

By: Representatives Bomgar, Sykes

To: Drug Policy; Public Health and Human Services

HOUSE BILL NO. 391

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17 REPEALED FIVE YEARS AFTER THE FIRST DISPENSARY BEGINS SUPPLYING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, 2019, 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, 2020, and January 1, 2021.

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, 2019, the department shall issue
557 registrations to three (3) dispensaries to produce and provide
558 therapeutic marijuana. Not later than March 1, 2020, 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, 2021, 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, 2019, 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, 2018, 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, 2018, 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, 2019, 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 solution.** This act does
932 not apply to or supersede any of the provisions of Section
933 41-29-136.

934 **SECTION 21.** **Repeal of act.** This act shall stand repealed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938 public statement declaring that the act will be repealed on that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

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

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

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



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

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

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

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

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



981 (3) An ultimate user or a person in possession of
982 any controlled substance pursuant to a valid prescription or in
983 lawful possession of a Schedule V substance as defined in Section
984 41-29-121.

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

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

995 (f) The State Board of Pharmacy, the Mississippi Bureau
996 of Narcotics, the State Board of Medical Licensure, the State
997 Board of Dental Examiners, the Mississippi Board of Nursing and
998 the Mississippi Board of Veterinary Medicine may inspect the
999 establishment of a registrant or applicant for registration in
1000 accordance with the regulations of these agencies as approved by
1001 the board.

1002 (2) Whenever a pharmacy ships, mails or delivers any
1003 Schedule II controlled substance listed in Section 41-29-115 to a
1004 private residence in this state, the pharmacy shall arrange with
1005 the entity that will actually deliver the controlled substance to



1006 a recipient in this state that the entity will: (a) deliver the
1007 controlled substance only to a person who is eighteen (18) years
1008 of age or older; and (b) obtain the signature of that person
1009 before delivering the controlled substance. The requirements of
1010 this subsection shall not apply to a pharmacy serving a nursing
1011 facility or to a pharmacy owned and/or operated by a hospital,
1012 nursing facility or clinic to which the general public does not
1013 have access to purchase pharmaceuticals on a retail basis.

1014 (3) This section does not apply to any of the actions
1015 regarding the therapeutic use of marijuana that are lawful under
1016 the Mississippi Medical Marijuana Pilot Program Act. This
1017 subsection shall stand repealed on the date that the Mississippi
1018 Medical Marijuana Pilot Program Act is repealed as provided in
1019 Section 21 of this act.

1020 **SECTION 23.** Section 41-29-127, Mississippi Code of 1972, is
1021 amended as follows:

1022 41-29-127. (a) The State Board of Pharmacy shall register
1023 an applicant to manufacture or distribute controlled substances
1024 included in Sections 41-29-113 through 41-29-121 unless it
1025 determines that the issuance of that registration would be
1026 inconsistent with the public interest. In determining the public
1027 interest, the State Board of Pharmacy shall consider the following
1028 factors:



1029 (1) Maintenance of effective controls against diversion
1030 of controlled substances into other than legitimate medical,
1031 scientific, or industrial channels;

1032 (2) Compliance with applicable state and local law;

1033 (3) Any convictions of the applicant under any federal
1034 and state laws relating to any controlled substance;

1035 (4) Past experience in the manufacture or distribution
1036 of controlled substances and the existence in the applicant's
1037 establishment of effective controls against diversion;

1038 (5) Furnishing by the applicant of false or fraudulent
1039 material in any application filed under this article;

1040 (6) Suspension or revocation of the applicant's federal
1041 registration to manufacture, distribute, or dispense controlled
1042 substances as authorized by federal law; and

1043 (7) Any other factors relevant to and consistent with
1044 the public health and safety.

1045 (b) Registration under subsection (a) does not entitle a
1046 registrant to manufacture and distribute controlled substances in
1047 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
1048 other than those specified in the registration.

1049 (c) Practitioners must be registered to dispense any
1050 controlled substances or to conduct research with controlled
1051 substances in Schedules II through V, as set out in Sections
1052 41-29-115 through 41-29-121, if they are authorized to dispense or
1053 conduct research under the law of this state. The State Board of



1054 Pharmacy need not require separate registration under this section
1055 for practitioners engaging in research with nonnarcotic controlled
1056 substances in the said Schedules II through V where the registrant
1057 is already registered therein in another capacity. Practitioners
1058 registered under federal law to conduct research with Schedule I
1059 substances, as set out in Section 41-29-113, may conduct research
1060 with Schedule I substances within this state upon furnishing the
1061 State Board of Health evidence of that federal registration.

