

By: Representatives Bomgar, Sykes, Smith

To: Drug Policy; Public Health and Human Services

HOUSE BILL NO. 179

1 AN ACT TO BE KNOWN AS THE MISSISSIPPI MEDICAL MARIJUANA PILOT  
2 PROGRAM ACT; TO DEFINE CERTAIN TERMS; TO ALLOW THE THERAPEUTIC USE  
3 OF MARIJUANA FOR CERTAIN PATIENTS WHO HAVE DEBILITATING MEDICAL  
4 CONDITIONS; TO PROVIDE CERTAIN PROTECTIONS TO PATIENTS,  
5 CAREGIVERS, PHYSICIANS, THERAPEUTIC MARIJUANA ESTABLISHMENTS,  
6 DISPENSARIES AND TESTING FACILITIES FOR THE THERAPEUTIC USE OF  
7 MARIJUANA; TO PROVIDE THAT THE STATE DEPARTMENT OF HEALTH WILL  
8 ADMINISTER THIS ACT, AND ISSUE REGISTRY IDENTIFICATION CARDS TO  
9 QUALIFYING PATIENTS AND REGISTRATIONS TO THERAPEUTIC  
10 ESTABLISHMENTS, DISPENSARIES AND TESTING FACILITIES; TO AUTHORIZE  
11 LOCAL GOVERNMENTS TO ENACT CERTAIN ORDINANCES NOT IN CONFLICT WITH  
12 THIS ACT; TO PROVIDE CIVIL AND CRIMINAL PENALTIES FOR VIOLATIONS  
13 OF THIS ACT; TO PROVIDE FOR AN ADVISORY COMMITTEE TO MAKE  
14 RECOMMENDATIONS TO THE LEGISLATURE AND THE DEPARTMENT; TO REQUIRE  
15 THE DEPARTMENT TO MAKE AN ANNUAL REPORT TO THE LEGISLATURE ABOUT  
16 THE OPERATION OF THIS ACT; TO PROVIDE THAT THIS ACT WILL STAND  
17 REPEALED FIVE YEARS AFTER THE FIRST DISPENSARY BEGINS SUPPLYING  
18 QUALIFYING PATIENTS WITH MARIJUANA; TO AMEND SECTIONS 41-29-125,  
19 41-29-127, 41-29-136, 41-29-137, 41-29-139, 41-29-141 AND  
20 41-29-143, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING  
21 PROVISIONS; TO BRING FORWARD SECTION 73-25-29, MISSISSIPPI CODE OF  
22 1972, FOR THE PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED  
23 PURPOSES.

24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

25 **SECTION 1. Title.** This act shall be known as the  
26 Mississippi Medical Marijuana Pilot Program Act.



27           **SECTION 2. Definitions.** For purposes of this act, unless  
28 the context otherwise requires, the following terms shall be  
29 defined as provided in this section:

30           (a) "Allowable amount of marijuana" means:

31                   (i) Two and five-tenths (2.5) ounces of marijuana,  
32 and

33                   (ii) The quantity of marijuana products as  
34 established by regulation of the department.

35           (b) "Bona fide physician-patient relationship" means:

36                   (i) A physician and patient have a treatment or  
37 consulting relationship, during the course of which the physician  
38 has completed an assessment of the patient's medical history and  
39 current medical condition, including an appropriate examination;

40                   (ii) The physician has consulted with the patient  
41 with respect to the patient's debilitating medical condition; and

42                   (iii) The physician is available to or offers to  
43 provide follow-up care and treatment to the patient.

44           (c) "Marijuana products" means concentrated marijuana,  
45 marijuana extracts, and products that are infused with marijuana  
46 or an extract thereof and are intended for use or consumption by  
47 humans. The term includes, without limitation, edible marijuana  
48 products, beverages, topical products, ointments, oils, and  
49 tinctures.

50           (d) "Marijuana testing facility" or "testing facility"  
51 means an independent entity registered with the department



52 pursuant to this act to analyze the safety and potency of  
53 marijuana.

54 (e) "Cardholder" means a qualifying patient or a  
55 designated caregiver who has been issued and possesses a valid  
56 registry identification card.

57 (f) "Debilitating medical condition" means any of the  
58 following conditions: cancer, glaucoma, spastic quadriplegia,  
59 positive status for human immunodeficiency virus (HIV), acquired  
60 immune deficiency syndrome (AIDS), seizures, amyotrophic lateral  
61 sclerosis (ALS), Crohn's disease, multiple sclerosis, ulcerative  
62 colitis, intractable pain, or any other serious medical condition  
63 or its treatment added by the department, as provided for in  
64 Section 5 of this act.

65 (g) "Department" means the State Department of Health.

66 (h) "Designated caregiver" means a person who:

67 (i) Is at least twenty-one (21) years of age;

68 (ii) Has significant responsibility for managing  
69 the well-being of a patient;

70 (iii) Has not been convicted of a disqualifying  
71 felony offense; and

72 (iv) Assists no more than five (5) qualifying  
73 patients with their therapeutic use of marijuana, unless the  
74 designated caregiver's qualifying patients each reside in or are  
75 admitted to a health care facility or residential care facility  
76 where the designated caregiver is employed.



77 (i) "Disqualifying felony offense" means:

78 (i) A crime of violence, as defined in Section  
79 97-3-2, that was classified as a felony in the jurisdiction where  
80 the person was convicted; or

81 (ii) A violation of a state or federal controlled  
82 substances law that was classified as a felony in the jurisdiction  
83 where the person was convicted, not including:

84 1. An offense for which the sentence,  
85 including any term of probation, incarceration, or supervised  
86 release, was completed ten (10) or more years earlier; or

87 2. An offense that consisted of conduct for  
88 which this act would likely have prevented a conviction, but the  
89 conduct either occurred before the effective date of this act or  
90 was prosecuted by an authority other than the State of  
91 Mississippi.

92 (j) "Edible marijuana products" means products that:

93 (i) Contain or are infused with marijuana or an  
94 extract thereof;

95 (ii) Are intended for human consumption by oral  
96 ingestion; and

97 (iii) Are presented in the form of foodstuffs,  
98 beverages, extracts, oils, tinctures, and other similar products.

99 (k) "Physician" means a person who is licensed to  
100 practice medicine with authority to prescribe drugs to humans.



101           (1) "Qualifying patient" means a Mississippi resident  
102 who has been diagnosed by a physician as having a debilitating  
103 medical condition and who has otherwise met the requirements to  
104 qualify for a registry identification card.

105           (m) "Registry identification card" means a document  
106 issued by the department that identifies a person as a registered  
107 qualifying patient or registered designated caregiver, or  
108 documentation that is deemed a registry identification card under  
109 Section 7 of this act.

110           (n) "Smoked marijuana" or "smoking" means marijuana  
111 that is heated to at least the point of combustion, causing plant  
112 material to burn.

113           (o) "Therapeutic marijuana" or "marijuana" means any  
114 species of the genus marijuana plant, or any mixture or  
115 preparation of them, including whole plant extracts and resins.  
116 It does not include smoked marijuana.

117           (p) "Therapeutic marijuana dispensary" or "dispensary"  
118 means an entity registered with the department under this act that  
119 manufactures, grows, cultivates, prepares, acquires, possesses,  
120 stores, delivers, transfers, transports, sells, supplies, or  
121 dispenses marijuana, marijuana products, paraphernalia, or related  
122 supplies and educational materials to cardholders.

123           (q) "Therapeutic marijuana establishment" means a  
124 dispensary or a testing facility registered with the department.



125 (r) "Therapeutic marijuana establishment agent" means  
126 an owner, officer, board member, employee, volunteer, or agent of  
127 a therapeutic marijuana establishment.

128 (s) "Written certification" means a document dated and  
129 signed by a physician, stating that in the physician's  
130 professional opinion the patient is likely to receive therapeutic  
131 or palliative benefit from the therapeutic use of marijuana to  
132 treat or alleviate the patient's debilitating medical condition or  
133 symptoms associated with the debilitating medical condition. A  
134 written certification shall affirm that it is made in the course  
135 of a bona fide physician-patient relationship and shall specify  
136 the qualifying patient's debilitating medical condition.

137 **SECTION 3. Protections for the therapeutic use of marijuana.**

138 (1) A qualifying patient who possesses a valid registry  
139 identification card is not subject to arrest, prosecution, or  
140 penalty in any manner, or denial of any right or privilege,  
141 including any civil penalty or disciplinary action by a court or  
142 occupational or professional licensing board or bureau for:

143 (a) Possession, transportation, or use of marijuana  
144 under this act, if the cardholder does not possess more than the  
145 allowable amount of marijuana;

146 (b) Transferring marijuana to a testing facility for  
147 testing; or

148 (c) Compensating a dispensary for goods or services  
149 provided.



150 (2) A caregiver who possesses a valid registry  
151 identification card is not subject to arrest, prosecution, or  
152 penalty in any manner, or denial of any right or privilege,  
153 including any civil penalty or disciplinary action by a court or  
154 occupational or professional licensing board or bureau for:

155 (a) Possession, transportation, or delivery to the  
156 caregiver's qualifying patient of marijuana under this act, if the  
157 cardholder does not possess more than the allowable amount of  
158 marijuana;

159 (b) Transferring marijuana to a testing facility for  
160 testing; or

161 (c) Compensating a dispensary for goods or services  
162 provided.

163 (3) There is a presumption that a qualifying patient or  
164 designated caregiver is engaged in the therapeutic use of  
165 marijuana under this act if the person is in possession of a  
166 registry identification card and an amount of marijuana that does  
167 not exceed the allowable amount. The presumption may be rebutted  
168 by evidence that conduct related to marijuana was not for the  
169 purpose of treating or alleviating a qualifying patient's  
170 debilitating medical condition or symptoms associated with the  
171 qualifying patient's debilitating medical condition under this  
172 act.

173 (4) A physician shall not be subject to arrest, prosecution,  
174 or penalty in any manner, or denied any right or privilege,



175 including, but not limited to, civil penalty or disciplinary  
176 action by the State Board of Medical Licensure or by any other  
177 occupational or professional licensing board or bureau, solely for  
178 providing written certifications or for otherwise stating that, in  
179 the physician's professional opinion, a patient is likely to  
180 receive therapeutic or palliative benefit from the therapeutic use  
181 of marijuana to treat or alleviate the patient's serious or  
182 debilitating medical condition or symptoms associated with the  
183 serious or debilitating medical condition, provided that nothing  
184 in this act shall prevent a physician from being sanctioned for:

185 (a) Issuing a written certification to a patient with  
186 whom the physician does not have a bona fide physician-patient  
187 relationship; or

188 (b) Failing to properly evaluate a patient's medical  
189 condition.

190 (5) An attorney may not be subject to disciplinary action by  
191 the Mississippi State Bar or other professional licensing  
192 association for providing legal assistance to prospective or  
193 registered therapeutic marijuana establishments or others related  
194 to activity that is no longer subject to criminal penalties under  
195 state law under this act.

196 (6) No person may be subject to arrest, prosecution, or  
197 penalty in any manner, or denied any right or privilege, including  
198 any civil penalty or disciplinary action by a court or  
199 occupational or professional licensing board or bureau, for:





200 (a) Providing or selling marijuana paraphernalia to a  
201 cardholder or to a therapeutic marijuana establishment;

202 (b) Being in the presence or vicinity of the  
203 therapeutic use of marijuana that is exempt from criminal  
204 penalties by this act;

205 (c) Allowing the person's property to be used for  
206 activities that are exempt from criminal penalties by this act; or

207 (d) Assisting a registered qualifying patient with the  
208 act of using or administering marijuana.

