excluding smoking, approved by the commissioner.

(6) 'Medical cannabis manufacturer' or 'manufacturer' means an entity registered by the commissioner to cultivate, acquire, manufacture, possess, prepare, transfer, transport, supply, or dispense medical cannabis, delivery devices, or related supplies and educational materials.

(7) 'Medical cannabis product' means any delivery device or related supplies and educational materials used in the administration of medical cannabis for a patient with a qualifying medical condition enrolled in the registry program.

(8) 'Patient' means a Georgia resident who has been diagnosed with a qualifying medical condition by a physician and who has otherwise met any other requirements for patients under Code Section 31-2B-9 to participate in the registry program.

(9) 'Patient registry number' means a unique identification number assigned by the commissioner to a patient enrolled in the registry program.

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

(11) 'Qualifying medical condition' means a diagnosis of any of the following conditions:

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

(B) Mitochondrial disease;

(C) Parkinson's disease;

(D) Sickle cell disease;

(E) Glaucoma;

(F) Human immunodeficiency virus or acquired immune deficiency syndrome;

(G) Tourette's syndrome;

(H) Amyotrophic lateral sclerosis;

(I) Seizures, including those characteristic of epilepsy;

(J) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis;

(K) Crohn's disease, ulcerative colitis, or irritable bowel syndrome;

(L) Epidermolysis bullosa;

(M) Terminal illness, with a probable life expectancy of under one year, if the illness or its treatment produces one or more of the following:

(i) Severe pain;

(ii) Nausea or severe vomiting; or

(iii) Cachexia or severe wasting;

(N) Post-traumatic stress disorder;

(O) Intractable pain;

(P) Autism spectrum disorder;

(Q) Alzheimer's disease; or

(R) Any other medical condition or its treatment approved by the commissioner.

(12) 'Registered designated caregiver' means a person who:

(A) Is 21 years of age or older;

(B) Does not have a conviction for a disqualifying felony offense;

(C) Has been approved by the commissioner to assist a patient who has been identified by a physician as developmentally or physically disabled and therefore unable to self-administer medication or acquire medical cannabis from a distribution facility due to the disability; and

(D) Has been authorized by the commissioner to assist the patient with the use of medical cannabis.

(13) 'Registry program' means the patient registry established in Code Section 31-2B-8.

(14) 'Registry verification' means the verification provided by the commissioner that a patient is enrolled in the registry program and that includes the patient's name, registry

number, and qualifying medical condition and, if applicable, the name of the patient's registered designated caregiver or parent or legal guardian.

(15) 'System' means the system for tracking medical cannabis pursuant to Code Section 31-2B-5.1.

(16) 'Task force' means the Georgia Medical Cannabis Task Force established in Code Section 31-2B-33.

31-2B-2.

(a) Nothing in this chapter permits any person to engage in nor prevents the imposition of any civil, criminal, or other penalties for:

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

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

(A) On a school bus or van;

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

(C) In any correctional facility; or

(D) On the grounds of any child care facility or home day care;

(3) Vaporizing medical cannabis:

(A) On any form of public transportation;

(B) Where the vapor would be inhaled by a nonpatient minor child; or

(C) In any public place, including any indoor or outdoor area used by or open to the general public or a place of employment as defined by paragraph (9) of Code Section 31-12A-2;

(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat, or working on transportation property, equipment, or facilities while under the influence of medical cannabis.

(b) Nothing in this chapter requires any medical assistance or PeachCare for Kids programs to reimburse an enrollee or a provider for costs associated with the medical use of cannabis. Medical assistance and PeachCare for Kids shall continue to provide coverage for all services related to treatment of an enrollee's qualifying medical condition if the service is covered under Article 7 of Chapter 4 of Title 49.

31-2B-3.

The commissioner may prohibit enrollment of a patient in the registry program if the patient is simultaneously enrolled in a federally approved clinical trial for the treatment of a qualifying medical condition with medical cannabis. The commissioner shall provide information to all patients enrolled in the registry program on the existence of federally

approved clinical trials for the treatment of the patient's qualifying medical condition with medical cannabis as an alternative to enrollment in the registry program.

31-2B-4.

(a) The commissioner shall register a minimum of two and a maximum of six in-state manufacturers for the production of all medical cannabis within the state by December 1, 2016. The commissioner shall register new manufacturers or reregister the existing manufacturers by December 1 of each year using the factors described in subsection (c) of this Code section. The commissioner shall continue to accept applications after December 1, 2016, if two manufacturers that meet the qualifications set forth in this Code section do not apply before December 1, 2016. The commissioner's determination that no manufacturer exists to fulfill the duties under this Code section is subject to judicial review in the Superior Court of Fulton County. Information submitted through the application may include proprietary and trade secret information as defined in Code Section 10-1-761 or otherwise be exempt from disclosure to the extent provided by Code Section 50-18-72.