1062 (d) Compliance by manufacturers and distributors with the
1063 provisions of the federal law respecting registration (excluding
1064 fees) entitles them to be registered under this article.

1065 (e) This section does not apply to any of the actions
1066 regarding the therapeutic use of marijuana that are lawful under
1067 the Mississippi Medical Marijuana Pilot Program Act. This
1068 subsection shall stand repealed on the date that the Mississippi
1069 Medical Marijuana Pilot Program Act is repealed as provided in
1070 Section 21 of this act.

1071 **SECTION 24.** Section 41-29-136, Mississippi Code of 1972, is
1072 amended as follows:

1073 41-29-136. (1) "CBD solution" means a pharmaceutical
1074 preparation consisting of processed cannabis plant extract in oil
1075 or other suitable vehicle.

1076 (2) (a) CBD solution prepared from cannabis plant extract
1077 that is provided by the National Center for Natural Products
1078 Research at the University of Mississippi under appropriate



1079 federal and state regulatory approvals may be dispensed by the
1080 Department of Pharmacy Services at the University of Mississippi
1081 Medical Center (UMMC Pharmacy) after mixing the extract with a
1082 suitable vehicle. The CBD solution may be prepared by the UMMC
1083 Pharmacy or by another pharmacy or laboratory in the state under
1084 appropriate federal and state regulatory approvals and
1085 registrations. For the purposes of clinical trials under this
1086 section, CBD solution must meet the standard of exemption from
1087 control under Section 41-29-113.

1088 (b) The patient or the patient's parent, guardian or
1089 custodian must execute a hold-harmless agreement that releases
1090 from liability the state and any division, agency, institution or
1091 employee thereof involved in the research, cultivation,
1092 processing, formulating, dispensing, prescribing or administration
1093 of CBD solution obtained from entities authorized under this
1094 section to produce or possess cannabidiol for research under
1095 appropriate federal and state regulatory approvals and
1096 registrations.

1097 (c) The National Center for Natural Products Research
1098 at the University of Mississippi and the Mississippi Agricultural
1099 and Forestry Experiment Station at Mississippi State University
1100 are the only entities authorized to produce cannabis plants for
1101 cannabidiol research.

1102 (d) Research of CBD solution under this section must
1103 comply with the provisions of Section 41-29-125 regarding lawful



1104 possession of controlled substances, of Section 41-29-137
1105 regarding record-keeping requirements relative to the dispensing,
1106 use or administration of controlled substances, and of Section
1107 41-29-133 regarding inventory requirements, insofar as they are
1108 applicable. Authorized entities may enter into public-private
1109 partnerships to facilitate research.

1110 (3) (a) In a prosecution for the unlawful possession of
1111 marijuana under the laws of this state, it is an affirmative and
1112 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 solution was pursuant to the order of a physician as
1116 authorized 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 solution was pursuant to the order of a physician as
1121 authorized 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 solution by the child or parent, guardian
1126 or 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, formulation, dispensing, prescribing or administration
1130 of CBD solution shall not be subject to prosecution for unlawful
1131 possession, use, distribution or prescription of marijuana under
1132 the laws of this state for activities arising from or related to
1133 the use of CBD solution in the treatment of individuals diagnosed
1134 with a debilitating epileptic condition.

1135 (4) 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 (5) This section shall be known as "Harper Grace's Law."

1142 (6) This section shall stand repealed from and after July 1,
1143 2021.

1144 **SECTION 25.** Section 41-29-137, Mississippi Code of 1972, is
1145 amended as follows:

1146 41-29-137. (a) (1) Except when dispensed directly by a
1147 practitioner, other than a pharmacy, to an ultimate user, no
1148 controlled substance in Schedule II, as set out in Section
1149 41-29-115, may be dispensed without the written valid prescription
1150 of a practitioner. A practitioner shall keep a record of all
1151 controlled substances in Schedule I, II and III administered,
1152 dispensed or professionally used by him otherwise than by
1153 prescription.



1154 (2) In emergency situations, as defined by rule of the
1155 State Board of Pharmacy, Schedule II drugs may be dispensed upon
1156 the oral valid prescription of a practitioner, reduced promptly to
1157 writing and filed by the pharmacy. Prescriptions shall be
1158 retained in conformity with the requirements of Section 41-29-133.
1159 No prescription for a Schedule II substance may be refilled unless
1160 renewed by prescription issued by a licensed medical doctor.