209 (7) A therapeutic marijuana establishment or a therapeutic  
210 marijuana establishment agent is not subject to prosecution,  
211 search, or inspection, except by the department under Section 16  
212 of this act, seizure, or penalty in any manner, and may not be  
213 denied any right or privilege, including civil penalty or  
214 disciplinary action by a court or business licensing board or  
215 entity, for acting in accordance with this act and rules  
216 authorized by this act to engage in activities related to  
217 therapeutic marijuana that are allowed by its registration.

218 (8) A dispensary or a dispensary agent is not subject to  
219 prosecution, search, or inspection, except by the department under  
220 Section 16 of this act, seizure, or penalty in any manner, and may  
221 not be denied any right or privilege, including civil penalty or  
222 disciplinary action by a court or business licensing board or  
223 entity, for acting in accordance with this act and rules  
224 authorized by this act to:



225 (a) Possess, plant, propagate, cultivate, grow,  
226 harvest, produce, process, manufacture, compound, convert,  
227 prepare, pack, repack, transport, or store marijuana and marijuana  
228 products;

229 (b) Deliver, transfer, and transport marijuana to  
230 testing facilities and compensate testing facilities for services  
231 provided;

232 (c) Purchase or otherwise acquire marijuana or  
233 marijuana products from dispensaries;

234 (d) Deliver, sell, supply, transfer, or transport  
235 marijuana, marijuana products, and marijuana paraphernalia, and  
236 related supplies and educational materials to cardholders or  
237 dispensaries; or

238 (e) Obtain marijuana seeds from qualifying patients  
239 from other states or from marijuana businesses that are registered  
240 in another jurisdiction.

241 (9) A testing facility or testing facility agent is not  
242 subject to prosecution, search, or inspection, except by the  
243 department under Section 16 of this act, seizure, or penalty in  
244 any manner, and may not be denied any right or privilege,  
245 including civil penalty or disciplinary action by a court or  
246 business licensing board or entity, for acting in accordance with  
247 this act and rules authorized by this act to:



248           (a) Acquire, possess, transport, and store marijuana  
249 and marijuana products obtained from cardholders and therapeutic  
250 marijuana establishments;

251           (b) Return the marijuana and marijuana products to the  
252 cardholders and therapeutic marijuana establishments from whom it  
253 was obtained;

254           (c) Test marijuana, including for potency, pesticides,  
255 mold, or contaminants; or

256           (d) Receive compensation for those services.

257       (10) The staffer of a therapeutic marijuana establishment  
258 that is registered in another jurisdiction may sell or donate  
259 marijuana seeds to cultivation facilities. A patient who is  
260 registered in another state may donate marijuana seeds to  
261 cultivation facilities.

262       (11) Any marijuana, marijuana product, marijuana  
263 paraphernalia, or other interest in or right to property that is  
264 possessed, owned, or used in connection with the therapeutic use  
265 of marijuana as allowed under this act, or acts incidental to that  
266 use, shall not be seized or forfeited. This act shall not prevent  
267 the seizure or forfeiture of marijuana exceeding the amounts  
268 allowed under this act, nor shall it prevent seizure or forfeiture  
269 if the basis for the action is unrelated to the marijuana that is  
270 possessed, manufactured, transferred, or used in accordance with  
271 this act.



272 (12) Possession of, or application for, a registry  
273 identification card does not constitute probable cause or  
274 reasonable suspicion, nor shall it be used to support a search of  
275 the person or property of the person possessing or applying for  
276 the registry identification card, or otherwise subject the person  
277 or property of the person to inspection by any governmental  
278 agency.

279 (13) For the purposes of state law, activities related to  
280 therapeutic marijuana shall be considered lawful as long as they  
281 are in accordance with this act.

282 (14) It is the public policy of the State of Mississippi  
283 that contracts related to therapeutic marijuana that are entered  
284 into by cardholders, therapeutic marijuana establishments, or  
285 therapeutic marijuana establishment agents, and those who allow  
286 property to be used by those persons, shall be enforceable. It is  
287 the public policy of the State of Mississippi that no contract  
288 entered into by a cardholder, a therapeutic marijuana  
289 establishment, or a therapeutic marijuana establishment agent, or  
290 by a person who allows property to be used for activities that are  
291 exempt from state criminal penalties by this act, shall be  
292 unenforceable on the basis that activities related to marijuana  
293 are prohibited by federal law.

294 **SECTION 4. Limitations.** This act does not authorize any  
295 person to engage in, and does not prevent the imposition of any



296 civil, criminal, or other penalties for engaging in, the following  
297 conduct:

298 (a) Undertaking any task under the influence of  
299 marijuana, when doing so would constitute negligence or  
300 professional malpractice;

301 (b) Possessing marijuana or otherwise engaging in the  
302 therapeutic use of marijuana in any correctional facility, unless  
303 the correctional facility has elected to allow the cardholder to  
304 engage in the therapeutic use of marijuana;

305 (c) Smoking marijuana; or

306 (d) Operating, navigating, or being in actual physical  
307 control of any motor vehicle, aircraft, train, or motorboat while  
308 under the influence of marijuana.

309 **SECTION 5. Addition of debilitating medical conditions.**

310 Any resident of Mississippi may petition the department to add  
311 serious medical conditions or their treatments to the list of  
312 debilitating medical conditions listed in Section 2 of this act.  
313 The department shall consider petitions in the manner required by  
314 department regulation, including public notice and hearing. The  
315 department shall approve or deny a petition within one hundred  
316 eighty (180) days of its submission. The approval or denial of  
317 any petition is a final decision of the department, subject to  
318 judicial review. Jurisdiction and venue for judicial review are  
319 vested in the circuit court.

320 **SECTION 6. Acts not required and acts not prohibited.**



321 (1) Nothing in this act requires a government medical  
322 assistance program or private insurer to reimburse a person for  
323 costs associated with the therapeutic use of marijuana.

324 (2) Nothing in this act prohibits an employer from  
325 disciplining an employee for ingesting marijuana in the workplace  
326 or for working while under the influence of marijuana.

327 **SECTION 7. Issuance and denial of registry identification**

328 **cards.** (1) No later than one hundred forty (140) days after the  
329 effective date of this act, the department shall begin issuing  
330 registry identification cards to qualifying patients who submit  
331 the following, in accordance with the department's regulations:

332 (a) A written certification issued by a physician  
333 within ninety (90) days immediately preceding the date of the  
334 application;

335 (b) The name, address, and date of birth of the  
336 qualifying patient, except that if the applicant is homeless, no  
337 address is required;

338 (c) The name, address, and telephone number of the  
339 qualifying patient's physician;

340 (d) The name, address, and date of birth of the  
341 designated caregiver, or designated caregivers, chosen by the  
342 qualifying patient;

343 (e) If more than one (1) designated caregiver is  
344 designated at any given time, documentation demonstrating that a



345 greater number of designated caregivers is needed due to the  
346 patient's age or medical condition; and

347 (f) The name of the dispensary that the qualifying  
348 patient designates, if any.

349 (2) If the qualifying patient is unable to submit the  
350 information required by subsection (1) of this section due to the  
351 person's age or medical condition, the person responsible for  
352 making medical decisions for the qualifying patient may do so on  
353 behalf of the qualifying patient.

354 (3) Except as provided in subsection (5) of this section,  
355 the department shall:

356 (a) Verify the information contained in an application  
357 or renewal submitted under this act and approve or deny an  
358 application or renewal within fifteen (15) days of receiving a  
359 completed application or renewal application;

360 (b) Issue registry identification cards to a qualifying  
361 patient and his or her designated caregiver(s), if any, within  
362 five (5) days of approving the application or renewal. A  
363 designated caregiver must have a registry identification card for  
364 each of his or her qualifying patients; and

365 (c) Enter the registry identification number of the  
366 dispensary the patient designates into the verification system.

367 (4) The department may conduct a background check of the  
368 prospective designated caregiver in order to carry out this  
369 provision.



370 (5) The department shall not issue a registry identification  
371 card to a qualifying patient who is younger than eighteen (18)  
372 years of age unless:

373 (a) The qualifying patient's physician has explained  
374 the potential risks and benefits of the therapeutic use of  
375 marijuana to the custodial parent or legal guardian with  
376 responsibility for health care decisions for the qualifying  
377 patient; and

378 (b) The custodial parent or legal guardian with  
379 responsibility for health care decisions for the qualifying  
380 patient consents in writing to:

381 (i) Allow the qualifying patient's therapeutic use  
382 of marijuana;

383 (ii) Serve as the qualifying patient's designated  
384 caregiver; and

385 (iii) Control the acquisition of the marijuana,  
386 the dosage, and the frequency of the therapeutic use of marijuana  
387 by the qualifying patient.

388 (6) The department may deny an application or renewal of a  
389 qualifying patient's registry identification card only if the  
390 applicant:

391 (a) Did not provide the required information or  
392 materials;

393 (b) Previously had a registry identification card  
394 revoked; or





395 (c) Provided false information.

396 (7) The department may deny an application or renewal for a  
397 designated caregiver chosen by a qualifying patient whose registry  
398 identification card was granted only if:

399 (a) The designated caregiver does not meet the  
400 requirements of Section 3 of this act;

401 (b) The applicant did not provide the information  
402 required;

403 (c) The designated caregiver previously had a registry  
404 identification card revoked; or

405 (d) The applicant or the designated caregiver provided  
406 false information.

407 (8) The department shall give written notice to the  
408 qualifying patient of the reason for denying a registry  
409 identification card to the qualifying patient or to the qualifying  
410 patient's designated caregiver.

411 (9) Denial of an application or renewal is considered a  
412 final department action, subject to judicial review. Jurisdiction  
413 and venue for judicial review are vested in the circuit court.

414 (10) Until a qualifying patient who has submitted an  
415 application to the department receives a registry identification  
416 card or a rejection, a copy of the individual's application,  
417 written certification, and proof that the application was  
418 submitted to the department shall be deemed a registry  
419 identification card.



420 (11) Until a designated caregiver whose qualifying patient  
421 has submitted an application receives a registry identification  
422 card or a rejection, a copy of the qualifying patient's  
423 application, written certification, and proof that the application  
424 was submitted to the department shall be deemed a registry  
425 identification card.

426 **SECTION 8. Contents of registry identification cards.**

427 (1) Registry identification cards must contain all of the  
428 following:

429 (a) The name of the cardholder;

430 (b) A designation of whether the cardholder is a  
431 qualifying patient or a designated caregiver;

432 (c) The date of issuance and expiration date of the  
433 registry identification card;

434 (d) A random ten-digit alphanumeric identification  
435 number, containing at least four (4) numbers and at least four (4)  
436 letters, that is unique to the cardholder;

437 (e) If the cardholder is a designated caregiver, the  
438 random identification number of the qualifying patient the  
439 designated caregiver will assist;

440 (f) A photograph of the cardholder, if the department's  
441 regulations require one; and

442 (g) The phone number or Internet address where the card  
443 can be verified.



444 (2) Except as provided in subsection (3) of this section,  
445 the expiration date shall be one (1) year after the date of  
446 issuance.

447 (3) If the physician stated in the written certification  
448 that the qualifying patient would benefit from marijuana until a  
449 specified earlier date, then the registry identification card  
450 shall expire on that date.

451 **SECTION 9. Verification system.** (1) The department shall  
452 maintain a confidential list of the persons to whom the department  
453 has issued registry identification cards and their addresses,  
454 phone numbers, and registry identification numbers. This  
455 confidential list shall not be combined or linked in any manner  
456 with any other list or database, nor shall it be used for any  
457 purpose not provided for in this act.