(b) As a condition for registration, a manufacturer must agree to:

(1) Begin supplying medical cannabis to patients by July 1, 2017; and

(2) Comply with all requirements under this Code section and other requirements set forth in the rules and regulations promulgated to carry out the provisions of this chapter.

(c) The commissioner shall consider the following factors when determining which manufacturer to register:

(1) The technical expertise of the manufacturer in cultivating medical cannabis and converting the medical cannabis into an acceptable delivery method under paragraph (5) of Code Section 31-2B-1;

(2) The qualifications of the manufacturer's employees;

(3) The long-term financial stability of the manufacturer;

(4) The ability to provide appropriate security measures on the premises of the manufacturer;

(5) Whether the manufacturer has demonstrated the ability to meet the medical cannabis production needs as identified by the commissioner; and

(6) The manufacturer's projected and ongoing assessment of fees on patients.

(d) The commissioner shall require each medical cannabis manufacturer to contract with an independent laboratory to test medical cannabis produced by the manufacturer. The commissioner shall approve the laboratory chosen by each manufacturer and require that the laboratory report testing results to the manufacturer in a manner determined by the commissioner.

(e) The commissioner shall review and publicly report the existing medical and scientific literature regarding the range of recommended dosages for each qualifying condition and the range of chemical compositions of any plant of the genus cannabis that will likely be medically beneficial for each qualifying medical condition. The commissioner shall make such information available to patients with qualifying medical conditions beginning December 1, 2016, and update such information annually. The commissioner may consult with the independent laboratory under contract with the manufacturer or other experts in reporting the range of recommended dosages for each qualifying medical condition, the range of chemical compositions that will likely be medically beneficial, and any risks of noncannabis drug interactions. The commissioner shall consult with each manufacturer on an annual basis on medical cannabis products offered by the manufacturer. The list of medical cannabis products offered by a manufacturer shall be published on the department website.

31-2B-5.

(a) The commissioner shall adopt rules necessary for the manufacturer to begin distribution of medical cannabis to patients under the registry program by July 1, 2016.

(b) The commissioner shall, by November 1, 2016, advise the public and the cochairpersons of the task force if the commissioner is unable to register two manufacturers by the December 1, 2016, deadline. The commissioner shall provide a written statement as to the reason or reasons the deadline will not be met. Upon request of the commissioner, the task force shall extend the deadline by six months but shall not extend the deadline more than once.

(c) If notified by a manufacturer that distribution to patients will not begin by the July 1, 2017, deadline, the commissioner shall advise the public and the cochairpersons of the task force. Upon notification by the commissioner, the task force shall extend the deadline by six months but shall not extend the deadline more than once.

(d) The commissioner or his or her designee may examine the business affairs and conditions of any medical cannabis manufacturer, including but not limited to a review of its financing, budgets, revenues, sales, and pricing.

(e) An examination may cover the medical cannabis manufacturer's business affairs, practices, and conditions, including but not limited to a review of its financing, budgets, revenues, sales, and pricing. The commissioner shall determine the nature and scope of each examination and in doing so shall take into account all available relevant factors concerning the financial and business affairs, practices, and conditions of the examinee. The costs incurred by the department in conducting an examination shall be paid for by the medical cannabis manufacturer.

(f) When making an examination under this Code section, the commissioner may retain attorneys, appraisers, independent economists, independent certified public accountants, or other professionals and specialists as designees. A certified public accountant retained by the commissioner shall not be the same certified public accountant providing the certified annual audit required by subsection (m) of Code Section 31-2B-12.

(g) The commissioner shall make a report of an examination conducted under this Code section and provide a copy to the medical cannabis manufacturer. The commissioner shall then post a copy of the report on the department's website. All working papers, recorded information, documents, and copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination, other than the information contained in any commissioner's official report made under this Code section, are confidential data.

31-2B-5.1.

(a) The department shall establish, maintain, and utilize, directly or by contract, a system to track medical cannabis that is grown, processed, transferred, stored, or disposed of pursuant to this chapter.

(b) The system shall have the functions and capabilities described in subsection (c) of this Code section and shall be operated in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(c) The system shall be hosted on a platform that allows for:

(1) Dynamic allocation of resources;

(2) Data redundancy; and

(3) Recovery from natural disaster within hours.