1161 (b) Except when dispensed directly by a practitioner, other
1162 than a pharmacy, to an ultimate user, a controlled substance
1163 included in Schedule III or IV, as set out in Sections 41-29-117
1164 and 41-29-119, shall not be dispensed without a written or oral
1165 valid prescription of a practitioner. The prescription shall not
1166 be filled or refilled more than six (6) months after the date
1167 thereof or be refilled more than five (5) times, unless renewed by
1168 the practitioner.

1169 (c) A controlled substance included in Schedule V, as set
1170 out in Section 41-29-121, shall not be distributed or dispensed
1171 other than for a medical purpose.

1172 (d) An optometrist certified to prescribe and use
1173 therapeutic pharmaceutical agents under Sections 73-19-153 through
1174 73-19-165 shall be authorized to prescribe oral analgesic
1175 controlled substances in Schedule IV or V, as pertains to
1176 treatment and management of eye disease by written prescription
1177 only.



1178 (e) Administration by injection of any pharmaceutical
1179 product authorized in this section is expressly prohibited except
1180 when dispensed directly by a practitioner other than a pharmacy.

1181 (f) (1) For the purposes of this article, Title 73, Chapter
1182 21, and Title 73, Chapter 25, Mississippi Code of 1972, as it
1183 pertains to prescriptions for controlled substances, a "valid
1184 prescription" means a prescription that is issued for a legitimate
1185 medical purpose in the usual course of professional practice by:

1186 (A) A practitioner who has conducted at least one
1187 (1) in-person medical evaluation of the patient; or

1188 (B) A covering practitioner.

1189 (2) (A) "In-person medical evaluation" means a medical
1190 evaluation that is conducted with the patient in the physical
1191 presence of the practitioner, without regard to whether portions
1192 of the evaluation are conducted by other health professionals.

1193 (B) "Covering practitioner" means a practitioner
1194 who conducts a medical evaluation other than an in-person medical
1195 evaluation at the request of a practitioner who has conducted at
1196 least one (1) in-person medical evaluation of the patient or an
1197 evaluation of the patient through the practice of telemedicine
1198 within the previous twenty-four (24) months and who is temporarily
1199 unavailable to conduct the evaluation of the patient.

1200 (3) A prescription for a controlled substance based
1201 solely on a consumer's completion of an online medical
1202 questionnaire is not a valid prescription.



1203 (4) Nothing in this subsection (* * *f) shall apply
1204 to:

1205 (A) A prescription issued by a practitioner
1206 engaged in the practice of telemedicine as authorized under state
1207 or federal law; or

1208 (B) The dispensing or selling of a controlled
1209 substance pursuant to practices as determined by the United States
1210 Attorney General by regulation.

1211 (g) This section does not apply to any of the actions
1212 regarding the therapeutic use of marijuana that are lawful under
1213 the Mississippi Medical Marijuana Pilot Program Act. This
1214 subsection shall stand repealed on the date that the Mississippi
1215 Medical Marijuana Pilot Program Act is repealed as provided in
1216 Section 21 of this act.

1217 **SECTION 26.** Section 41-29-139, Mississippi Code of 1972, is
1218 amended as follows:

1219 41-29-139. (a) **Transfer and possession with intent to**
1220 **transfer.** Except as authorized by this article, it is unlawful
1221 for any person knowingly or intentionally:

1222 (1) To sell, barter, transfer, manufacture, distribute,
1223 dispense or possess with intent to sell, barter, transfer,
1224 manufacture, distribute or dispense, a controlled substance; or

1225 (2) To create, sell, barter, transfer, distribute,
1226 dispense or possess with intent to create, sell, barter, transfer,
1227 distribute or dispense, a counterfeit substance.



1228 (b) **Punishment for transfer and possession with intent to**
1229 **transfer.** Except as otherwise provided in Section 41-29-142, any
1230 person who violates subsection (a) of this section shall be, if
1231 convicted, sentenced as follows:

1232 (1) For controlled substances classified in Schedule I
1233 or II, as set out in Sections 41-29-113 and 41-29-115, other than
1234 marijuana or synthetic cannabinoids:

1235 (A) If less than two (2) grams or ten (10) dosage
1236 units, by imprisonment for not more than eight (8) years or a fine
1237 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1238 (B) If two (2) or more grams or ten (10) or more
1239 dosage units, but less than ten (10) grams or twenty (20) dosage
1240 units, by imprisonment for not less than three (3) years nor more
1241 than twenty (20) years or a fine of not more than Two Hundred
1242 Fifty Thousand Dollars (\$250,000.00), or both.