458 (2) Within one hundred twenty (120) days after the effective  
459 date of this act, the department shall establish a secure phone or  
460 Internet-based verification system. The verification system must  
461 allow law enforcement personnel and therapeutic marijuana  
462 establishments to enter a registry identification number to  
463 determine whether the number corresponds with a current, valid  
464 registry identification card. The system may disclose only:

465 (a) Whether the identification card is valid;

466 (b) The name of the cardholder;

467 (c) Whether the cardholder is a qualifying patient or a  
468 designated caregiver;



469 (d) The registry identification number of any  
470 affiliated registered qualifying patient; and

471 (e) The registry identification of the qualifying  
472 patient's dispensary, if any.

473 **SECTION 10. Notifications to department and responses.**

474 (1) The following notifications and department responses are  
475 required:

476 (a) A registered qualifying patient shall notify the  
477 department of any change in his or her name or address, or if the  
478 registered qualifying patient ceases to have his or her  
479 debilitating medical condition, within twenty (20) days of the  
480 change.

481 (b) A registered designated caregiver shall notify the  
482 department of any change in his or her name or address, or if the  
483 designated caregiver becomes aware the qualifying patient passed  
484 away, within twenty (20) days of the change.

485 (c) Before a registered qualifying patient changes his  
486 or her designated caregiver, the qualifying patient must notify  
487 the department.

488 (d) If a cardholder loses his or her registry  
489 identification card, he or she shall notify the department within  
490 ten (10) days of becoming aware the card has been lost.

491 (e) Before a registered qualifying patient changes his  
492 or her designated dispensary, the qualifying patient must notify  
493 the department.



494 (2) Each notification that a registered qualifying patient  
495 is required to make shall instead be made by the patient's  
496 designated caregiver if the qualifying patient is unable to make  
497 the notification due to his or her age or medical condition.

498 (3) When a cardholder notifies the department of items  
499 listed in subsection (1) of this section but remains eligible  
500 under this act, the department shall issue the cardholder a new  
501 registry identification card with a new random ten-digit  
502 alphanumeric identification number within ten (10) days of  
503 receiving the updated information. If the person notifying the  
504 department is a registered qualifying patient, the department  
505 shall also issue his or her registered designated caregiver, if  
506 any, a new registry identification card within ten (10) days of  
507 receiving the updated information.

508 (4) If the registered qualifying patient's certifying  
509 physician notifies the department in writing that either the  
510 registered qualifying patient has ceased to suffer from a  
511 debilitating medical condition or that the physician no longer  
512 believes the patient would receive therapeutic or palliative  
513 benefit from the therapeutic use of marijuana, the card shall  
514 become null and void. However, the registered qualifying patient  
515 shall have fifteen (15) days to dispose of or give away his or her  
516 marijuana.



517 (5) A therapeutic marijuana establishment shall notify the  
518 department within one (1) business day of any theft or significant  
519 loss of marijuana.

520 **SECTION 11. Registration of therapeutic marijuana**

521 **establishments.** (1) Not later than January 1, 2018, the  
522 department shall begin accepting applications for three (3)  
523 dispensaries and at least one (1) testing facility. The  
524 department shall begin accepting additional applications for  
525 dispensaries not later than January 1, 2019, and January 1, 2020.

526 (2) Each applicant to operate a therapeutic marijuana  
527 establishment must submit all of the following:

528 (a) An application, including:

529 (i) The legal name of the prospective therapeutic  
530 marijuana establishment;

531 (ii) The physical address of the prospective  
532 therapeutic marijuana establishment, and any secondary location  
533 for cultivation, that is not within one thousand (1,000) feet of a  
534 public or private school existing before the date of the  
535 therapeutic marijuana establishment application;

536 (iii) The name and date of birth of each principal  
537 officer and board member of the proposed therapeutic marijuana  
538 establishment;

539 (iv) The qualifications of the proposed managers,  
540 including experience in botany or therapeutic marijuana; and



541 (v) Any additional information requested by the  
542 department.

543 (b) Operating procedures consistent with rules for  
544 oversight of the proposed therapeutic marijuana establishments,  
545 including procedures to ensure accurate recordkeeping and adequate  
546 security measures;

547 (c) If the municipality or county where the proposed  
548 therapeutic marijuana establishment would be located has enacted  
549 zoning restrictions, a sworn statement certifying that the  
550 proposed therapeutic marijuana establishment is in compliance with  
551 the restrictions; and

552 (d) If the municipality or county where the proposed  
553 therapeutic marijuana establishment would be located requires a  
554 local registration, license, or permit, a copy of the  
555 registration, license, or permit.

556 (3) Not later than March 1, 2018, the department shall issue  
557 registrations to three (3) dispensaries to produce and provide  
558 therapeutic marijuana. Not later than March 1, 2019, the  
559 department shall issue a registration to at least one (1) more  
560 dispensary, so that the total number of dispensaries registered in  
561 the state is four (4). Not later than March 1, 2020, the  
562 department shall issue a registration to at least one (1) more  
563 dispensary, so that the total number of dispensaries registered in  
564 the state is five (5).



565 (4) Not later than March 1, 2018, the department shall issue  
566 a registration to at least one (1) testing facility.

567 (5) When granting registrations to therapeutic marijuana  
568 establishments, the department shall consider:

569 (a) The technical expertise of the establishment;

570 (b) The qualifications of the establishment's  
571 employees;

572 (c) The long-term financial stability of the  
573 establishment;

574 (d) The ability to provide appropriate security  
575 measures on the premises of the establishment; and

576 (e) The qualifications of the establishment's managers  
577 and principals.

578 (6) When granting registrations to dispensaries, the  
579 department shall also consider:

580 (a) Whether the establishment has an ability to meet  
581 the therapeutic marijuana production and consumption needs;

582 (b) Geographic distribution of dispensaries throughout  
583 the state; and

584 (c) If the establishment would have an on-site medical  
585 director with expertise in medicine or pharmacy.

586 (7) The department shall issue a renewal registration  
587 certificate within ten (10) days of receipt of the prescribed  
588 renewal application from a therapeutic marijuana establishment if





589 its registration certificate is not under suspension and has not  
590 been revoked.

591       **SECTION 12. Local ordinances.** (1) A local government may  
592 enact ordinances or regulations not in conflict with this act, or  
593 with regulations enacted under this act, governing the time,  
594 place, and manner of therapeutic marijuana establishment  
595 operations in the locality. A local government may establish  
596 penalties for violation of an ordinance or regulations governing  
597 the time, place, and manner of a therapeutic marijuana  
598 establishment that may operate in the locality.

599       (2) No local government may prohibit dispensaries, either  
600 expressly or through the enactment of ordinances or regulations  
601 that make their operation impracticable in the jurisdiction.

602       **SECTION 13. Requirements, prohibitions and penalties.**

603       (1) Therapeutic marijuana establishments shall conduct a  
604 background check into the criminal history of every person seeking  
605 to become a principal officer, board member, agent, volunteer, or  
606 employee before the person begins working at the therapeutic  
607 marijuana establishment.

608       (2) A therapeutic marijuana establishment may not employ any  
609 person who:

610               (a) Was convicted of a disqualifying felony offense; or

611               (b) Is under twenty-one (21) years of age.

612       (3) The operating documents of a therapeutic marijuana  
613 establishment must include procedures for the oversight of the



614 therapeutic marijuana establishment and procedures to ensure  
615 accurate recordkeeping.

616 (4) A therapeutic marijuana establishment shall implement  
617 appropriate security measures designed to deter and prevent the  
618 theft of marijuana and unauthorized entrance into areas containing  
619 marijuana.

620 (5) Each therapeutic marijuana dispensary shall provide a  
621 reliable and ongoing supply of therapeutic marijuana needed for  
622 the registry program.

623 (6) All cultivation, harvesting, manufacture, and packaging  
624 of marijuana must take place in a secure facility with a physical  
625 address provided to the department during the registration  
626 process. The secure facility may only be accessed by agents of  
627 the therapeutic marijuana establishment, emergency personnel, and  
628 adults who are twenty-one (21) years of age and older and who are  
629 accompanied by therapeutic marijuana establishment agents.

630 (7) No therapeutic marijuana establishment other than a  
631 marijuana dispensary may produce marijuana concentrates, marijuana  
632 extractions, or other marijuana products.

633 (8) A therapeutic marijuana establishment may not share  
634 office space with or refer patients to a physician.

635 (9) Therapeutic marijuana establishments are subject to  
636 inspection by the department during business hours.

637 (10) Before marijuana may be dispensed to a cardholder, a  
638 dispensary agent must:



639 (a) Make a diligent effort to verify that the registry  
640 identification card or registration presented to the dispensary is  
641 valid;

642 (b) Make a diligent effort to verify that the person  
643 presenting the documentation is the person identified on the  
644 document presented to the dispensary agent;

645 (c) Not believe that the amount dispensed would cause  
646 the person to possess more than the allowable amount of marijuana;  
647 and

648 (d) Make a diligent effort to verify that the  
649 dispensary is the current dispensary that was designated by the  
650 cardholder.

651 (11) A dispensary may not dispense more than two and  
652 five-tenths (2.5) ounces of marijuana to a registered qualifying  
653 patient, directly or via a designated caregiver, in any  
654 fourteen-day period. Dispensaries shall ensure compliance with  
655 this limitation by maintaining internal, confidential records that  
656 include records specifying how much marijuana is being dispensed  
657 to the registered qualifying patient and whether it was dispensed  
658 directly to a registered qualifying patient or to the designated  
659 caregiver.

660 **SECTION 14. Department to issue regulations.** (1) Not later  
661 than November 1, 2017, the department shall promulgate  
662 regulations:



663 (a) After having first sought the advice of the  
664 Department of Agriculture and Commerce pertaining to manufacturing  
665 or growing of therapeutic marijuana;

666 (b) Establishing the form and content of registration  
667 and renewal applications for therapeutic marijuana establishments;

668 (c) Governing therapeutic marijuana establishments with  
669 the goals of ensuring the health and safety of qualifying patients  
670 and preventing diversion and theft without imposing an undue  
671 burden or compromising the confidentiality of cardholders,  
672 including:

673 (i) Oversight requirements;

674 (ii) Recordkeeping requirements;

675 (iii) Security requirements, including lighting,  
676 physical security, and alarm requirements;

677 (iv) Health and safety regulations, including  
678 restrictions on the use of pesticides that are injurious to human  
679 health;

680 (v) Standards for the manufacture of marijuana  
681 products;

682 (vi) Requirements for the transportation and  
683 storage of marijuana by therapeutic marijuana establishments;

684 (vii) Employment and training requirements,  
685 including requiring that each therapeutic marijuana establishment  
686 create an identification badge for each agent;



687 (viii) Standards for the safe manufacture of  
688 marijuana products, including extracts and concentrates; and  
689 (ix) Requirements and procedures for the safe and  
690 accurate packaging and labeling of therapeutic marijuana.

691 (2) Not later than September 1, 2017, the department shall  
692 promulgate regulations:

693 (a) Governing the manner in which the department will  
694 consider petitions from the public to add debilitating medical  
695 conditions or treatments to the list of debilitating medical  
696 conditions set forth in Section 2 of this act, including public  
697 notice of and opportunities to comment in public hearings on the  
698 petitions;

699 (b) Governing the manner in which it will consider  
700 applications for and renewals of registry identification cards,  
701 which may include creating a standardized written certification  
702 form; and

703 (c) Establishing procedures for suspending or  
704 terminating the registration certificates or registry  
705 identification cards of cardholders and therapeutic marijuana  
706 establishments that commit multiple or serious violations of the  
707 provisions of this act or the regulations promulgated under this  
708 section.