(d) The system shall be capable of:

(1) Tracking all plants, products, packages, patient and registered designated caregiver purchase totals, waste, transfers, conversions, sales, and returns that, if practicable, are linked to unique identification numbers;

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

(3) Tracking all products, conversions, and derivatives throughout the entire chain of custody;

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

(5) Tracking transportation of product;

(6) Performing complete batch recall tracking that clearly identifies all of the following details relating to the specific batch subject to the recall:

(A) Sold product;

(B) Product inventory that is finished and available for sale;

(C) Product that is in the process of transfer;

(D) Product being processed into another form; and

(E) Postharvest raw product, such as product that is in the drying, trimming, or curing process;

(7) Reporting and tracking loss, theft, or diversion of product containing cannabis;

(8) Reporting and tracking all inventory discrepancies;

(9) Reporting and tracking adverse patient responses or dose related efficacy issues;

(10) Reporting and tracking all sales and refunds;

(11) Tracking patient purchase limits and flagging purchases in excess of authorized limits;

(12) Receiving electronically submitted information required to be reported under this Code section;

(13) Receiving testing results electronically from a safety compliance facility via a secured application program interface into the system and directly linking the testing results to each applicable source batch and sample;

(14) Flagging test results that have characteristics indicating that they may have been altered:

(15) Providing information to cross-check that product sales are made to a qualified patient or registered designated caregiver and that the product received the required testing;

(16) Providing the department, local law enforcement agencies, and state law enforcement agencies with real-time access to information in the database; and

(17) Providing real-time analytics to the department regarding key performance indicators including:

(A) Total daily sales;

(B) Total plants in production;

(C) Total plants destroyed; and

(D) Total inventory adjustments.

(e) A medical cannabis manufacturer shall supply the relevant tracking or testing information in the form the department requires regarding each plant, product, package, batch, test, transfer, conversion, sale, recall, or disposition of medical cannabis in or from the manufacturer's possession or control. The manufacturer shall include information identifying the patient to or for whom each sale was made and, if applicable, the registered designated caregiver to whom each sale was made. The department may require that the information be submitted electronically.

31-2B-6.

(a) The commissioner shall provide regular updates to the task force regarding any changes in federal law or regulatory restrictions regarding the use of medical cannabis.

(b) The commissioner may submit medical research based on the data collected under this chapter to any federal agency with regulatory or enforcement authority over medical cannabis to demonstrate the effectiveness of medical cannabis for treating a qualifying medical condition.

31-2B-7.

(a) The commissioner shall use the registry program to evaluate data on patient demographics, effective treatment options, clinical outcomes, and quality-of-life outcomes for the purpose of reporting on the benefits, risks, and outcomes regarding patients with a qualifying medical condition engaged in the therapeutic use of medical cannabis.

(b) The establishment of the registry program shall not be construed or interpreted to condone or promote the illicit recreational use of marijuana.

31-2B-8.

(a) There is established within the department a patient registry program.

(b) The purpose of the registry is to register patients and, if applicable, their designated caregivers who have been certified as needing medical cannabis. The department shall establish procedures and promulgate rules and regulations for the establishment and operation of the registration process and dispensing of registry cards to patients and designated caregivers.

(c) The department shall issue a registry card to patients and designated caregivers when a patient has been certified to the department by his or her physician as being diagnosed with a qualifying medical condition and has been authorized by such physician to use medical cannabis as treatment for such condition. The board shall establish procedures and promulgate rules and regulations to assist physicians in providing required uniform information relating to certification and any other matter relating to the issuance of certifications. In promulgating such rules and regulations, the board shall require that physicians have a doctor-patient relationship when certifying a patient as needing medical cannabis and physicians shall be required to be treating a patient for the specific qualifying medical condition.

(d) The commissioner shall give notice of the registry program to eligible physicians in this state and explain the purposes and requirements of the registry program.

(e) The commissioner shall allow each physician who meets or agrees to meet the registry program's requirements and who requests to participate to be included in the registry program to collect data for such registry program.

(f) The commissioner shall provide explanatory information and assistance to each physician in understanding the nature of the therapeutic uses of medical cannabis within registry program requirements.

(g) The board shall create and provide a certification to be used by a physician to certify whether a patient has been diagnosed with a qualifying medical condition and include in the certification an option for the physician to certify whether the patient, in the physician's medical opinion, is developmentally or physically disabled and, as a result of such disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility.

(h) The commissioner shall supervise the participation of physicians in conducting patient treatment and health records reporting in a manner that ensures stringent security and record-keeping requirements and that prevents the unauthorized release of confidential data.

(i) The board shall develop safety criteria for patients with qualifying medical conditions as a requirement of participation in the registry program to prevent the patient from undertaking any task under the influence of medical cannabis that would constitute negligence or professional malpractice on the part of the patient.

(j) The commissioner shall conduct research and studies based on data from health records submitted to the registry program and submit reports on intermediate or final research results to the legislature, the task force, and major scientific journals. The commissioner may contract with a third party to complete the requirements of this subsection.

(k) If the commissioner wishes to add a delivery method under paragraph (5) of Code Section 31-2B-1 or a qualifying medical condition under paragraph (11) of Code Section 31-2B-1, the commissioner shall notify the chairpersons of the House Committee on Health and Human Services and the Senate Health and Human Services Committee of such addition and the reasons for its addition, including any written comments received by the commissioner from the public and any guidance received from the task force, by January 15 of the year in which the commissioner wishes to make the change. The change shall be effective on August 1 of such year, unless the legislature by law provides otherwise.

