



Town of Miami Lakes Memorandum

To: The Honorable Mayor and Councilmembers
From: Alex Rey, Town Manager
Subject: Medical Marijuana
Date: 7/25/2017

Recommendation:

Staff recommends approval of the ordinance banning cannabis dispensaries, medical marijuana treatment facilities, and independent testing laboratories related thereto as provided for by Florida Statute 381.986(11) (b).

Background:

On March 7, 2017, the Town Council adopted a moratorium on the issuance of any development orders pertaining to cannabis dispensaries, medical marijuana treatment facilities, and related independent testing laboratories related thereto. The action was taken in response to the adoption of Amendment 2 to the Florida Constitution entitled "Use of Marijuana for Debilitating Medical Conditions." The amendment expanded upon the legalized usage of low TCH cannabis and medical marijuana, and created new classes of uses to include medical marijuana treatment centers and testing laboratories. These amendments were in addition to prior laws initially adopted in 2014, then expanded in 2016 which provided for the limited use of low TCH cannabis and medical marijuana.

On June 23, 2017, the Governor of the State of Florida signed Senate Bill SB 8-A, affectively amending the Florida Statutes at Section 381.986, "Compassionate use of low-THC and medical cannabis", which, among other provisions, provided the rules by which local municipalities may regulate such uses covered by both the constitutional amendment and the prior legislation of 2014 and 2016. The State gave cities two options. The first option was to outright ban cannabis dispensaries and medical marijuana treatment centers. The second option was to permit such uses provided they are regulated no differently than pharmacies provided minimum distance separations from educational facilities are included. The attached ordinance is reflected of the "ban" option. A fuller description of the history and recommendation are provided at the attached Staff Analysis and Recommendation Report.

On July 19, 2017, this item was brought before the Town's Planning and Zoning Board, and in its function as

the Town's Local Planning Agency ("LPA"), voted to recommend the approval of this Ordinance.

ATTACHMENTS:

Description

Staff Report

Senate Bill SB-8

Ordinance - First Reading



Department of Planning, Zoning and Code Compliance
6601 Main Street • Miami Lakes, Florida 33014
Office: (305) 364-6100 • Fax: (305) 558-8511
Website: www.miamilakes-fl.gov

Staff Analysis and Recommendation

To: Honorable Mayor and Town Council

From: Darby P. Delsalle, AICP, Planning Director

Subject: Cannabis Dispensaries and Medical Marijuana Treatment Facilities

Date: July 14, 2017

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

A. BACKGROUND

The legal status of the medical use of marijuana has been evolving since 2014 when the Florida Legislature enacted laws regarding low-TCH cannabis and medical marijuana, entitled the “Compassionate Medical Cannabis Act of 2014” (codified at Section 381.986, Florida Statutes) (“Act”). The Act permitted the use of a non-euphoric strain of cannabis for narrowly defined medical conditions typically associated with seizures and chemotherapy. The Act authorized a limited number of large nurseries to cultivate, process, transport and dispense non-euphoric, low THC cannabis and operate “Dispensing Organizations” for individuals with certain specified serious ailments. The Legislature again in 2016 amended the Act (Section 381.986, Florida Statutes) to include the use of full strength “medical marijuana” for eligible patients with terminal conditions to ease their suffering.

On November 8, 2016, Florida’s voters approved an amendment to the Florida Constitution, entitled “Use of Marijuana for Debilitating Medical Conditions (“Amendment 2”)”. Amendment 2 had the net effect of further expanding the legal use of medical marijuana throughout the State of Florida for those individuals with specified debilitating conditions. It also authorized the cultivation, processing, distribution, and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers.” This matter became the subject of a bill adopted by the Florida Legislature (SB 8-A) during their 2017 Special Session that,

among other provisions, outlined the conditions under which local municipalities may regulate the location of cannabis dispensaries and medical marijuana treatment centers. The legislation provided the option for municipalities to outright ban such uses within their territorial jurisdiction, or to permit them provided they were regulated in a manner similar to pharmacies, and provided for minimum distance separations of such uses from educational facilities. Town Staff's proposed ordinance is reflective of the ban option.

As a final note, the cultivation, processing, distribution, sale, and use of cannabis and marijuana in all its forms continues to be identified as illegal acts with the laws of the Federal Government of the United States of America.