1243 (C) If ten (10) or more grams or twenty (20) or
1244 more dosage units, but less than thirty (30) grams or forty (40)
1245 dosage units, by imprisonment for not less than five (5) years nor
1246 more than thirty (30) years or a fine of not more than Five
1247 Hundred Thousand Dollars (\$500,000.00), or both.

1248 (2) (A) For marijuana:
1249 1. If thirty (30) grams or less, by
1250 imprisonment for not more than three (3) years or a fine of not
1251 more than Three Thousand Dollars (\$3,000.00), or both;



1252 2. If more than thirty (30) grams but less
1253 than two hundred fifty (250) grams, by imprisonment for not more
1254 than five (5) years or a fine of not more than Five Thousand
1255 Dollars (\$5,000.00), or both;

1256 3. If two hundred fifty (250) or more grams
1257 but less than five hundred (500) grams, by imprisonment for not
1258 less than three (3) years nor more than ten (10) years or a fine
1259 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

1260 4. If five hundred (500) or more grams but
1261 less than one (1) kilogram, by imprisonment for not less than five
1262 (5) years nor more than twenty (20) years or a fine of not more
1263 than Twenty Thousand Dollars (\$20,000.00), or both.

1264 (B) For synthetic cannabinoids:

1265 1. If ten (10) grams or less, by imprisonment
1266 for not more than three (3) years or a fine of not more than Three
1267 Thousand Dollars (\$3,000.00), or both;

1268 2. If more than ten (10) grams but less than
1269 twenty (20) grams, by imprisonment for not more than five (5)
1270 years or a fine of not more than Five Thousand Dollars
1271 (\$5,000.00), or both;

1272 3. If twenty (20) or more grams but less than
1273 forty (40) grams, by imprisonment for not less than three (3)
1274 years nor more than ten (10) years or a fine of not more than
1275 Fifteen Thousand Dollars (\$15,000.00), or both;



1276 4. If forty (40) or more grams but less than
1277 two hundred (200) grams, by imprisonment for not less than five
1278 (5) years nor more than twenty (20) years or a fine of not more
1279 than Twenty Thousand Dollars (\$20,000.00), or both.

1280 (3) For controlled substances classified in Schedules
1281 III and IV, as set out in Sections 41-29-117 and 41-29-119:

1282 (A) If less than two (2) grams or ten (10) dosage
1283 units, by imprisonment for not more than five (5) years or a fine
1284 of not more than Five Thousand Dollars (\$5,000.00), or both;

1285 (B) If two (2) or more grams or ten (10) or more
1286 dosage units, but less than ten (10) grams or twenty (20) dosage
1287 units, by imprisonment for not more than eight (8) years or a fine
1288 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1289 (C) If ten (10) or more grams or twenty (20) or
1290 more dosage units, but less than thirty (30) grams or forty (40)
1291 dosage units, by imprisonment for not more than fifteen (15) years
1292 or a fine of not more than One Hundred Thousand Dollars
1293 (\$100,000.00), or both;

1294 (D) If thirty (30) or more grams or forty (40) or
1295 more dosage units, but less than five hundred (500) grams or two
1296 thousand five hundred (2,500) dosage units, by imprisonment for
1297 not more than twenty (20) years or a fine of not more than Two
1298 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

1299 (4) For controlled substances classified in Schedule V,
1300 as set out in Section 41-29-121:



1301 (A) If less than two (2) grams or ten (10) dosage
1302 units, by imprisonment for not more than one (1) year or a fine of
1303 not more than Five Thousand Dollars (\$5,000.00), or both;

1304 (B) If two (2) or more grams or ten (10) or more
1305 dosage units, but less than ten (10) grams or twenty (20) dosage
1306 units, by imprisonment for not more than five (5) years or a fine
1307 of not more than Ten Thousand Dollars (\$10,000.00), or both;

1308 (C) If ten (10) or more grams or twenty (20) or
1309 more dosage units, but less than thirty (30) grams or forty (40)
1310 dosage units, by imprisonment for not more than ten (10) years or
1311 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
1312 both;

1313 (D) For thirty (30) or more grams or forty (40) or
1314 more dosage units, but less than five hundred (500) grams or two
1315 thousand five hundred (2,500) dosage units, by imprisonment for
1316 not more than fifteen (15) years or a fine of not more than Fifty
1317 Thousand Dollars (\$50,000.00), or both.