709 (3) Not later than January 1, 2018, the department shall  
710 promulgate regulations:



711 (a) Establishing the form and content of registration  
712 and renewal applications submitted under this act;

713 (b) Governing therapeutic marijuana dispensaries and  
714 testing facilities with the goals of ensuring the health and  
715 safety of qualifying patients and preventing diversion and theft  
716 without imposing an undue burden or compromising the  
717 confidentiality of cardholders, including:

718 (i) Oversight requirements;

719 (ii) Recordkeeping requirements;

720 (iii) Security requirements, including lighting,  
721 physical security, and alarm requirements;

722 (iv) Requirements for the storage of marijuana by  
723 therapeutic marijuana establishments;

724 (v) Employment and training requirements,  
725 including requiring that each therapeutic marijuana establishment  
726 create an identification badge for each agent;

727 (vi) Restrictions on the advertising, signage, and  
728 display of therapeutic marijuana;

729 (vii) Requirements and procedures for the safe and  
730 accurate packaging and labeling of therapeutic marijuana;

731 (viii) Standards for testing facilities, including  
732 requirements for equipment and qualifications for personnel; and

733 (ix) Protocol development for the safe delivery of  
734 marijuana from dispensaries to cardholders;



735 (c) Establishing labeling requirements for marijuana  
736 and marijuana products, including requiring marijuana product  
737 labels to include the following:

738 (i) The length of time it typically takes for the  
739 product to take effect;

740 (ii) Disclosure of ingredients and possible  
741 allergens;

742 (iii) A nutritional fact panel; and

743 (iv) Requiring that edible marijuana products be  
744 clearly identifiable, when practicable, with a standard symbol  
745 indicating that the product contains marijuana; and

746 (d) Establishing the amount of marijuana products,  
747 including the amount of concentrated marijuana, each cardholder  
748 can possess.

749 **SECTION 15. Violations.** (1) A cardholder or therapeutic  
750 marijuana establishment that willfully fails to provide a notice  
751 required by Section 10 of this act is guilty of a civil offense,  
752 punishable by a fine of no more than One Hundred Fifty Dollars  
753 (\$150.00), which may be assessed and collected by the department.

754 (2) In addition to any other penalty provided by law, a  
755 therapeutic marijuana establishment or an agent of a therapeutic  
756 marijuana establishment that intentionally sells or otherwise  
757 transfers marijuana in exchange for anything of value to a person  
758 other than a cardholder or to a therapeutic marijuana  
759 establishment or its agent is guilty of a felony punishable by a



760 fine of not more than Three Thousand Dollars (\$3,000.00), or by  
761 commitment to the Department of Corrections for not more than two  
762 (2) years, or both. A person convicted under this subsection may  
763 not continue to be affiliated with the therapeutic marijuana  
764 establishment and is disqualified from further participation under  
765 this act.

766 (3) In addition to any other penalty provided by law, a  
767 cardholder who intentionally sells or otherwise transfers  
768 marijuana in exchange for anything of value to a person other than  
769 a cardholder or to a therapeutic marijuana establishment or its  
770 agent is guilty of a felony punishable by a fine of not more than  
771 Three Thousand Dollars (\$3,000.00), or by commitment to the  
772 Department of Corrections for not more than two (2) years, or  
773 both.

774 (4) A person who intentionally makes a false statement to a  
775 law enforcement official about any fact or circumstance relating  
776 to the therapeutic use of marijuana to avoid arrest or prosecution  
777 is guilty of a misdemeanor punishable by a fine of not more than  
778 One Thousand Dollars (\$1,000.00), by imprisonment in the county  
779 jail for not more than ninety (90) days, or both. This penalty is  
780 in addition to any other penalties that may apply for making a  
781 false statement or for the possession, cultivation, or sale of  
782 marijuana not protected by this act. If a person convicted of  
783 violating this subsection is a cardholder, the person is  
784 disqualified from further participation under this act.





785 (5) A person who knowingly submits false records or  
786 documentation required by the department to certify a therapeutic  
787 marijuana establishment under this act is guilty of a felony  
788 punishable by a fine of not more than Three Thousand Dollars  
789 (\$3,000.00), or by commitment to the Department of Corrections for  
790 not more than two (2) years, or both.

791 (6) A physician who knowingly refers patients to a  
792 therapeutic marijuana establishment or to a designated caregiver,  
793 who advertises in a therapeutic marijuana establishment, or who  
794 issues written certifications while holding a financial interest  
795 in a therapeutic marijuana establishment, is guilty of a civil  
796 offense and shall be fined up to One Thousand Dollars (\$1,000.00)  
797 by the department.

798 (7) Any person, including an employee or official of the  
799 department or another state agency or local government, who  
800 breaches the confidentiality of information obtained under this  
801 act is guilty of a misdemeanor punishable by a fine of not more  
802 than One Thousand Dollars (\$1,000.00), or by imprisonment for not  
803 more than one hundred eighty (180) days in the county jail, or  
804 both.

805 (8) A therapeutic marijuana establishment is guilty of a  
806 civil offense for any violation of this act or the regulations  
807 issued under this act where no penalty has been specified, and  
808 shall be fined not more than One Thousand Dollars (\$1,000.00) by



809 the department for each such violation. This penalty is in  
810 addition to any other penalties provided by law.

811 **SECTION 16. Suspension and revocation.** (1) The department  
812 may on its own motion or on complaint, after investigation and  
813 opportunity for a public hearing at which the therapeutic  
814 marijuana establishment has been afforded an opportunity to be  
815 heard, suspend or revoke a registration certificate for multiple  
816 negligent or knowing violations or for a serious and knowing  
817 violation of this act or any rules under this act by the  
818 registrant or any of its agents.

819 (2) The department shall provide notice of suspension,  
820 revocation, fine, or other sanction, as well as the required  
821 notice of the hearing, by mailing the same in writing to the  
822 therapeutic marijuana establishment at the address on the  
823 registration certificate. A suspension shall not be for a longer  
824 period than six (6) months.

825 (3) A therapeutic marijuana establishment may continue to  
826 possess and cultivate marijuana during a suspension, but it may  
827 not dispense, transfer, or sell marijuana.

828 (4) The department shall immediately revoke the registry  
829 identification card of any cardholder who sells marijuana to a  
830 person who is not allowed to possess marijuana for therapeutic  
831 purposes under this act, and the cardholder is disqualified from  
832 further participation under this act.



833 (5) The department may revoke the registry identification  
834 card of any cardholder who knowingly commits multiple  
835 unintentional violations or a serious knowing violation of this  
836 act.

837 (6) Revocation is a final decision of the department subject  
838 to judicial review. Jurisdiction and venue for judicial review  
839 are vested in the circuit court.

840 **SECTION 17. Confidentiality.** (1) Data in registration  
841 applications and supporting data submitted by qualifying patients,  
842 designated caregivers and therapeutic marijuana establishments,  
843 including data on designated caregivers and physicians, are  
844 private data on individuals that is confidential and exempt from  
845 disclosure under the Mississippi Public Records Act of 1983,  
846 Sections 25-61-1 through 25-61-17.

847 (2) Data kept or maintained by the department may not be  
848 used for any purpose not provided for in this act and may not be  
849 combined or linked in any manner with any other list or database.

850 (3) Data kept or maintained by the department may be  
851 disclosed as necessary for:

852 (a) The verification of registration certificates and  
853 registry identification cards under Section 9 of this act;

854 (b) Submission of the annual report required by Section  
855 19 of this act;

856 (c) Notification of state or local law enforcement of  
857 apparent criminal violations of this act;



858 (d) Notification of state and local law enforcement  
859 about falsified or fraudulent information submitted for purposes  
860 of obtaining or renewing a registry identification card; or

861 (e) Notification of the State Board of Medical  
862 Licensure if there is reason to believe that a physician provided  
863 a written certification in violation of this act, or if the  
864 department has reason to believe the physician otherwise violated  
865 the standard of care for evaluating medical conditions.

866 (4) Any information kept or maintained by therapeutic  
867 marijuana establishments must identify cardholders by their  
868 registry identification numbers and must not contain names or  
869 other personally identifying information.

870 (5) At the cardholder's request, the department may confirm  
871 the cardholder's status as a registered qualifying patient or a  
872 registered designated caregiver to a third party, such as a  
873 landlord, school, medical professional, or court.

874 (6) Any department hard drives or other data-recording media  
875 that are no longer in use and that contain cardholder information  
876 shall be destroyed.

877 **SECTION 18. Advisory committee.** (1) There is created an  
878 advisory committee of nine (9) members comprised of: one (1)  
879 member of the House of Representatives appointed by the Speaker of  
880 the House; one (1) member of the Senate appointed by the  
881 Lieutenant Governor; one (1) physician with experience in  
882 therapeutic marijuana issues; one (1) nurse; one (1) board member



883 or principal officer of a marijuana testing facility; one (1)  
884 individual with experience in policy development or implementation  
885 in the field of therapeutic marijuana; and three (3) qualifying  
886 patients. All members of the advisory committee other than the  
887 members of the House and Senate shall be appointed by the  
888 Governor.

889 (2) The advisory committee shall meet at least two (2) times  
890 per year for the purpose of evaluating and making recommendations  
891 to the Legislature and the department regarding:

892 (a) The ability of qualifying patients in all areas of  
893 the state to obtain timely access to a variety of strains of  
894 high-quality therapeutic marijuana;

895 (b) The effectiveness of the therapeutic marijuana  
896 establishment dispensaries, individually and together, in serving  
897 the needs of qualifying patients, including the provision of  
898 educational and support services by dispensaries, the  
899 reasonableness of their prices, whether they are generating any  
900 complaints or security problems, and the sufficiency of the number  
901 operating to serve the state's registered qualifying patients;

902 (c) Whether the therapeutic marijuana dispensaries are  
903 sufficient to provide steady access to a variety of marijuana  
904 products and strains at a reasonable cost;

905 (d) The effectiveness of the marijuana testing  
906 facilities, including whether a sufficient number are operating;



907 (e) The sufficiency of the regulatory and security  
908 safeguards contained in this act and adopted by the department to  
909 ensure that access to and use of marijuana cultivated is provided  
910 only to cardholders;

911 (f) Whether additional qualifying medical conditions  
912 should be approved;

913 (g) Any recommended additions or revisions to the  
914 department regulations or this act, including relating to  
915 security, safe handling, labeling, nomenclature, and whether  
916 additional types of licenses should be made available; and

917 (h) Any research studies regarding health effects of  
918 therapeutic marijuana for patients.

919 **SECTION 19. Annual report.** (1) The department shall report  
920 annually to the Legislature on the findings and recommendations of  
921 the advisory committee, the number of applications for registry  
922 identification cards received, the number of qualifying patients  
923 and designated caregivers approved, the number of registry  
924 identification cards revoked, the number of each type of  
925 therapeutic marijuana establishment that is registered, and the  
926 expenses incurred and revenues generated from the therapeutic  
927 marijuana program.

928 (2) The department shall not include identifying information  
929 on qualifying patients, designated caregivers, or physicians in  
930 the report.



931           **SECTION 20.**   **Not applicable to CBD oil.**   This act does not  
932 apply to or supersede any of the provisions of Section 41-29-136.

933           **SECTION 21.**   **Repeal of act.**   This act shall stand repealed  
934 five (5) years after the date that the first dispensary begins  
935 supplying qualifying patients with marijuana.   The department  
936 shall determine the repeal date of this act and shall issue a  
937 public statement declaring that the act will be repealed on that  
938 date.

939           **SECTION 22.**   Section 41-29-125, Mississippi Code of 1972, is  
940 amended as follows:

941           41-29-125.   (1)   The State Board of Pharmacy may promulgate  
942 rules and regulations relating to the registration and control of  
943 the manufacture, distribution and dispensing of controlled  
944 substances within this state and the distribution and dispensing  
945 of controlled substances into this state from an out-of-state  
946 location.