B. STAFF RECOMMENDATION

Based on the analysis provided below and other factors contained in this report, Staff recommends approval of the ordinance banning cannabis dispensaries, medical marijuana treatment facilities, and independent testing laboratories related thereto.

C. ANALYSIS

The Land Development Code (LDC) provides that all proposed amendments to the LDC shall be evaluated by the Administrative Official, the Local Planning Agency and the Town Council, and that, in evaluating the proposed amendment, the criteria in Subsection 13-306(b) shall be considered. All portions of this report are hereby incorporated into all portions of this analysis. The following is a staff analysis of the criteria as applied to this proposed ordinance.

1. Whether the proposal is consistent with the Comprehensive Plan, including the adopted infrastructure minimum levels of service standards and the concurrency management program.

Analysis: Although the Comprehensive Plan does not specifically address uses presented in the proposed ordinance, Objective 1.2 provides underlying intent to ensure the LDC's appropriately regulate the use of land reflective of the community's desires. Notwithstanding the Federal Government's laws pertaining to marijuana and/or its derivative products, supporting such uses within the Town's LDC may result in impacts that are not entirely foreseeable at this time.

Objective 1.2: LAND DEVELOPMENT CODE

Maintain an effective and efficient Land Development Code (LDC), which implements the community vision underlying the goals, objectives and policies of adopted Comprehensive Plan, regulates the quality, scope and impacts of new development and redevelopment, coordinates future land uses with topography and soil conditions, and incorporates innovative land development techniques.

Finding: Complies

2. Whether the proposal is in conformance with all applicable requirements of this Code of Ordinances, including this chapter.

Analysis: The proposed ordinance conforms with the Town's LDC's. A review of the LDC's found no conflicts. Further, the proposed ordinance is consistent with adopted Florida Senate Bill SB 8-A as provided at Section 381.986, Florida Statutes.

Finding: Complies.

3. **Whether, and the extent to which, land use and development conditions have changed since the effective date of the existing regulations, and whether such changes support or work against the proposed change in land use policy.**

Analysis: See Section "A", Background, of this report. The Background section of this report provides a fuller accounting of the evolution of legalized low THC cannabis and medical marijuana within the State of Florida. The Town's current LDC's do not address the uses associated with those identified in the State of Florida's Statutes. If the LDC goes unamended, the Town is left with little authority to prevent such uses from locating within its territorial jurisdiction. The most recent legislation, SB 8-A at Section 381.986, permits a municipality to ban cannabis dispensaries and medical marijuana treatment facilities outright within their territorial jurisdiction. The statute is silent as to independent testing facilities. For consistency across the Town regulations, Staff also includes those facilities as part of the ban.

Finding: Complies.

4. **Whether, and the extent to which, the proposal would result in any incompatible land uses, considering the type and location of uses involved, the impact on adjacent or neighboring properties, consistency with existing development, as well as compatibility with existing and proposed land use.**

Analysis: See Section "A", Background, of this report. By banning the uses described within the proposed ordinance, the potential for incompatible land uses is eliminated.

Finding: Complies.

5. **Whether, and the extent to which, the proposal would result in demands on transportation systems, public facilities and services, exceeding the capacity of such facilities and services, existing or programmed, including schools, transportation, water and wastewater services, solid waste disposal, drainage, water supply, recreation, education, emergency services, and similar necessary facilities and services.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

6. **Whether, and the extent to which, the proposal would result in adverse impacts on the natural environment, including consideration of wetland protection, preservation of any groundwater aquifers, wildlife habitats, and vegetative communities.**

Analysis: The proposed ordinance does not impact the above systems.

Finding: Complies.

7. **Whether, and the extent to which, the proposal would adversely affect the property values in the affected area, or adversely affect the general welfare.**

Analysis: See Section “A”, Background, of this report. By banning the uses described within the proposed ordinance, the potential for incompatible land uses and any adverse effect is eliminated.

Finding: Complies.

8. **Whether the proposal would result in an orderly and compatible land use pattern. Any positive and negative effects on such pattern shall be identified.**

Analysis: See Section “A”, Background, of this report. By banning the uses described within the proposed ordinance, the potential for incompatible land uses is eliminated.

Finding: Complies.

9. **Whether the proposal would be in conflict with the public interest, and whether it is in harmony with the purpose and intent of this chapter.**

Analysis: See Section “A”, Background, of this report. No portion of the proposed amendment is in conflict with the existing regulations of the LDC. By banning those uses associated with low THC cannabis and medical marijuana, any potential unintended impacts of locating those uses in the Town are negated.