1318 (c) **Simple possession.** It is unlawful for any person
1319 knowingly or intentionally to possess any controlled substance
1320 unless the substance was obtained directly from, or pursuant to, a
1321 valid prescription or order of a practitioner while acting in the
1322 course of his professional practice, or except as otherwise
1323 authorized by this article. The penalties for any violation of
1324 this subsection (c) with respect to a controlled substance
1325 classified in Schedules I, II, III, IV or V, as set out in Section



1326 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
1327 marijuana or synthetic cannabinoids, shall be based on dosage unit
1328 as defined herein or the weight of the controlled substance as set
1329 forth herein as appropriate:

1330 "Dosage unit (d.u.)" means a tablet or capsule, or in the
1331 case of a liquid solution, one (1) milliliter. In the case of
1332 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
1333 stamp, square, dot, microdot, tablet or capsule of a controlled
1334 substance.

1335 For any controlled substance that does not fall within the
1336 definition of the term "dosage unit," the penalties shall be based
1337 upon the weight of the controlled substance.

1338 The weight set forth refers to the entire weight of any
1339 mixture or substance containing a detectable amount of the
1340 controlled substance.

1341 If a mixture or substance contains more than one (1)
1342 controlled substance, the weight of the mixture or substance is
1343 assigned to the controlled substance that results in the greater
1344 punishment.

1345 A person shall be charged and sentenced as follows for a
1346 violation of this subsection with respect to:

1347 (1) A controlled substance classified in Schedule I or
1348 II, except marijuana and synthetic cannabinoids:

1349 (A) If less than one-tenth (0.1) gram or two (2)
1350 dosage units, the violation is a misdemeanor and punishable by



1351 imprisonment for not more than one (1) year or a fine of not more
1352 than One Thousand Dollars (\$1,000.00), or both.

1353 (B) If one-tenth (0.1) gram or more or two (2) or
1354 more dosage units, but less than two (2) grams or ten (10) dosage
1355 units, by imprisonment for not more than three (3) years or a fine
1356 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

1357 (C) If two (2) or more grams or ten (10) or more
1358 dosage units, but less than ten (10) grams or twenty (20) dosage
1359 units, by imprisonment for not more than eight (8) years or a fine
1360 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
1361 or both.

1362 (D) If ten (10) or more grams or twenty (20) or
1363 more dosage units, but less than thirty (30) grams or forty (40)
1364 dosage units, by imprisonment for not less than three (3) years
1365 nor more than twenty (20) years or a fine of not more than Five
1366 Hundred Thousand Dollars (\$500,000.00), or both.

1367 (2) (A) Marijuana and synthetic cannabinoids:

1368 1. If thirty (30) grams or less of marijuana
1369 or ten (10) grams or less of synthetic cannabinoids, by a fine of
1370 not less than One Hundred Dollars (\$100.00) nor more than Two
1371 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
1372 (2) (A) may be enforceable by summons if the offender provides
1373 proof of identity satisfactory to the arresting officer and gives
1374 written promise to appear in court satisfactory to the arresting
1375 officer, as directed by the summons. A second conviction under



1376 this section within two (2) years is a misdemeanor punishable by a
1377 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
1378 (60) days in the county jail, and mandatory participation in a
1379 drug education program approved by the Division of Alcohol and
1380 Drug Abuse of the State Department of Mental Health, unless the
1381 court enters a written finding that a drug education program is
1382 inappropriate. A third or subsequent conviction under this
1383 paragraph (2) (A) within two (2) years is a misdemeanor punishable
1384 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
1385 more than One Thousand Dollars (\$1,000.00) and confinement for not
1386 more than six (6) months in the county jail.