947           (a)   Every person who manufactures, distributes or  
948 dispenses any controlled substance within this state or who  
949 distributes or dispenses any controlled substance into this state  
950 from an out-of-state location, or who proposes to engage in the  
951 manufacture, distribution or dispensing of any controlled  
952 substance within this state or the distribution or dispensing of  
953 any controlled substance into this state from an out-of-state  
954 location, must obtain a registration issued by the State Board of  
955 Pharmacy, the State Board of Medical Licensure, the State Board of



956 Dental Examiners, the Mississippi Board of Nursing or the  
957 Mississippi Board of Veterinary Medicine, as appropriate, in  
958 accordance with its rules and the law of this state. Such  
959 registration shall be obtained annually or biennially, as  
960 specified by the issuing board, and a reasonable fee may be  
961 charged by the issuing board for such registration.

962 (b) Persons registered by the State Board of Pharmacy,  
963 with the consent of the United States Drug Enforcement  
964 Administration and the State Board of Medical Licensure, the State  
965 Board of Dental Examiners, the Mississippi Board of Nursing or the  
966 Mississippi Board of Veterinary Medicine to manufacture,  
967 distribute, dispense or conduct research with controlled  
968 substances may possess, manufacture, distribute, dispense or  
969 conduct research with those substances to the extent authorized by  
970 their registration and in conformity with the other provisions of  
971 this article.

972 (c) The following persons need not register and may  
973 lawfully possess controlled substances under this article:

974 (1) An agent or employee of any registered  
975 manufacturer, distributor or dispenser of any controlled substance  
976 if he is acting in the usual course of his business or employment;

977 (2) A common or contract carrier or warehouse, or  
978 an employee thereof, whose possession of any controlled substance  
979 is in the usual course of business or employment;





980                   (3) An ultimate user or a person in possession of  
981 any controlled substance pursuant to a valid prescription or in  
982 lawful possession of a Schedule V substance as defined in Section  
983 41-29-121.

984                   (d) The State Board of Pharmacy may waive by rule the  
985 requirement for registration of certain manufacturers,  
986 distributors or dispensers if it finds it consistent with the  
987 public health and safety.

988                   (e) A separate registration is required at each  
989 principal place of business or professional practice where an  
990 applicant within the state manufactures, distributes or dispenses  
991 controlled substances and for each principal place of business or  
992 professional practice located out-of-state from which controlled  
993 substances are distributed or dispensed into the state.

994                   (f) The State Board of Pharmacy, the Mississippi Bureau  
995 of Narcotics, the State Board of Medical Licensure, the State  
996 Board of Dental Examiners, the Mississippi Board of Nursing and  
997 the Mississippi Board of Veterinary Medicine may inspect the  
998 establishment of a registrant or applicant for registration in  
999 accordance with the regulations of these agencies as approved by  
1000 the board.

1001                   (2) Whenever a pharmacy ships, mails or delivers any  
1002 Schedule II controlled substance listed in Section 41-29-115 to a  
1003 private residence in this state, the pharmacy shall arrange with  
1004 the entity that will actually deliver the controlled substance to



1005 a recipient in this state that the entity will: (a) deliver the  
1006 controlled substance only to a person who is eighteen (18) years  
1007 of age or older; and (b) obtain the signature of that person  
1008 before delivering the controlled substance. The requirements of  
1009 this subsection shall not apply to a pharmacy serving a nursing  
1010 facility or to a pharmacy owned and/or operated by a hospital,  
1011 nursing facility or clinic to which the general public does not  
1012 have access to purchase pharmaceuticals on a retail basis.

1013 (3) This section does not apply to any of the actions  
1014 regarding the therapeutic use of marijuana that are lawful under  
1015 the Mississippi Medical Marijuana Pilot Program Act. This  
1016 subsection shall stand repealed on the date that the Mississippi  
1017 Medical Marijuana Pilot Program Act is repealed as provided in  
1018 Section 21 of this act.

1019 **SECTION 23.** Section 41-29-127, Mississippi Code of 1972, is  
1020 amended as follows:

1021 41-29-127. (a) The State Board of Pharmacy shall register  
1022 an applicant to manufacture or distribute controlled substances  
1023 included in Sections 41-29-113 through 41-29-121 unless it  
1024 determines that the issuance of that registration would be  
1025 inconsistent with the public interest. In determining the public  
1026 interest, the State Board of Pharmacy shall consider the following  
1027 factors:



1028 (1) Maintenance of effective controls against diversion  
1029 of controlled substances into other than legitimate medical,  
1030 scientific, or industrial channels;

1031 (2) Compliance with applicable state and local law;

1032 (3) Any convictions of the applicant under any federal  
1033 and state laws relating to any controlled substance;

1034 (4) Past experience in the manufacture or distribution  
1035 of controlled substances and the existence in the applicant's  
1036 establishment of effective controls against diversion;

1037 (5) Furnishing by the applicant of false or fraudulent  
1038 material in any application filed under this article;

1039 (6) Suspension or revocation of the applicant's federal  
1040 registration to manufacture, distribute, or dispense controlled  
1041 substances as authorized by federal law; and

1042 (7) Any other factors relevant to and consistent with  
1043 the public health and safety.

1044 (b) Registration under subsection (a) does not entitle a  
1045 registrant to manufacture and distribute controlled substances in  
1046 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,  
1047 other than those specified in the registration.

1048 (c) Practitioners must be registered to dispense any  
1049 controlled substances or to conduct research with controlled  
1050 substances in Schedules II through V, as set out in Sections  
1051 41-29-115 through 41-29-121, if they are authorized to dispense or  
1052 conduct research under the law of this state. The State Board of



1053 Pharmacy need not require separate registration under this section  
1054 for practitioners engaging in research with nonnarcotic controlled  
1055 substances in the said Schedules II through V where the registrant  
1056 is already registered therein in another capacity. Practitioners  
1057 registered under federal law to conduct research with Schedule I  
1058 substances, as set out in Section 41-29-113, may conduct research  
1059 with Schedule I substances within this state upon furnishing the  
1060 State Board of Health evidence of that federal registration.

1061 (d) Compliance by manufacturers and distributors with the  
1062 provisions of the federal law respecting registration (excluding  
1063 fees) entitles them to be registered under this article.

1064 (e) This section does not apply to any of the actions  
1065 regarding the therapeutic use of marijuana that are lawful under  
1066 the Mississippi Medical Marijuana Pilot Program Act. This  
1067 subsection shall stand repealed on the date that the Mississippi  
1068 Medical Marijuana Pilot Program Act is repealed as provided in  
1069 Section 21 of this act.

1070 **SECTION 24.** Section 41-29-136, Mississippi Code of 1972, is  
1071 amended as follows:

1072 41-29-136. (1) "CBD oil" means processed cannabis plant  
1073 extract, oil or resin that contains more than fifteen percent  
1074 (15%) cannabidiol, or a dilution of the resin that contains at  
1075 least fifty (50) milligrams of cannabidiol per milliliter, but not  
1076 more than one-half of one percent (0.5%) of tetrahydrocannabinol.



1077 (2) (a) CBD oil may only be obtained on the order of a  
1078 physician who is licensed to practice in Mississippi and  
1079 administered to a patient by or under the direction or supervision  
1080 of the physician.

1081 (b) (i) The CBD oil must be obtained from or tested by  
1082 the National Center for Natural Products Research at the  
1083 University of Mississippi and dispensed by the Department of  
1084 Pharmacy Services at the University of Mississippi Medical Center.

1085 (ii) The patient or the patient's parent, guardian  
1086 or custodian must execute a hold-harmless agreement that releases  
1087 from liability the state and any division, agency, institution or  
1088 employee thereof involved in the research, cultivation,  
1089 processing, dispensing, prescribing or administration of CBD oil.

1090 (c) The National Center for Natural Products Research  
1091 at the University of Mississippi, the Department of Pharmacy  
1092 Services at the University of Mississippi Medical Center and the  
1093 Mississippi Agricultural and Forestry Experiment Station at  
1094 Mississippi State University are the only entities authorized to  
1095 produce or possess cannabidiol for research.

1096 (3) (a) Research of CBD oil under this section must comply  
1097 with the provisions of Section 41-29-125 regarding lawful  
1098 possession of controlled substances, of Section 41-29-137  
1099 regarding record-keeping requirements relative to the dispensing,  
1100 use or administration of controlled substances, and of Section



1101 41-29-133 regarding inventory requirements, insofar as they are  
1102 applicable.

1103 (b) The National Center for Natural Products Research  
1104 at the University of Mississippi, the Department of Pharmacy  
1105 Services at the University of Mississippi Medical Center and the  
1106 Mississippi Agricultural and Forestry Experiment Station at  
1107 Mississippi State University are authorized to pursue any federal  
1108 permits or waivers necessary to conduct the programs authorized  
1109 under this section.

1110 (4) (a) In a prosecution for the unlawful possession  
1111 of \* \* \*~~marihuana~~ marijuana under the laws of this state, it is an  
1112 affirmative and complete defense to prosecution that:

1113 (i) The defendant suffered from a debilitating  
1114 epileptic condition or related illness and the use or possession  
1115 of CBD oil was pursuant to the order of a physician as authorized  
1116 under this section; or

1117 (ii) The defendant is the parent, guardian or  
1118 custodian of an individual who suffered from a debilitating  
1119 epileptic condition or related illness and the use or possession  
1120 of CBD oil was pursuant to the order of a physician as authorized  
1121 under this section.

1122 (b) An agency of this state or a political subdivision  
1123 thereof, including any law enforcement agency, may not initiate  
1124 proceedings to remove a child from the home based solely upon the



1125 possession or use of CBD oil by the child or parent, guardian or  
1126 custodian of the child as authorized under this section.

1127 (c) An employee of the state or any division, agency,  
1128 institution thereof involved in the research, cultivation,  
1129 processing, dispensing, prescribing or administration of CBD oil  
1130 shall not be subject to prosecution for unlawful possession, use,  
1131 distribution or prescription of \* \* \*~~marihuana~~ marijuana under the  
1132 laws of this state for activities arising from or related to the  
1133 use of CBD oil in the treatment of individuals diagnosed with a  
1134 debilitating epileptic condition under this section.

1135 (5) This section does not apply to any of the actions  
1136 regarding the therapeutic use of marijuana that are lawful under  
1137 the Mississippi Medical Marijuana Pilot Program Act. This  
1138 subsection shall stand repealed on the date that the Mississippi  
1139 Medical Marijuana Pilot Program Act is repealed as provided in  
1140 Section 21 of this act.

1141 ( \* \* \*56) This section shall be known as "Harper Grace's  
1142 Law."

1143 ( \* \* \*67) This section shall stand repealed from and after  
1144 July 1, 2017.

1145 **SECTION 25.** Section 41-29-137, Mississippi Code of 1972, is  
1146 amended as follows:

1147 41-29-137. (a) (1) Except when dispensed directly by a  
1148 practitioner, other than a pharmacy, to an ultimate user, no  
1149 controlled substance in Schedule II, as set out in Section



1150 41-29-115, may be dispensed without the written valid prescription  
1151 of a practitioner. A practitioner shall keep a record of all  
1152 controlled substances in Schedule I, II and III administered,  
1153 dispensed or professionally used by him otherwise than by  
1154 prescription.

1155 (2) In emergency situations, as defined by rule of the  
1156 State Board of Pharmacy, Schedule II drugs may be dispensed upon  
1157 the oral valid prescription of a practitioner, reduced promptly to  
1158 writing and filed by the pharmacy. Prescriptions shall be  
1159 retained in conformity with the requirements of Section 41-29-133.  
1160 No prescription for a Schedule II substance may be refilled unless  
1161 renewed by prescription issued by a licensed medical doctor.