Finding: Complies.

10. **Other matters which the Local Planning Agency or the Town Council, in its legislative discretion, may deem appropriate.**

Analysis: See Summary Section and all portions of this analysis. The Local Planning Agency and the Town Council may consider other appropriate factors to determine whether the proposed FLUM amendment is appropriate and consistent with the public interest. The Analysis Section addressed the conditions suggested by the Planning and Zoning Board.

Finding: As determined by the Town Council.

20178Aer

1
2 An act relating to medical use of marijuana; providing
3 legislative intent; amending s. 212.08, F.S.;
4 providing an exemption from the state tax on sales,
5 use, and other transactions for marijuana and
6 marijuana delivery devices used for medical purposes;
7 amending s. 381.986, F.S.; providing, revising, and
8 deleting definitions; providing qualifying medical
9 conditions for a patient to be eligible to receive
10 marijuana or a marijuana delivery device; providing
11 requirements for designating a qualified physician or
12 medical director; providing criteria for certification
13 of a patient for medical marijuana treatment by a
14 qualified physician; providing for certain patients
15 registered with the medical marijuana use registry to
16 be deemed qualified; requiring the Department of
17 Health to monitor physician registration and
18 certifications in the medical marijuana use registry;
19 requiring the Board of Medicine and the Board of
20 Osteopathic Medicine to create a physician
21 certification pattern review panel; providing
22 rulemaking authority to the department and the boards;
23 requiring the department to establish a medical
24 marijuana use registry; specifying entities and
25 persons who have access to the registry; providing
26 requirements for registration of, and maintenance of
27 registered status by, qualified patients and
28 caregivers; providing criteria for nonresidents to
29 prove residency for registration as a qualified

20178Aer

patient; defining the term "seasonal resident";
authorizing the department to suspend or revoke the
registration of a patient or caregiver under certain
circumstances; providing requirements for the issuance
of medical marijuana use registry identification
cards; requiring the department to issue licenses to a
certain number of medical marijuana treatment centers;
providing for license renewal and revocation;
providing conditions for change of ownership;
providing for continuance of certain entities
authorized to dispense low-THC cannabis, medical
cannabis, and cannabis delivery devices; requiring a
medical marijuana treatment center to comply with
certain standards in the production and distribution
of edibles; requiring the department to establish,
maintain, and control a computer seed-to-sale
marijuana tracking system; requiring background
screening of owners, officers, board members, and
managers of medical marijuana treatment centers;
requiring the department to establish protocols and
procedures for operation, conduct periodic
inspections, and restrict location of medical
marijuana treatment centers; providing a limit on
county and municipal permit fees; authorizing counties
and municipalities to determine the location of
medical marijuana treatment centers by ordinance under
certain conditions; providing penalties; authorizing
the department to impose sanctions on persons or
entities engaging in unlicensed activities; providing

20178Aer

that a person is not exempt from prosecution for certain offenses and is not relieved from certain requirements of law under certain circumstances; providing for certain school personnel to possess marijuana pursuant to certain established policies and procedures; providing that certain research institutions may possess, test, transport, and dispose of marijuana subject to certain conditions; providing applicability; amending ss. 458.331 and 459.015, F.S.; providing additional acts by a physician or an osteopathic physician which constitute grounds for denial of a license or disciplinary action to which penalties apply; creating s. 381.988, F.S.; providing for the establishment of medical marijuana testing laboratories; requiring the Department of Health, in collaboration with the Department of Agriculture and Consumer Services and the Department of Environmental Protection, to develop certification standards and rules; providing limitations on the acquisition and distribution of marijuana by a testing laboratory; providing an exception for transfer of marijuana under certain conditions; requiring a testing laboratory to use a department-selected computer tracking system; providing grounds for disciplinary and administrative action; authorizing the department to refuse to issue or renew, or suspend or revoke, a testing laboratory license; creating s. 381.989, F.S.; defining terms; directing the department and the Department of Highway Safety and Motor Vehicles to institute public