(l) The commissioner shall adopt rules to establish requirements for reporting incidents when individuals who are not authorized to possess medical cannabis under this chapter are found in possession of medical cannabis. The rules shall identify professionals required

to report, the information they are required to report, and actions the reporter must take to secure the medical cannabis.

(m) The commissioner shall adopt rules to establish requirements for law enforcement officials and health care professionals to report incidents involving an overdose of medical cannabis to the commissioner.

(n) Rules shall include the method by which the commissioner will collect and tabulate reports of unauthorized possession and overdose.

(o) Any individual who on June 30, 2016, holds a valid low THC registration card issued under former Code Section 31-2A-18 shall be deemed to be automatically registered under the provisions of this Code section as of July 1, 2016, and shall be subject to the provisions of this chapter as if such individual had complied with the registration requirements of this chapter. Such provisionally issued registry cards shall be deemed to have been issued under this chapter on July 1, 2016, and shall be valid for all purposes of this chapter and other applicable laws.

31-2B-9.

(a) The commissioner shall develop a patient application for enrollment in the registry program. The application shall be available to patients and given to eligible physicians in this state. The application shall include:

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

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

(3) The name, mailing address, and date of birth of the patient's designated caregiver, if any, or the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver;

(4) A copy of the certification from the patient's physician that is dated within 90 days prior to submitting the application which certifies that the patient has been diagnosed with a qualifying medical condition and, if applicable, that, in the physician's medical opinion, the patient is developmentally or physically disabled and, as a result of such disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility; and

(5) All other signed affidavits and enrollment forms required by the commissioner under this Code section, including, but not limited to, the disclosure form required by subsection (c) of this Code section and the waiver form required by subsection (d) of this Code section.

(b) The commissioner shall require a patient to resubmit a copy of the certification from the patient's physician on a two-year basis and shall require that the recertification be dated within 90 days of submission.

(c) The commissioner shall develop a disclosure form and require, as a condition of enrollment, all patients to sign a copy of the disclosure. The disclosure shall include:

(1) A statement that, notwithstanding any law to the contrary, the commissioner, or an employee of any state agency, shall not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment under this chapter; and

(2) The patient's acknowledgment that enrollment in the registry program is conditional on the patient's agreement to meet all of the requirements of this chapter.

(d) The board shall develop a waiver form that will advise that the use of products containing medical cannabis have not been approved by the federal Food and Drug Administration and the clinical benefits are unknown and may cause harm. Any patient or designated caregiver shall sign such waiver prior to his or her approval for registration.

(e) After receipt of a patient's application and signed disclosure, the commissioner shall enroll the patient in the registry program and issue the patient and patient's registered designated caregiver or parent or legal guardian, if applicable, a registry verification pursuant to subsection (h) of this Code section. A patient's enrollment in the registry program shall only be denied if the patient:

(1) Does not have certification from a physician that the patient has been diagnosed with a qualifying medical condition;

(2) Has not signed and returned the disclosure form required by subsection (c) of this Code section to the commissioner;

(3) Does not provide the information required;

(4) Has previously been removed from the registry program for violations of this chapter; or

(5) Provides false information.

(f) The commissioner shall give written notice to a patient of the reason for denying enrollment in the registry program.

(g) Denial of enrollment in the registry program shall be considered a final decision of the commissioner and may be subject to judicial review under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(h) A patient's enrollment in the registry program may only be revoked if a patient violates a requirement under this chapter.

(i) The commissioner shall develop a registry verification to provide to the patient, the physician identified in the patient's application, and the manufacturer. The registry verification shall include:

(1) The patient's name and date of birth;

(2) The patient registry number assigned to the patient;

(3) The patient's qualifying medical condition as provided by the patient's physician in the certification; and

(4) The name and date of birth of the patient's registered designated caregiver, if any, or the name of the patient's parent or legal guardian if the parent or legal guardian will be acting as a caregiver.

(j) Patients and registered designated caregivers shall notify the commissioner of any address or name change within 30 days of the change having occurred. A patient or registered designated caregiver is subject to a $100.00 fine for failure to notify the commissioner of such change.

(k) A patient shall apply to the commissioner for enrollment in the registry program by submitting an application as required in this Code section and by paying the enrollment fee biennially as required by Code Section 31-2B-20.

(l) As a condition of continued enrollment, patients shall agree to:

(1) Continue to receive regularly scheduled treatment for their qualifying medical condition from their physician; and

(2) Report changes in their qualifying medical condition to their physician.

(m) A patient shall receive medical cannabis only from a registered manufacturer but shall not be required to receive medical cannabis products only from a registered manufacturer.

31-2B-10.