1162 (b) Except when dispensed directly by a practitioner, other  
1163 than a pharmacy, to an ultimate user, a controlled substance  
1164 included in Schedule III or IV, as set out in Sections 41-29-117  
1165 and 41-29-119, shall not be dispensed without a written or oral  
1166 valid prescription of a practitioner. The prescription shall not  
1167 be filled or refilled more than six (6) months after the date  
1168 thereof or be refilled more than five (5) times, unless renewed by  
1169 the practitioner.

1170 (c) A controlled substance included in Schedule V, as set  
1171 out in Section 41-29-121, shall not be distributed or dispensed  
1172 other than for a medical purpose.

1173 (d) An optometrist certified to prescribe and use  
1174 therapeutic pharmaceutical agents under Sections 73-19-153 through





1175 73-19-165 shall be authorized to prescribe oral analgesic  
1176 controlled substances in Schedule IV or V, as pertains to  
1177 treatment and management of eye disease by written prescription  
1178 only.

1179 (e) Administration by injection of any pharmaceutical  
1180 product authorized in this section is expressly prohibited except  
1181 when dispensed directly by a practitioner other than a pharmacy.

1182 (f) (1) For the purposes of this article, Title 73, Chapter  
1183 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it  
1184 pertains to prescriptions for controlled substances, a "valid  
1185 prescription" means a prescription that is issued for a legitimate  
1186 medical purpose in the usual course of professional practice by:

1187 (A) A practitioner who has conducted at least one  
1188 (1) in-person medical evaluation of the patient; or

1189 (B) A covering practitioner.

1190 (2) (A) "In-person medical evaluation" means a medical  
1191 evaluation that is conducted with the patient in the physical  
1192 presence of the practitioner, without regard to whether portions  
1193 of the evaluation are conducted by other health professionals.

1194 (B) "Covering practitioner" means a practitioner  
1195 who conducts a medical evaluation other than an in-person medical  
1196 evaluation at the request of a practitioner who has conducted at  
1197 least one (1) in-person medical evaluation of the patient or an  
1198 evaluation of the patient through the practice of telemedicine



1199 within the previous twenty-four (24) months and who is temporarily  
1200 unavailable to conduct the evaluation of the patient.

1201 (3) A prescription for a controlled substance based  
1202 solely on a consumer's completion of an online medical  
1203 questionnaire is not a valid prescription.

1204 (4) Nothing in this subsection ( \* \* \*~~b~~f) shall apply  
1205 to:

1206 (A) A prescription issued by a practitioner  
1207 engaged in the practice of telemedicine as authorized under state  
1208 or federal law; or

1209 (B) The dispensing or selling of a controlled  
1210 substance pursuant to practices as determined by the United States  
1211 Attorney General by regulation.

1212 (g) This section does not apply to any of the actions  
1213 regarding the therapeutic use of marijuana that are lawful under  
1214 the Mississippi Medical Marijuana Pilot Program Act. This  
1215 subsection shall stand repealed on the date that the Mississippi  
1216 Medical Marijuana Pilot Program Act is repealed as provided in  
1217 Section 21 of this act.

1218 **SECTION 26.** Section 41-29-139, Mississippi Code of 1972, is  
1219 amended as follows:

1220 41-29-139. (a) **Transfer and possession with intent to**  
1221 **transfer.** Except as authorized by this article, it is unlawful  
1222 for any person knowingly or intentionally:



1223 (1) To sell, barter, transfer, manufacture, distribute,  
1224 dispense or possess with intent to sell, barter, transfer,  
1225 manufacture, distribute or dispense, a controlled substance; or

1226 (2) To create, sell, barter, transfer, distribute,  
1227 dispense or possess with intent to create, sell, barter, transfer,  
1228 distribute or dispense, a counterfeit substance.

1229 (b) **Punishment for transfer and possession with intent to**  
1230 **transfer.** Except as otherwise provided in Section 41-29-142, any  
1231 person who violates subsection (a) of this section shall be, if  
1232 convicted, sentenced as follows:

1233 (1) For controlled substances classified in Schedule I  
1234 or II, as set out in Sections 41-29-113 and 41-29-115, other than  
1235 marijuana or synthetic cannabinoids:

1236 (A) If less than two (2) grams or ten (10) dosage  
1237 units, by imprisonment for not more than eight (8) years or a fine  
1238 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1239 (B) If two (2) or more grams or ten (10) or more  
1240 dosage units, but less than ten (10) grams or twenty (20) dosage  
1241 units, by imprisonment for not less than three (3) years nor more  
1242 than twenty (20) years or a fine of not more than Two Hundred  
1243 Fifty Thousand Dollars (\$250,000.00), or both.

1244 (C) If ten (10) or more grams or twenty (20) or  
1245 more dosage units, but less than thirty (30) grams or forty (40)  
1246 dosage units, by imprisonment for not less than five (5) years nor



1247 more than thirty (30) years or a fine of not more than Five  
1248 Hundred Thousand Dollars (\$500,000.00), or both.

1249 (2) (A) For marijuana:

1250 1. If thirty (30) grams or less, by  
1251 imprisonment for not more than three (3) years or a fine of not  
1252 more than Three Thousand Dollars (\$3,000.00), or both;

1253 2. If more than thirty (30) grams but less  
1254 than two hundred fifty (250) grams, by imprisonment for not more  
1255 than five (5) years or a fine of not more than Five Thousand  
1256 Dollars (\$5,000.00), or both;

1257 3. If two hundred fifty (250) or more grams  
1258 but less than five hundred (500) grams, by imprisonment for not  
1259 less than three (3) years nor more than ten (10) years or a fine  
1260 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

1261 4. If five hundred (500) or more grams but  
1262 less than one (1) kilogram, by imprisonment for not less than five  
1263 (5) years nor more than twenty (20) years or a fine of not more  
1264 than Twenty Thousand Dollars (\$20,000.00), or both.

1265 (B) For synthetic cannabinoids:

1266 1. If ten (10) grams or less, by imprisonment  
1267 for not more than three (3) years or a fine of not more than Three  
1268 Thousand Dollars (\$3,000.00), or both;

1269 2. If more than ten (10) grams but less than  
1270 twenty (20) grams, by imprisonment for not more than five (5)



1271 years or a fine of not more than Five Thousand Dollars

1272 (\$5,000.00), or both;

1273                   3. If twenty (20) or more grams but less than  
1274 forty (40) grams, by imprisonment for not less than three (3)  
1275 years nor more than ten (10) years or a fine of not more than  
1276 Fifteen Thousand Dollars (\$15,000.00), or both;

1277                   4. If forty (40) or more grams but less than  
1278 two hundred (200) grams, by imprisonment for not less than five  
1279 (5) years nor more than twenty (20) years or a fine of not more  
1280 than Twenty Thousand Dollars (\$20,000.00), or both.

1281                   (3) For controlled substances classified in Schedules  
1282 III and IV, as set out in Sections 41-29-117 and 41-29-119:

1283                   (A) If less than two (2) grams or ten (10) dosage  
1284 units, by imprisonment for not more than five (5) years or a fine  
1285 of not more than Five Thousand Dollars (\$5,000.00), or both;

1286                   (B) If two (2) or more grams or ten (10) or more  
1287 dosage units, but less than ten (10) grams or twenty (20) dosage  
1288 units, by imprisonment for not more than eight (8) years or a fine  
1289 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1290                   (C) If ten (10) or more grams or twenty (20) or  
1291 more dosage units, but less than thirty (30) grams or forty (40)  
1292 dosage units, by imprisonment for not more than fifteen (15) years  
1293 or a fine of not more than One Hundred Thousand Dollars  
1294 (\$100,000.00), or both;



1295                   (D) If thirty (30) or more grams or forty (40) or  
1296 more dosage units, but less than five hundred (500) grams or two  
1297 thousand five hundred (2,500) dosage units, by imprisonment for  
1298 not more than twenty (20) years or a fine of not more than Two  
1299 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

1300                   (4) For controlled substances classified in Schedule V,  
1301 as set out in Section 41-29-121:

1302                   (A) If less than two (2) grams or ten (10) dosage  
1303 units, by imprisonment for not more than one (1) year or a fine of  
1304 not more than Five Thousand Dollars (\$5,000.00), or both;

1305                   (B) If two (2) or more grams or ten (10) or more  
1306 dosage units, but less than ten (10) grams or twenty (20) dosage  
1307 units, by imprisonment for not more than five (5) years or a fine  
1308 of not more than Ten Thousand Dollars (\$10,000.00), or both;

1309                   (C) If ten (10) or more grams or twenty (20) or  
1310 more dosage units, but less than thirty (30) grams or forty (40)  
1311 dosage units, by imprisonment for not more than ten (10) years or  
1312 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or  
1313 both;

1314                   (D) For thirty (30) or more grams or forty (40) or  
1315 more dosage units, but less than five hundred (500) grams or two  
1316 thousand five hundred (2,500) dosage units, by imprisonment for  
1317 not more than fifteen (15) years or a fine of not more than Fifty  
1318 Thousand Dollars (\$50,000.00), or both.



1319 (c) **Simple possession.** It is unlawful for any person  
1320 knowingly or intentionally to possess any controlled substance  
1321 unless the substance was obtained directly from, or pursuant to, a  
1322 valid prescription or order of a practitioner while acting in the  
1323 course of his professional practice, or except as otherwise  
1324 authorized by this article. The penalties for any violation of  
1325 this subsection (c) with respect to a controlled substance  
1326 classified in Schedules I, II, III, IV or V, as set out in Section  
1327 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including  
1328 marijuana or synthetic cannabinoids, shall be based on dosage unit  
1329 as defined herein or the weight of the controlled substance as set  
1330 forth herein as appropriate:

1331 "Dosage unit (d.u.)" means a tablet or capsule, or in the  
1332 case of a liquid solution, one (1) milliliter. In the case of  
1333 lysergic acid diethylamide (LSD) the term, "dosage unit" means a  
1334 stamp, square, dot, microdot, tablet or capsule of a controlled  
1335 substance.

1336 For any controlled substance that does not fall within the  
1337 definition of the term "dosage unit," the penalties shall be based  
1338 upon the weight of the controlled substance.

1339 The weight set forth refers to the entire weight of any  
1340 mixture or substance containing a detectable amount of the  
1341 controlled substance.

1342 If a mixture or substance contains more than one (1)  
1343 controlled substance, the weight of the mixture or substance is



1344 assigned to the controlled substance that results in the greater  
1345 punishment.

1346 A person shall be charged and sentenced as follows for a  
1347 violation of this subsection with respect to:

1348 (1) A controlled substance classified in Schedule I or  
1349 II, except marijuana and synthetic cannabinoids:

1350 (A) If less than one-tenth (0.1) gram or two (2)  
1351 dosage units, the violation is a misdemeanor and punishable by  
1352 imprisonment for not more than one (1) year or a fine of not more  
1353 than One Thousand Dollars (\$1,000.00), or both.

1354 (B) If one-tenth (0.1) gram or more or two (2) or  
1355 more dosage units, but less than two (2) grams or ten (10) dosage  
1356 units, by imprisonment for not more than three (3) years or a fine  
1357 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1358 (C) If two (2) or more grams or ten (10) or more  
1359 dosage units, but less than ten (10) grams or twenty (20) dosage  
1360 units, by imprisonment for not more than eight (8) years or a fine  
1361 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),  
1362 or both.

1363 (D) If ten (10) or more grams or twenty (20) or  
1364 more dosage units, but less than thirty (30) grams or forty (40)  
1365 dosage units, by imprisonment for not less than three (3) years  
1366 nor more than twenty (20) years or a fine of not more than Five  
1367 Hundred Thousand Dollars (\$500,000.00), or both.