1387 Upon a first or second conviction under this paragraph
1388 (2) (A), the courts shall forward a report of the conviction to the
1389 Mississippi Bureau of Narcotics which shall make and maintain a
1390 private, nonpublic record for a period not to exceed two (2) years
1391 from the date of conviction. The private, nonpublic record shall
1392 be solely for the use of the courts in determining the penalties
1393 which attach upon conviction under this paragraph (2) (A) and shall
1394 not constitute a criminal record for the purpose of private or
1395 administrative inquiry and the record of each conviction shall be
1396 expunged at the end of the period of two (2) years following the
1397 date of such conviction;

1398 2. Additionally, a person who is the operator
1399 of a motor vehicle, who possesses on his person or knowingly keeps
1400 or allows to be kept in a motor vehicle within the area of the



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

1412 (B) Marijuana:

1413 1. If more than thirty (30) grams but less
1414 than two hundred fifty (250) grams, by a fine of not more than One
1415 Thousand Dollars (\$1,000.00), or confinement in the county jail
1416 for not more than one (1) year, or both; or by a fine of not more
1417 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
1418 custody of the Department of Corrections for not more than three
1419 (3) years, or both;

1420 2. If two hundred fifty (250) or more grams
1421 but less than five hundred (500) grams, by imprisonment for not
1422 less than two (2) years nor more than eight (8) years or by a fine
1423 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

1424 3. If five hundred (500) or more grams but
1425 less than one (1) kilogram, by imprisonment for not less than four



1426 (4) years nor more than sixteen (16) years or a fine of not more
1427 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1428 4. If one (1) kilogram or more but less than
1429 five (5) kilograms, by imprisonment for not less than six (6)
1430 years nor more than twenty-four (24) years or a fine of not more
1431 than Five Hundred Thousand Dollars (\$500,000.00), or both;

1432 5. If five (5) kilograms or more, by
1433 imprisonment for not less than ten (10) years nor more than thirty
1434 (30) years or a fine of not more than One Million Dollars
1435 (\$1,000,000.00), or both.

1436 (C) Synthetic cannabinoids:

1437 1. If more than ten (10) grams but less than
1438 twenty (20) grams, by a fine of not more than One Thousand Dollars
1439 (\$1,000.00), or confinement in the county jail for not more than
1440 one (1) year, or both; or by a fine of not more than Three
1441 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
1442 the Department of Corrections for not more than three (3) years,
1443 or both;

1444 2. If twenty (20) or more grams but less than
1445 forty (40) grams, by imprisonment for not less than two (2) years
1446 nor more than eight (8) years or by a fine of not more than Fifty
1447 Thousand Dollars (\$50,000.00), or both;

1448 3. If forty (40) or more grams but less than
1449 two hundred (200) grams, by imprisonment for not less than four



1450 (4) years nor more than sixteen (16) years or a fine of not more
1451 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

1452 4. If two hundred (200) or more grams, by
1453 imprisonment for not less than six (6) years nor more than
1454 twenty-four (24) years or a fine of not more than Five Hundred
1455 Thousand Dollars (\$500,000.00), or both.

1456 (3) A controlled substance classified in Schedule III,
1457 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
1458 conviction, may be punished as follows:

1459 (A) If less than fifty (50) grams or less than one
1460 hundred (100) dosage units, the offense is a misdemeanor and
1461 punishable by not more than one (1) year or a fine of not more
1462 than One Thousand Dollars (\$1,000.00), or both.

1463 (B) If fifty (50) or more grams or one hundred
1464 (100) or more dosage units, but less than one hundred fifty (150)
1465 grams or five hundred (500) dosage units, by imprisonment for not
1466 less than one (1) year nor more than four (4) years or a fine of
1467 not more than Ten Thousand Dollars (\$10,000.00), or both.

1468 (C) If one hundred fifty (150) or more grams or
1469 five hundred (500) or more dosage units, but less than three
1470 hundred (300) grams or one thousand (1,000) dosage units, by
1471 imprisonment for not less than two (2) years nor more than eight
1472 (8) years or a fine of not more than Fifty Thousand Dollars
1473 (\$50,000.00), or both.



1474 (D) If three hundred (300) or more grams or one
1475 thousand (1,000) or more dosage units, but less than five hundred
1476 (500) grams or two thousand five hundred (2,500) dosage units, by
1477 imprisonment for not less than four (4) years nor more than
1478 sixteen (16) years or a fine of not more than Two Hundred Fifty
1479 Thousand Dollars (\$250,000.00), or both.