(a) The commissioner shall register a designated caregiver for a patient if the patient's physician has certified that the patient, in the physician's medical opinion, is developmentally or physically disabled and, as a result of such disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility and the caregiver has agreed, in writing, to be the patient's designated caregiver. As a condition of registration as a designated caregiver, the commissioner shall require such person to:

(1) Be at least 21 years of age;

(2) Agree to only possess any medical cannabis for purposes of assisting the patient; and

(3) Agree that if the application is approved, the person will not be a registered designated caregiver for more than one patient, unless such patients reside in the same residence.

(b) The commissioner shall conduct a criminal history background check on the designated caregiver prior to registration to ensure that the person does not have a conviction for a disqualifying felony offense. Any cost of the background check shall be paid by the person seeking registration as a designated caregiver.

(c) A parent or legal guardian of a patient may act as the caregiver to the patient without having to register as a designated caregiver. The parent or legal guardian shall follow all of the requirements of parents and legal guardians listed in this chapter. Nothing in this chapter limits any legal authority a parent or legal guardian may have for the patient under any other law.

31-2B-11.

(a) Prior to a patient's enrollment in the registry program, the physician shall:

(1) Determine, in the physician's medical judgment, whether a patient suffers from a qualifying medical condition and, if so determined, provide the patient with a certification of such diagnosis;

(2) Determine whether a patient is developmentally or physically disabled and, as a result of such disability, the patient is unable to self-administer medication or acquire medical cannabis from a distribution facility and, if so determined, include such determination on the patient's certification of diagnosis;

(3) Advise patients, registered designated caregivers, and parents or legal guardians who are acting as caregivers of the existence of any nonprofit patient support groups or organizations;

(4) Provide explanatory information from the commissioner to patients with qualifying medical conditions, including disclosure to all patients about the experimental nature of therapeutic uses of medical cannabis; the possible risks, benefits, and side effects of proposed treatments; the application and other materials from the commissioner; and advise patients of the physician's requirement to report certain patient records to the department; and

(5) Agree to continue treatment of the patient's qualifying medical condition and report medical findings to the commissioner.

(b) Upon notification from the commissioner of the patient's enrollment in the registry program, the physician shall:

(1) Participate in the patient registry reporting system under the guidance and supervision of the commissioner;

(2) Report health records of the patient throughout the ongoing treatment of the patient to the commissioner in a manner determined by the commissioner;

(3) Determine every two years if the patient continues to suffer from a qualifying medical condition and, if so, issue the patient a new certification of such diagnosis; and

(4) Otherwise comply with all requirements developed by the commissioner.

(c) Nothing in this Code section shall require a physician to participate in the registry program.

(d) Data collected on patients by physicians and reported to the patient registry are health records as defined in Code Section 31-33-1 but may be used or reported in an aggregated, nonidentifiable form as part of a scientific, peer reviewed publication of research conducted under this chapter or in the creation of summary data.

31-2B-12.

(a) A manufacturer shall operate four distribution facilities which may include the manufacturer's single location for cultivation, harvesting, manufacturing, packaging, and processing but is not required to include such location. A manufacturer is required to begin distribution of medical cannabis from at least one distribution facility by July 1, 2017. All distribution facilities shall be operational and begin distribution of medical cannabis by July 1, 2018. The distribution facilities shall be located based on geographical need throughout the state to improve patient access. A manufacturer shall disclose the proposed locations for the distribution facilities to the commissioner during the registration process. A manufacturer shall operate only one location where all cultivation, harvesting, manufacturing, packaging, and processing shall be conducted. Any additional distribution facilities may dispense medical cannabis and medical cannabis products but shall not contain any medical cannabis in a form other than those forms allowed under paragraph (5) of Code Section 31-2B-1; and the manufacturer shall not conduct any cultivation, harvesting, manufacturing, packaging, or processing at an additional distribution facility site. Any distribution facility operated by the manufacturer shall be subject to all of the requirements applying to the manufacturer under this Code section, including, but not limited to, security and distribution requirements.

(b) A medical cannabis manufacturer shall contract with a laboratory, subject to the commissioner's approval of the laboratory and any additional requirements set by the commissioner, for purposes of testing medical cannabis manufactured by the medical cannabis manufacturer as to content, contamination, and consistency to verify that such medical cannabis meets the requirements of this chapter and the rules and regulations promulgated pursuant to this chapter. The cost of laboratory testing shall be paid by the manufacturer.

(c) The operating documents of a manufacturer shall include:

(1) Procedures for the oversight of the manufacturer and procedures to ensure accurate record keeping; and

(2) Procedures for the implementation of appropriate security measures to deter and prevent the theft of medical cannabis and unauthorized entrance into areas containing medical cannabis.

(d) A manufacturer shall implement security requirements, including requirements for protection of each location by a fully operational security alarm system, facility access controls, perimeter intrusion detection systems, and a personnel identification system.

(e) A manufacturer shall not share office space with, refer patients to, or have any financial relationship with a physician.

(f) A manufacturer shall not permit any person to consume medical cannabis on the property of the manufacturer.

(g) A manufacturer shall be subject to reasonable inspection by the commissioner.