1368 (2) (A) Marijuana and synthetic cannabinoids:





1369                   1. If thirty (30) grams or less of marijuana  
1370 or ten (10) grams or less of synthetic cannabinoids, by a fine of  
1371 not less than One Hundred Dollars (\$100.00) nor more than Two  
1372 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph  
1373 (2) (A) may be enforceable by summons if the offender provides  
1374 proof of identity satisfactory to the arresting officer and gives  
1375 written promise to appear in court satisfactory to the arresting  
1376 officer, as directed by the summons. A second conviction under  
1377 this section within two (2) years is a misdemeanor punishable by a  
1378 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty  
1379 (60) days in the county jail, and mandatory participation in a  
1380 drug education program approved by the Division of Alcohol and  
1381 Drug Abuse of the State Department of Mental Health, unless the  
1382 court enters a written finding that a drug education program is  
1383 inappropriate. A third or subsequent conviction under this  
1384 paragraph (2) (A) within two (2) years is a misdemeanor punishable  
1385 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor  
1386 more than One Thousand Dollars (\$1,000.00) and confinement for not  
1387 more than six (6) months in the county jail.

1388                   Upon a first or second conviction under this paragraph  
1389 (2) (A), the courts shall forward a report of the conviction to the  
1390 Mississippi Bureau of Narcotics which shall make and maintain a  
1391 private, nonpublic record for a period not to exceed two (2) years  
1392 from the date of conviction. The private, nonpublic record shall  
1393 be solely for the use of the courts in determining the penalties



1394 which attach upon conviction under this paragraph (2)(A) and shall  
1395 not constitute a criminal record for the purpose of private or  
1396 administrative inquiry and the record of each conviction shall be  
1397 expunged at the end of the period of two (2) years following the  
1398 date of such conviction;

1399                   2. Additionally, a person who is the operator  
1400 of a motor vehicle, who possesses on his person or knowingly keeps  
1401 or allows to be kept in a motor vehicle within the area of the  
1402 vehicle normally occupied by the driver or passengers, more than  
1403 one (1) gram, but not more than thirty (30) grams of marijuana or  
1404 not more than ten (10) grams of synthetic cannabinoids is guilty  
1405 of a misdemeanor and, upon conviction, may be fined not more than  
1406 One Thousand Dollars (\$1,000.00) or confined for not more than  
1407 ninety (90) days in the county jail, or both. For the purposes of  
1408 this subsection, such area of the vehicle shall not include the  
1409 trunk of the motor vehicle or the areas not normally occupied by  
1410 the driver or passengers if the vehicle is not equipped with a  
1411 trunk. A utility or glove compartment shall be deemed to be  
1412 within the area occupied by the driver and passengers;

1413                   (B) Marijuana:

1414                   1. If more than thirty (30) grams but less  
1415 than two hundred fifty (250) grams, by a fine of not more than One  
1416 Thousand Dollars (\$1,000.00), or confinement in the county jail  
1417 for not more than one (1) year, or both; or by a fine of not more  
1418 than Three Thousand Dollars (\$3,000.00), or imprisonment in the



1419 custody of the Department of Corrections for not more than three  
1420 (3) years, or both;

1421                   2. If two hundred fifty (250) or more grams  
1422 but less than five hundred (500) grams, by imprisonment for not  
1423 less than two (2) years nor more than eight (8) years or by a fine  
1424 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1425                   3. If five hundred (500) or more grams but  
1426 less than one (1) kilogram, by imprisonment for not less than four  
1427 (4) years nor more than sixteen (16) years or a fine of not more  
1428 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1429                   4. If one (1) kilogram or more but less than  
1430 five (5) kilograms, by imprisonment for not less than six (6)  
1431 years nor more than twenty-four (24) years or a fine of not more  
1432 than Five Hundred Thousand Dollars (\$500,000.00), or both;

1433                   5. If five (5) kilograms or more, by  
1434 imprisonment for not less than ten (10) years nor more than thirty  
1435 (30) years or a fine of not more than One Million Dollars  
1436 (\$1,000,000.00), or both.

1437                   (C) Synthetic cannabinoids:

1438                   1. If more than ten (10) grams but less than  
1439 twenty (20) grams, by a fine of not more than One Thousand Dollars  
1440 (\$1,000.00), or confinement in the county jail for not more than  
1441 one (1) year, or both; or by a fine of not more than Three  
1442 Thousand Dollars (\$3,000.00), or imprisonment in the custody of



1443 the Department of Corrections for not more than three (3) years,  
1444 or both;

1445                   2. If twenty (20) or more grams but less than  
1446 forty (40) grams, by imprisonment for not less than two (2) years  
1447 nor more than eight (8) years or by a fine of not more than Fifty  
1448 Thousand Dollars (\$50,000.00), or both;

1449                   3. If forty (40) or more grams but less than  
1450 two hundred (200) grams, by imprisonment for not less than four  
1451 (4) years nor more than sixteen (16) years or a fine of not more  
1452 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1453                   4. If two hundred (200) or more grams, by  
1454 imprisonment for not less than six (6) years nor more than  
1455 twenty-four (24) years or a fine of not more than Five Hundred  
1456 Thousand Dollars (\$500,000.00), or both.

1457                   (3) A controlled substance classified in Schedule III,  
1458 IV or V as set out in Sections 41-29-117 through 41-29-121, upon  
1459 conviction, may be punished as follows:

1460                   (A) If less than fifty (50) grams or less than one  
1461 hundred (100) dosage units, the offense is a misdemeanor and  
1462 punishable by not more than one (1) year or a fine of not more  
1463 than One Thousand Dollars (\$1,000.00), or both.

1464                   (B) If fifty (50) or more grams or one hundred  
1465 (100) or more dosage units, but less than one hundred fifty (150)  
1466 grams or five hundred (500) dosage units, by imprisonment for not



1467 less than one (1) year nor more than four (4) years or a fine of  
1468 not more than Ten Thousand Dollars (\$10,000.00), or both.

1469 (C) If one hundred fifty (150) or more grams or  
1470 five hundred (500) or more dosage units, but less than three  
1471 hundred (300) grams or one thousand (1,000) dosage units, by  
1472 imprisonment for not less than two (2) years nor more than eight  
1473 (8) years or a fine of not more than Fifty Thousand Dollars  
1474 (\$50,000.00), or both.

1475 (D) If three hundred (300) or more grams or one  
1476 thousand (1,000) or more dosage units, but less than five hundred  
1477 (500) grams or two thousand five hundred (2,500) dosage units, by  
1478 imprisonment for not less than four (4) years nor more than  
1479 sixteen (16) years or a fine of not more than Two Hundred Fifty  
1480 Thousand Dollars (\$250,000.00), or both.

1481 (d) **Paraphernalia.** (1) It is unlawful for a person who is  
1482 not authorized by the State Board of Medical Licensure, State  
1483 Board of Pharmacy, or other lawful authority to use, or to possess  
1484 with intent to use, paraphernalia to plant, propagate, cultivate,  
1485 grow, harvest, manufacture, compound, convert, produce, process,  
1486 prepare, test, analyze, pack, repack, store, contain, conceal,  
1487 inject, ingest, inhale or otherwise introduce into the human body  
1488 a controlled substance in violation of the Uniform Controlled  
1489 Substances Law. Any person who violates this subsection (d)(1) is  
1490 guilty of a misdemeanor and, upon conviction, may be confined in  
1491 the county jail for not more than six (6) months, or fined not



1492 more than Five Hundred Dollars (\$500.00), or both; however, no  
1493 person shall be charged with a violation of this subsection when  
1494 such person is also charged with the possession of thirty (30)  
1495 grams or less of marijuana under subsection (c) (2) (A) of this  
1496 section.

1497           (2) It is unlawful for any person to deliver, sell,  
1498 possess with intent to deliver or sell, or manufacture with intent  
1499 to deliver or sell, paraphernalia, knowing, or under circumstances  
1500 where one reasonably should know, that it will be used to plant,  
1501 propagate, cultivate, grow, harvest, manufacture, compound,  
1502 convert, produce, process, prepare, test, analyze, pack, repack,  
1503 store, contain, conceal, inject, ingest, inhale, or otherwise  
1504 introduce into the human body a controlled substance in violation  
1505 of the Uniform Controlled Substances Law. Except as provided in  
1506 subsection (d) (3), a person who violates this subsection (d) (2) is  
1507 guilty of a misdemeanor and, upon conviction, may be confined in  
1508 the county jail for not more than six (6) months, or fined not  
1509 more than Five Hundred Dollars (\$500.00), or both.

1510           (3) Any person eighteen (18) years of age or over who  
1511 violates subsection (d) (2) of this section by delivering or  
1512 selling paraphernalia to a person under eighteen (18) years of age  
1513 who is at least three (3) years his junior is guilty of a  
1514 misdemeanor and, upon conviction, may be confined in the county  
1515 jail for not more than one (1) year, or fined not more than One  
1516 Thousand Dollars (\$1,000.00), or both.



1517           (4) It is unlawful for any person to place in any  
1518 newspaper, magazine, handbill, or other publication any  
1519 advertisement, knowing, or under circumstances where one  
1520 reasonably should know, that the purpose of the advertisement, in  
1521 whole or in part, is to promote the sale of objects designed or  
1522 intended for use as paraphernalia. Any person who violates this  
1523 subsection is guilty of a misdemeanor and, upon conviction, may be  
1524 confined in the county jail for not more than six (6) months, or  
1525 fined not more than Five Hundred Dollars (\$500.00), or both.

1526           (e) It shall be unlawful for any physician practicing  
1527 medicine in this state to prescribe, dispense or administer any  
1528 amphetamine or amphetamine-like anorectics and/or central nervous  
1529 system stimulants classified in Schedule II, pursuant to Section  
1530 41-29-115, for the exclusive treatment of obesity, weight control  
1531 or weight loss. Any person who violates this subsection, upon  
1532 conviction, is guilty of a misdemeanor and may be confined for a  
1533 period not to exceed six (6) months, or fined not more than One  
1534 Thousand Dollars (\$1,000.00), or both.

1535           (f) **Trafficking.** (1) Any person trafficking in controlled  
1536 substances shall be guilty of a felony and, upon conviction, shall  
1537 be imprisoned for a term of not less than ten (10) years nor more  
1538 than forty (40) years and shall be fined not less than Five  
1539 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
1540 (\$1,000,000.00). The ten-year mandatory sentence shall not be  
1541 reduced or suspended. The person shall not be eligible for



1542 probation or parole, the provisions of Sections 41-29-149,  
1543 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

1544 (2) "Trafficking in controlled substances" as used  
1545 herein means:

1546 (A) A violation of subsection (a) of this section  
1547 involving thirty (30) or more grams or forty (40) or more dosage  
1548 units of a Schedule I or II controlled substance except marijuana  
1549 and synthetic cannabinoids;

1550 (B) A violation of subsection (a) of this section  
1551 involving five hundred (500) or more grams or two thousand five  
1552 hundred (2,500) or more dosage units of a Schedule III, IV or V  
1553 controlled substance;

1554 (C) A violation of subsection (c) of this section  
1555 involving thirty (30) or more grams or forty (40) or more dosage  
1556 units of a Schedule I or II controlled substance except marijuana  
1557 and synthetic cannabinoids;

1558 (D) A violation of subsection (c) of this section  
1559 involving five hundred (500) or more grams or two thousand five  
1560 hundred (2,500) or more dosage units of a Schedule III, IV or V  
1561 controlled substance; or

1562 (E) A violation of subsection (a) of this section  
1563 involving one (1) kilogram or more of marijuana or two hundred  
1564 (200) grams or more of synthetic cannabinoids.