1480 (d) **Paraphernalia.** (1) It is unlawful for a person who is
1481 not authorized by the State Board of Medical Licensure, State
1482 Board of Pharmacy, or other lawful authority to use, or to possess
1483 with intent to use, paraphernalia to plant, propagate, cultivate,
1484 grow, harvest, manufacture, compound, convert, produce, process,
1485 prepare, test, analyze, pack, repack, store, contain, conceal,
1486 inject, ingest, inhale or otherwise introduce into the human body
1487 a controlled substance in violation of the Uniform Controlled
1488 Substances Law. Any person who violates this subsection (d)(1) is
1489 guilty of a misdemeanor and, upon conviction, may be confined in
1490 the county jail for not more than six (6) months, or fined not
1491 more than Five Hundred Dollars (\$500.00), or both; however, no
1492 person shall be charged with a violation of this subsection when
1493 such person is also charged with the possession of thirty (30)
1494 grams or less of marijuana under subsection (c)(2)(A) of this
1495 section.

1496 (2) It is unlawful for any person to deliver, sell,
1497 possess with intent to deliver or sell, or manufacture with intent
1498 to deliver or sell, paraphernalia, knowing, or under circumstances



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

1509 (3) Any person eighteen (18) years of age or over who
1510 violates subsection (d) (2) of this section by delivering or
1511 selling paraphernalia to a person under eighteen (18) years of age
1512 who is at least three (3) years his junior is guilty of a
1513 misdemeanor and, upon conviction, may be confined in the county
1514 jail for not more than one (1) year, or fined not more than One
1515 Thousand Dollars (\$1,000.00), or both.

1516 (4) It is unlawful for any person to place in any
1517 newspaper, magazine, handbill, or other publication any
1518 advertisement, knowing, or under circumstances where one
1519 reasonably should know, that the purpose of the advertisement, in
1520 whole or in part, is to promote the sale of objects designed or
1521 intended for use as paraphernalia. Any person who violates this
1522 subsection is guilty of a misdemeanor and, upon conviction, may be



1523 confined in the county jail for not more than six (6) months, or
1524 fined not more than Five Hundred Dollars (\$500.00), or both.

1525 (e) It shall be unlawful for any physician practicing
1526 medicine in this state to prescribe, dispense or administer any
1527 amphetamine or amphetamine-like anorectics and/or central nervous
1528 system stimulants classified in Schedule II, pursuant to Section
1529 41-29-115, for the exclusive treatment of obesity, weight control
1530 or weight loss. Any person who violates this subsection, upon
1531 conviction, is guilty of a misdemeanor and may be confined for a
1532 period not to exceed six (6) months, or fined not more than One
1533 Thousand Dollars (\$1,000.00), or both.

1534 (f) **Trafficking.** (1) Any person trafficking in controlled
1535 substances shall be guilty of a felony and, upon conviction, shall
1536 be imprisoned for a term of not less than ten (10) years nor more
1537 than forty (40) years and shall be fined not less than Five
1538 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
1539 (\$1,000,000.00). The ten-year mandatory sentence shall not be
1540 reduced or suspended. The person shall not be eligible for
1541 probation or parole, the provisions of Sections 41-29-149,
1542 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

1543 (2) "Trafficking in controlled substances" as used
1544 herein means:

1545 (A) A violation of subsection (a) of this section
1546 involving thirty (30) or more grams or forty (40) or more dosage



1547 units of a Schedule I or II controlled substance except marijuana
1548 and synthetic cannabinoids;

1549 (B) A violation of subsection (a) of this section
1550 involving five hundred (500) or more grams or two thousand five
1551 hundred (2,500) or more dosage units of a Schedule III, IV or V
1552 controlled substance;

1553 (C) A violation of subsection (c) of this section
1554 involving thirty (30) or more grams or forty (40) or more dosage
1555 units of a Schedule I or II controlled substance except marijuana
1556 and synthetic cannabinoids;

1557 (D) A violation of subsection (c) of this section
1558 involving five hundred (500) or more grams or two thousand five
1559 hundred (2,500) or more dosage units of a Schedule III, IV or V
1560 controlled substance; or

1561 (E) A violation of subsection (a) of this section
1562 involving one (1) kilogram or more of marijuana or two hundred
1563 (200) grams or more of synthetic cannabinoids.

1564 (g) **Aggravated trafficking.** Any person trafficking in
1565 Schedule I or II controlled substances, except marijuana and
1566 synthetic cannabinoids, of two hundred (200) grams or more shall
1567 be guilty of aggravated trafficking and, upon conviction, shall be
1568 sentenced to a term of not less than twenty-five (25) years nor
1569 more than life in prison and shall be fined not less than Five
1570 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
1571 (\$1,000,000.00). The twenty-five-year sentence shall be a



1572 mandatory sentence and shall not be reduced or suspended. The
1573 person shall not be eligible for probation or parole, the
1574 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, to
1575 the contrary notwithstanding.