(h) For purposes of this chapter, a medical cannabis manufacturer shall not be subject to the Board of Pharmacy licensure or regulatory requirements under Chapter 4 of Title 26.

(i) A medical cannabis manufacturer shall not employ any person who is under 21 years of age or who has been convicted of a disqualifying felony offense. An employee of a medical cannabis manufacturer shall submit a completed criminal history records check consent form, a full set of classifiable fingerprints, and the required fees for submission to the Georgia Crime Information Center in accordance with Code Section 35-3-35 before an employee may begin working with the manufacturer. The Georgia Crime Information Center shall return the results of such Georgia and federal criminal history records check to the commissioner.

(j) A manufacturer shall not operate in any location, whether for distribution or cultivation, harvesting, manufacturing, packaging, or processing, within 1,000 feet of a public or private school existing before the date of the manufacturer's registration with the commissioner.

(k) A manufacturer shall comply with reasonable restrictions set by the commissioner relating to signage, marketing, display, and advertising of medical cannabis.

(l) A medical cannabis manufacturer shall maintain detailed financial records in a manner and format approved by the commissioner and shall keep all records updated and accessible to the commissioner when requested.

(m) A medical cannabis manufacturer shall submit the results of an annual certified financial audit to the commissioner no later than May 1 of each year. The annual audit shall be conducted by an independent certified public accountant and the costs of the audit shall be the responsibility of the medical cannabis manufacturer. Results of the audit shall be provided to the medical cannabis manufacturer and the commissioner. The commissioner may also require another audit of the medical cannabis manufacturer by a certified public accountant chosen by the commissioner with the costs of the audit paid by the medical cannabis manufacturer.

31-2B-13.

(a) A manufacturer of medical cannabis shall provide a reliable and ongoing supply of all medical cannabis needed for the registry program.

(b) All cultivation, harvesting, manufacturing, packaging, and processing of medical cannabis shall take place in an enclosed, locked facility at a physical address provided to the commissioner during the registration process.

(c) A manufacturer shall process and prepare any medical cannabis plant material into a form allowable under paragraph (5) of Code Section 31-2B-1, prior to distribution of any medical cannabis.

(d) A manufacturer shall require that employees licensed as pharmacists pursuant to Chapter 4 of Title 26 be the only employees permitted to distribute medical cannabis to a patient.

(e) A manufacturer may dispense medical cannabis products, whether or not the products have been manufactured by such manufacturer, but shall not be required to dispense medical cannabis products.

(f) Prior to distribution of any medical cannabis, the manufacturer shall:

(1) Verify that the manufacturer has received the registry verification from the commissioner for such patient;

(2) Verify that the person requesting the distribution of medical cannabis is the patient, the patient's registered designated caregiver, or the patient's parent or legal guardian listed in the registry verification using the procedures described in this subsection;

(3) Assign a tracking number to any medical cannabis distributed from the manufacturer;

(4) Ensure that any employee of the manufacturer licensed as a pharmacist pursuant to Chapter 4 of Title 26 has consulted with the patient to determine the proper dosage for such patient after reviewing the ranges of chemical compositions of the medical cannabis and the ranges of proper dosages reported by the commissioner;

(5) Properly package medical cannabis in compliance with the United States Poison Prevention Packing Act regarding child resistant packaging and exemptions for packaging for elderly patients and label distributed medical cannabis with a list of all active ingredients and individually identifying information, including:

(A) The patient's name and date of birth;

(B) The name and date of birth of the patient's registered designated caregiver or, if listed on the registry verification, the name of the patient's parent or legal guardian, if applicable;

(C) The patient's registry identification number;

(D) The chemical composition of the medical cannabis; and

(E) The dosage; and

(6) Ensure that the medical cannabis distributed contains a maximum of a 30 day supply of the dosage determined for such patient.

(g) A manufacturer shall require any employee of the manufacturer who is transporting medical cannabis or medical cannabis products to a distribution facility to carry identification showing that the person is an employee of the manufacturer.

(h) Each manufacturer shall report to the commissioner on a monthly basis the following information on each individual patient for the month prior to the report:

(1) The amount and dosages of medical cannabis distributed;

(2) The chemical composition of the medical cannabis; and

(3) The tracking number assigned to any medical cannabis distributed.

31-2B-14.

Information received and records kept by the department for purposes of administering this chapter shall be confidential; provided, however, that such information shall be disclosed:

(1) Upon written request of an individual or caregiver who is registered pursuant to this chapter; and

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

(A) Verifying that an individual in possession of a registry card is registered pursuant to this chapter; or

(B) Determining that an individual in possession of medical cannabis is registered pursuant to this chapter.

31-2B-15.

(a) There is a presumption that a patient enrolled in the registry program is engaged in the authorized use of medical cannabis.

(b) The presumption may be rebutted by evidence that conduct related to use of medical cannabis was not for the purpose of treating or alleviating the patient's qualifying medical condition or symptoms associated with the patient's qualifying medical condition.