1565 (g) **Aggravated trafficking.** Any person trafficking in  
1566 Schedule I or II controlled substances, except marijuana and





1567 synthetic cannabinoids, of two hundred (200) grams or more shall  
1568 be guilty of aggravated trafficking and, upon conviction, shall be  
1569 sentenced to a term of not less than twenty-five (25) years nor  
1570 more than life in prison and shall be fined not less than Five  
1571 Thousand Dollars (\$5,000.00) nor more than One Million Dollars  
1572 (\$1,000,000.00). The twenty-five-year sentence shall be a  
1573 mandatory sentence and shall not be reduced or suspended. The  
1574 person shall not be eligible for probation or parole, the  
1575 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to  
1576 the contrary notwithstanding.

1577 (h) **Sentence mitigation.** (1) Notwithstanding any provision  
1578 of this section, a person who has been convicted of an offense  
1579 under this section that requires the judge to impose a prison  
1580 sentence which cannot be suspended or reduced and is ineligible  
1581 for probation or parole may, at the discretion of the court,  
1582 receive a sentence of imprisonment that is no less than  
1583 twenty-five percent (25%) of the sentence prescribed by the  
1584 applicable statute. In considering whether to apply the departure  
1585 from the sentence prescribed, the court shall conclude that:

1586 (A) The offender was not a leader of the criminal  
1587 enterprise;

1588 (B) The offender did not use violence or a weapon  
1589 during the crime;



1590 (C) The offense did not result in a death or  
1591 serious bodily injury of a person not a party to the criminal  
1592 enterprise; and

1593 (D) The interests of justice are not served by the  
1594 imposition of the prescribed mandatory sentence.

1595 The court may also consider whether information and  
1596 assistance were furnished to a law enforcement agency, or its  
1597 designee, which, in the opinion of the trial judge, objectively  
1598 should or would have aided in the arrest or prosecution of others  
1599 who violate this subsection. The accused shall have adequate  
1600 opportunity to develop and make a record of all information and  
1601 assistance so furnished.

1602 (2) If the court reduces the prescribed sentence  
1603 pursuant to this subsection, it must specify on the record the  
1604 circumstances warranting the departure.

1605 (i) **Mississippi Medical Marijuana Pilot Program.** This  
1606 section does not apply to any of the actions regarding the  
1607 therapeutic use of marijuana that are lawful under the Mississippi  
1608 Medical Marijuana Pilot Program Act. This subsection shall stand  
1609 repealed on the date that the Mississippi Medical Marijuana Pilot  
1610 Program Act is repealed as provided in Section 21 of this act.

1611 **SECTION 27.** Section 41-29-141, Mississippi Code of 1972, is  
1612 amended as follows:

1613 41-29-141. It is unlawful for any person:



1614           (1) Who is subject to Section 41-29-125 to distribute  
1615 or dispense a controlled substance in violation of Section  
1616 41-29-137;

1617           (2) Who is a registrant under Section 41-29-125 to  
1618 manufacture a controlled substance not authorized by his  
1619 registration, or to distribute or dispense a controlled substance  
1620 not authorized by his registration to another registrant or other  
1621 authorized person;

1622           (3) To refuse or fail to make, keep or furnish any  
1623 record, notification, order form, statement, invoice or  
1624 information required under this article;

1625           (4) To refuse a lawful entry into any premises for any  
1626 inspection authorized by this article; or

1627           (5) Knowingly to keep or maintain any store, shop,  
1628 warehouse, dwelling, building, vehicle, boat, aircraft, or other  
1629 structure or place, which is resorted to by persons using  
1630 controlled substances in violation of this article for the purpose  
1631 of using these substances, or which is used for keeping or selling  
1632 them in violation of this article.

1633           Any person who violates this section shall, with respect to  
1634 such violation, be subject to a civil penalty payable to the State  
1635 of Mississippi of not more than Twenty-five Thousand Dollars  
1636 (\$25,000.00).

1637           In addition to the civil penalty provided in the preceding  
1638 paragraph, any person who knowingly or intentionally violates this



1639 section shall be guilty of a crime and upon conviction thereof may  
1640 be confined for a period of not more than one (1) year or fined  
1641 not more than One Thousand Dollars (\$1,000.00), or both.

1642 This section does not apply to any of the actions regarding  
1643 the therapeutic use of marijuana that are lawful under the  
1644 Mississippi Medical Marijuana Pilot Program Act. This paragraph  
1645 shall stand repealed on the date that the Mississippi Medical  
1646 Marijuana Pilot Program Act is repealed as provided in Section 21  
1647 of this act.

1648 **SECTION 28.** Section 41-29-143, Mississippi Code of 1972, is  
1649 amended as follows:

1650 41-29-143. It is unlawful for any person knowingly or  
1651 intentionally:

1652 (1) To distribute as a registrant a controlled  
1653 substance classified in Schedule I or II, as set out in Sections  
1654 41-29-113 and 41-29-115, except pursuant to an order form as  
1655 required by Section 41-29-135;

1656 (2) To use in the course of the manufacture or  
1657 distribution of a controlled substance a registration number which  
1658 is fictitious, revoked, suspended, or issued to another person.

1659 (3) To furnish false or fraudulent material information  
1660 in, or omit any material information from, any application,  
1661 report, or other document required to be kept or filed under this  
1662 article, or any record required to be kept by this article; or



1663 (4) To make, distribute, or possess any punch, die,  
1664 plate, stone, or other thing designed to print, imprint, or  
1665 reproduce the trademark, trade name, or other identifying mark,  
1666 imprint or device of another or any likeness of any of the  
1667 foregoing upon any drug or container or labeling thereof so as to  
1668 render the drug a counterfeit substance.

1669 Any person who violates this section is guilty of a crime and  
1670 upon conviction may be confined for not more than one (1) year or  
1671 fined not more than One Thousand Dollars (\$1,000.00) or both.

1672 This section does not apply to any of the actions regarding  
1673 the therapeutic use of marijuana that are lawful under the  
1674 Mississippi Medical Marijuana Pilot Program Act. This paragraph  
1675 shall stand repealed on the date that the Mississippi Medical  
1676 Marijuana Pilot Program Act is repealed as provided in Section 21  
1677 of this act.

1678 **SECTION 29.** Section 73-25-29, Mississippi Code of 1972, is  
1679 brought forward as follows:

1680 73-25-29. The grounds for the nonissuance, suspension,  
1681 revocation or restriction of a license or the denial of  
1682 reinstatement or renewal of a license are:

1683 (1) Habitual personal use of narcotic drugs, or any  
1684 other drug having addiction-forming or addiction-sustaining  
1685 liability.

1686 (2) Habitual use of intoxicating liquors, or any  
1687 beverage, to an extent which affects professional competency.



1688           (3) Administering, dispensing or prescribing any  
1689 narcotic drug, or any other drug having addiction-forming or  
1690 addiction-sustaining liability otherwise than in the course of  
1691 legitimate professional practice.

1692           (4) Conviction of violation of any federal or state law  
1693 regulating the possession, distribution or use of any narcotic  
1694 drug or any drug considered a controlled substance under state or  
1695 federal law, a certified copy of the conviction order or judgment  
1696 rendered by the trial court being prima facie evidence thereof,  
1697 notwithstanding the pendency of any appeal.

1698           (5) Procuring, or attempting to procure, or aiding in,  
1699 an abortion that is not medically indicated.

1700           (6) Conviction of a felony or misdemeanor involving  
1701 moral turpitude, a certified copy of the conviction order or  
1702 judgment rendered by the trial court being prima facie evidence  
1703 thereof, notwithstanding the pendency of any appeal.

1704           (7) Obtaining or attempting to obtain a license by  
1705 fraud or deception.

1706           (8) Unprofessional conduct, which includes, but is not  
1707 limited to:

1708                   (a) Practicing medicine under a false or assumed  
1709 name or impersonating another practitioner, living or dead.

1710                   (b) Knowingly performing any act which in any way  
1711 assists an unlicensed person to practice medicine.



1712 (c) Making or willfully causing to be made any  
1713 flamboyant claims concerning the licensee's professional  
1714 excellence.

1715 (d) Being guilty of any dishonorable or unethical  
1716 conduct likely to deceive, defraud or harm the public.

1717 (e) Obtaining a fee as personal compensation or  
1718 gain from a person on fraudulent representation of a disease or  
1719 injury condition generally considered incurable by competent  
1720 medical authority in the light of current scientific knowledge and  
1721 practice can be cured or offering, undertaking, attempting or  
1722 agreeing to cure or treat the same by a secret method, which he  
1723 refuses to divulge to the board upon request.

1724 (f) Use of any false, fraudulent or forged  
1725 statement or document, or the use of any fraudulent, deceitful,  
1726 dishonest or immoral practice in connection with any of the  
1727 licensing requirements, including the signing in his professional  
1728 capacity any certificate that is known to be false at the time he  
1729 makes or signs such certificate.

1730 (g) Failing to identify a physician's school of  
1731 practice in all professional uses of his name by use of his earned  
1732 degree or a description of his school of practice.

1733 (9) The refusal of a licensing authority of another  
1734 state or jurisdiction to issue or renew a license, permit or  
1735 certificate to practice medicine in that jurisdiction or the  
1736 revocation, suspension or other restriction imposed on a license,



1737 permit or certificate issued by such licensing authority which  
1738 prevents or restricts practice in that jurisdiction, a certified  
1739 copy of the disciplinary order or action taken by the other state  
1740 or jurisdiction being prima facie evidence thereof,  
1741 notwithstanding the pendency of any appeal.

1742 (10) Surrender of a license or authorization to  
1743 practice medicine in another state or jurisdiction or surrender of  
1744 membership on any medical staff or in any medical or professional  
1745 association or society while under disciplinary investigation by  
1746 any of those authorities or bodies for acts or conduct similar to  
1747 acts or conduct which would constitute grounds for action as  
1748 defined in this section.

1749 (11) Final sanctions imposed by the United States  
1750 Department of Health and Human Services, Office of Inspector  
1751 General or any successor federal agency or office, based upon a  
1752 finding of incompetency, gross misconduct or failure to meet  
1753 professionally recognized standards of health care; a certified  
1754 copy of the notice of final sanction being prima facie evidence  
1755 thereof. As used in this paragraph, the term "final sanction"  
1756 means the written notice to a physician from the United States  
1757 Department of Health and Human Services, Officer of Inspector  
1758 General or any successor federal agency or office, which  
1759 implements the exclusion.

1760 (12) Failure to furnish the board, its investigators or  
1761 representatives information legally requested by the board.





1762 (13) Violation of any provision(s) of the Medical  
1763 Practice Act or the rules and regulations of the board or of any  
1764 order, stipulation or agreement with the board.

1765 (14) Violation(s) of the provisions of Sections  
1766 41-121-1 through 41-121-9 relating to deceptive advertisement by  
1767 health care practitioners.

1768 (15) Performing or inducing an abortion on a woman in  
1769 violation of any provision of Sections 41-41-131 through  
1770 41-41-145.

1771 In addition to the grounds specified above, the board shall  
1772 be authorized to suspend the license of any licensee for being out  
1773 of compliance with an order for support, as defined in Section  
1774 93-11-153. The procedure for suspension of a license for being  
1775 out of compliance with an order for support, and the procedure for  
1776 the reissuance or reinstatement of a license suspended for that  
1777 purpose, and the payment of any fees for the reissuance or  
1778 reinstatement of a license suspended for that purpose, shall be  
1779 governed by Section 93-11-157 or 93-11-163, as the case may be.  
1780 If there is any conflict between any provision of Section  
1781 93-11-157 or 93-11-163 and any provision of this chapter, the  
1782 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
1783 shall control.

1784 **SECTION 30.** This act shall take effect and be in force from  
1785 and after its passage.