1576 (h) **Sentence mitigation.** (1) Notwithstanding any provision
1577 of this section, a person who has been convicted of an offense
1578 under this section that requires the judge to impose a prison
1579 sentence which cannot be suspended or reduced and is ineligible
1580 for probation or parole may, at the discretion of the court,
1581 receive a sentence of imprisonment that is no less than
1582 twenty-five percent (25%) of the sentence prescribed by the
1583 applicable statute. In considering whether to apply the departure
1584 from the sentence prescribed, the court shall conclude that:

1585 (A) The offender was not a leader of the criminal
1586 enterprise;

1587 (B) The offender did not use violence or a weapon
1588 during the crime;

1589 (C) The offense did not result in a death or
1590 serious bodily injury of a person not a party to the criminal
1591 enterprise; and

1592 (D) The interests of justice are not served by the
1593 imposition of the prescribed mandatory sentence.

1594 The court may also consider whether information and
1595 assistance were furnished to a law enforcement agency, or its
1596 designee, which, in the opinion of the trial judge, objectively



1597 should or would have aided in the arrest or prosecution of others
1598 who violate this subsection. The accused shall have adequate
1599 opportunity to develop and make a record of all information and
1600 assistance so furnished.

1601 (2) If the court reduces the prescribed sentence
1602 pursuant to this subsection, it must specify on the record the
1603 circumstances warranting the departure.

1604 (i) Mississippi Medical Marijuana Pilot Program. This
1605 section does not apply to any of the actions regarding the
1606 therapeutic use of marijuana that are lawful under the Mississippi
1607 Medical Marijuana Pilot Program Act. This subsection shall stand
1608 repealed on the date that the Mississippi Medical Marijuana Pilot
1609 Program Act is repealed as provided in Section 21 of this act.

1610 **SECTION 27.** Section 41-29-141, Mississippi Code of 1972, is
1611 amended as follows:

1612 41-29-141. It is unlawful for any person:

1613 (1) Who is subject to Section 41-29-125 to distribute
1614 or dispense a controlled substance in violation of Section
1615 41-29-137;

1616 (2) Who is a registrant under Section 41-29-125 to
1617 manufacture a controlled substance not authorized by his
1618 registration, or to distribute or dispense a controlled substance
1619 not authorized by his registration to another registrant or other
1620 authorized person;



1621 (3) To refuse or fail to make, keep or furnish any
1622 record, notification, order form, statement, invoice or
1623 information required under this article;

1624 (4) To refuse a lawful entry into any premises for any
1625 inspection authorized by this article; or

1626 (5) Knowingly to keep or maintain any store, shop,
1627 warehouse, dwelling, building, vehicle, boat, aircraft, or other
1628 structure or place, which is resorted to by persons using
1629 controlled substances in violation of this article for the purpose
1630 of using these substances, or which is used for keeping or selling
1631 them in violation of this article.

1632 Any person who violates this section shall, with respect to
1633 such violation, be subject to a civil penalty payable to the State
1634 of Mississippi of not more than Twenty-five Thousand Dollars
1635 (\$25,000.00).

1636 In addition to the civil penalty provided in the preceding
1637 paragraph, any person who knowingly or intentionally violates this
1638 section shall be guilty of a crime and upon conviction thereof may
1639 be confined for a period of not more than one (1) year or fined
1640 not more than One Thousand Dollars (\$1,000.00), or both.

1641 This section does not apply to any of the actions regarding
1642 the therapeutic use of marijuana that are lawful under the
1643 Mississippi Medical Marijuana Pilot Program Act. This paragraph
1644 shall stand repealed on the date that the Mississippi Medical



1645 Marijuana Pilot Program Act is repealed as provided in Section 21
1646 of this act.

1647 **SECTION 28.** Section 41-29-143, Mississippi Code of 1972, is
1648 amended as follows:

1649 41-29-143. It is unlawful for any person knowingly or
1650 intentionally:

1651 (1) To distribute as a registrant a controlled
1652 substance classified in Schedule I or II, as set out in Sections
1653 41-29-113 and 41-29-115, except pursuant to an order form as
1654 required by Section 41-29-135;

1655 (2) To use in the course of the manufacture or
1656 distribution of a controlled substance a registration number which
1657 is fictitious, revoked, suspended, or issued to another
1658 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.