31-2B-16.

(a) The following are not violations under this chapter:

(1) Use or possession of medical cannabis or medical cannabis products by a patient enrolled in the registry program or possession by a registered designated caregiver or the parent or legal guardian of a patient if the parent or legal guardian is listed on the registry verification;

(2) Possession, dosage determination, or sale of medical cannabis or medical cannabis products by a medical cannabis manufacturer, employees of a manufacturer, a laboratory conducting testing on medical cannabis, or employees of the laboratory; or

(3) Possession of medical cannabis or medical cannabis products by any person while carrying out the duties required under this chapter.

(b) Medical cannabis obtained and distributed pursuant to this chapter and associated property shall not be subject to forfeiture under Code Section 16-13-49.

(c) The commissioner, the commissioner's staff, the commissioner's agents or contractors, and any physician shall not be subject to any civil or disciplinary penalties by the board or any business, occupational, or professional licensing board or entity solely for participation in the registry program. A pharmacist licensed under Chapter 4 of Title 26 shall not be subject to any civil or disciplinary penalties by the Board of Pharmacy when acting in accordance with the provisions of this chapter. Nothing in this Code section shall affect a professional licensing board from taking action in response to violations of any other law.

(d) Notwithstanding any law to the contrary, the commissioner, the Governor of Georgia, or an employee of any state agency shall not be held civilly or criminally liable for any injury, loss of property, personal injury, or death caused by any act or omission while acting within the scope of office or employment under this chapter.

(e) Federal, state, and local law enforcement authorities are prohibited from accessing the patient registry except when acting pursuant to a valid search warrant.

(f) Notwithstanding any law to the contrary, neither the commissioner nor a public employee shall release data or information about an individual contained in any report, document, or registry created pursuant to this chapter or any information obtained about a patient participating in the registry program, except as provided in subsection (e) of this Code section.

(g) No information contained in a report, document, or registry or obtained from a patient pursuant to the chapter shall be admitted as evidence in a criminal proceeding unless independently obtained or in connection with a proceeding involving a violation of this chapter.

(h) Any person who violates paragraph (e) or (f) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

(i) An attorney shall not be subject to disciplinary action by the Georgia Supreme Court or professional responsibility board for providing legal assistance to prospective or registered manufacturers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this chapter.

(j) Possession of a registry verification or application for enrollment in the registry program by a person entitled to possess or apply for enrollment in the registry program

does not constitute probable cause or reasonable suspicion nor shall it be used to support a search of such person or property of such person possessing or applying for the registry verification or otherwise subject such person or property of such person to inspection by any governmental agency.

31-2B-17.

(a) No school or landlord shall refuse to enroll or lease to and shall not otherwise penalize a person solely for such person's status as a patient enrolled in the registry program, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

(b) For the purposes of medical care, including organ transplants, a registry program enrollee's use of medical cannabis is considered the equivalent of the authorized use of any other medication used at the discretion of a physician and does not constitute the use of an illicit substance or otherwise disqualify a patient from needed medical care.

(c) Unless a failure to do so would violate federal law or regulations or cause an employer to lose a monetary or licensing related benefit under federal law or regulations, an employer shall not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon either of the following:

(1) The person's status as a patient enrolled in the registry program; or

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

(d) An employee or job applicant who is required to undergo employer drug testing pursuant to Code Section 34-9-415 may present verification of enrollment in the registry program as part of the opportunity for the employee or job applicant to record information he or she considers relevant to such test pursuant to subparagraph (d)(2)(B) of Code Section 34-9-415.

(e) A person shall not be denied custody of a minor child or visitation rights or parenting time with a minor child solely based on such person's status as a patient enrolled in the registry program. There shall be no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the person's behavior creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

31-2B-18.

(a) In addition to any other applicable penalty in law, a manufacturer or an agent of a manufacturer who intentionally transfers medical cannabis to a person other than a patient,

a registered designated caregiver, or, if listed on the registry verification, a parent or legal guardian of a patient shall be guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000.00, or both. A person convicted under this Code section shall not continue to be affiliated with the manufacturer and shall be disqualified from further participation under this chapter.

(b) In addition to any other applicable penalty in law, a patient, registered designated caregiver, or, if listed on the registry verification, a parent or legal guardian of a patient who intentionally sells or otherwise transfers medical cannabis to a person other than a patient, registered designated caregiver, or, if listed on the registry verification, a parent or legal guardian of a patient shall be guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000.00, or both.

(c) A person who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than $1,000.00, or both. The penalty shall be in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by this chapter. If a person convicted of violating this Code section is a patient or a registered designated caregiver, such person shall be disqualified from further participation under this chapter.

(d) A person who knowingly submits false records or documentation required by the commissioner to register as a manufacturer of medical cannabis under Code Sections 31-2B-4, 31-2B-12, or 31-2B-13 shall be guilty of a felony punishable by imprisonment for not more than two years or by payment of a fine of not more than $3,000.00, or both.

(e) A physician who knowingly refers patients to a manufacturer or to a designated caregiver, who advertises as a manufacturer, or who issues certifications while holding a financial interest in a manufacturer shall be guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by payment of a fine of not more than $1,000.00, or both.

(f) A manufacturer shall be fined up to $1,000.00 for any violation of this chapter or the regulations issued pursuant thereto if no penalty has been specified. This penalty shall be in addition to any other applicable penalties in law.

31-2B-19.

Nursing facilities licensed and subject to regulation pursuant to Chapter 7 of Title 31 may adopt reasonable restrictions on the use of medical cannabis by a patient enrolled in the registry program who resides at the facility. Such restrictions may include provisions that the facility will not store or maintain a patient's supply of medical cannabis, that the facility

is not responsible for providing medical cannabis for patients, and that medical cannabis be used only in a place specified by the facility. Nothing contained in this Code section shall require facilities to adopt such restrictions, and no facility shall unreasonably limit a patient's access to or use of medical cannabis to the extent that such patient's use is authorized under this chapter.

31-2B-20.

(a) The commissioner shall collect an enrollment fee of $200.00 from patients enrolled under this chapter. If the patient attests to receiving Social Security Disability or Supplemental Security Insurance payments or being enrolled in medical assistance or PeachCare for Kids, then the fee shall be $50.00. The fee shall be payable biennially and due on the anniversary date of the patient's enrollment.

(b) The commissioner shall collect an application fee of $20,000.00 from each entity submitting an application for registration as a medical cannabis manufacturer.

(c) The commissioner shall establish and collect an annual fee from each medical cannabis manufacturer equal to the cost of regulating and inspecting such manufacturer in that year.

(d) A medical cannabis manufacturer may charge patients enrolled in the registry program a reasonable fee for costs associated with the operations of the manufacturer. The manufacturer may establish a sliding scale of patient fees based upon a patient's household income and may accept private donations to reduce patient fees.

31-2B-21.

(a) There is created the Georgia Medical Cannabis Task Force for the purpose of conducting an impact assessment on the use of medical cannabis.

(b) The task force shall consist of 20 members. Two members shall be from the House of Representatives, one of whom shall be selected by the Speaker of the House and the second one selected by the minority leader. Two members shall be from the Senate, one of whom shall be selected by the President of the Senate and the second one selected by the minority leader. The remaining members of the task force shall be appointed by the Governor and shall be:

(1) Four members representing consumers or patients enrolled in the registry program, including at least two parents of patients under age 18;

(2) Four members representing health care providers, including one licensed pharmacist;

(3) Four members representing law enforcement: the director of the Georgia Bureau of Investigation or his or her designee, the director of the Georgia Drugs and Narcotics Agency, a sheriff, and a police chief or his or her designee; and

(4) Four members representing substance use disorder treatment providers.

(c) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment, and the successor shall serve for the unexpired term.

(d) Membership on the commission shall not constitute public office, and no member shall be disqualified from holding public office by reason of his or her membership.

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

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

(g) Members shall serve on the task force at the pleasure of the appointing authority. All members shall be appointed by July 15, 2016, and the commissioner shall convene the first meeting of the task force by August 1, 2016.

(h) There shall be two cochairpersons of the task force chosen from among the members. One cochairperson shall be selected by the Speaker of the House and the other cochairperson shall be selected by the President of the Senate. The authority to convene meetings shall alternate between the cochairpersons. The cochairpersons shall only vote to break a tie. The task force may appoint such other officers and committees as it considers appropriate.

(i) The task force shall hold hearings to conduct an assessment that evaluates the impact of the use of medical cannabis and evaluates Georgia's activities and other states' activities involving medical cannabis and offer analyses of:

(1) Program design and implementation;

(2) The impact on the health care provider community;

(3) Patient experiences;

(4) The impact on the incidences of substance abuse;

(5) Access to and quality of medical cannabis and medical cannabis products;

(6) The impact on law enforcement and prosecutions;

(7) Public awareness and perception; and

(8) Any unintended consequences.

31-2B-22.

By January 15 of each year, beginning January 15, 2017, and ending January 15, 2021, the commissioners of state departments impacted by the task force or registry program shall report to the cochairpersons of the task force on the costs incurred by each department for implementing this chapter.

31-2B-23.

(a) The cochairpersons of the task force shall submit the following reports to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health and human services, public safety, judiciary, and civil law:

(1) By February 1, 2017, a report on the design and implementation of the registry program and every two years thereafter a complete impact assessment report; and

(2) Upon receipt of a cost assessment from a commissioner of a state agency, the completed cost assessment.

(b) The task force may make recommendations to the legislature on whether to add or remove conditions from the list of qualifying medical conditions."

SECTION 3.

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