20178Aer

education campaigns relating to cannabis and marijuana and impaired driving; requiring evaluations of public education campaigns; authorizing the department and the Department of Highway Safety and Motor Vehicles to contract with vendors to implement and evaluate the campaigns; amending ss. 385.211, 499.0295, and 893.02, F.S.; conforming provisions to changes made by the act; creating s. 1004.4351, F.S.; providing a short title; providing legislative findings; defining terms; establishing the Coalition for Medical Marijuana Research and Education within the H. Lee Moffitt Cancer Center and Research Institute, Inc.; providing a purpose for the coalition; establishing the Medical Marijuana Research and Education Board to direct the operations of the coalition; providing for the appointment of board members; providing for terms of office, reimbursement for certain expenses, and meetings of the board; authorizing the board to appoint a coalition director; prescribing the duties of the coalition director; requiring the board to advise specified entities and officials regarding medical marijuana research and education in this state; requiring the board to annually adopt a Medical Marijuana Research and Education Plan; providing requirements for the plan; requiring the board to issue an annual report to the Governor and the Legislature by a specified date; requiring the Department of Health to submit reports to the board containing specified data; specifying responsibilities

20178Aer

of the H. Lee Moffitt Cancer Center and Research
Institute, Inc.; amending s. 1004.441, F.S.; revising
definition; amending s. 1006.062, F.S.; requiring
district school boards to adopt policies and
procedures for access to medical marijuana by
qualified patients who are students; providing
emergency rulemaking authority; providing for venue
for a cause of action against the department;
providing for defense against certain causes of
action; directing the Department of Law Enforcement to
develop training for law enforcement officers and
agencies; amending s. 385.212, F.S.; renaming the
department's Office of Compassionate Use; providing
severability; providing a directive to the Division of
Law Revision and Information; providing
appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative intent.—It is the intent of the
Legislature to implement s. 29, Article X of the State
Constitution by creating a unified regulatory structure. If s.
29, Article X of the State Constitution is amended or a
constitutional amendment related to cannabis or marijuana is
adopted, this act shall expire 6 months after the effective date
of such amendment.

Section 2. Present paragraph (1) of subsection (2) of
section 212.08, Florida Statutes, is redesignated as paragraph
(m), and a new paragraph (1) is added to that subsection, to

20178Aer

read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(2) EXEMPTIONS; MEDICAL.—

(1) Marijuana and marijuana delivery devices, as defined in s. 381.986, are exempt from the taxes imposed under this chapter.

Section 3. Section 381.986, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 381.986, F.S., for present text.)

381.986 Medical use of marijuana.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Caregiver" means a resident of this state who has agreed to assist with a qualified patient's medical use of marijuana, has a caregiver identification card, and meets the requirements of subsection (6).

(b) "Chronic nonmalignant pain" means pain that is caused by a qualifying medical condition or that originates from a qualifying medical condition and persists beyond the usual course of that qualifying medical condition.

(c) "Close relative" means a spouse, parent, sibling, grandparent, child, or grandchild, whether related by whole or half blood, by marriage, or by adoption.

(d) "Edibles" means commercially produced food items made

20178Aer

with marijuana oil, but no other form of marijuana, that are produced and dispensed by a medical marijuana treatment center.

(e) "Low-THC cannabis" means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center.

(f) "Marijuana" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin, including low-THC cannabis, which are dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(g) "Marijuana delivery device" means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing marijuana into the human body, and which is dispensed from a medical marijuana treatment center for medical use by a qualified patient.

(h) "Marijuana testing laboratory" means a facility that collects and analyzes marijuana samples from a medical marijuana treatment center and has been certified by the department pursuant to s. 381.988.

(i) "Medical director" means a person who holds an active, unrestricted license as an allopathic physician under chapter 458 or osteopathic physician under chapter 459 and is in

20178Aer

204 compliance with the requirements of paragraph (3)(c).

205 (j) "Medical use" means the acquisition, possession, use,
206 delivery, transfer, or administration of marijuana authorized by
207 a physician certification. The term does not include:

208 1. Possession, use, or administration of marijuana that was
209 not purchased or acquired from a medical marijuana treatment
210 center.

211 2. Possession, use, or administration of marijuana in a
212 form for smoking, in the form of commercially produced food
213 items other than edibles, or of marijuana seeds or flower,
214 except for flower in a sealed, tamper-proof receptacle for
215 vaping.

216 3. Use or administration of any form or amount of marijuana
217 in a manner that is inconsistent with the qualified physician's
218 directions or physician certification.

219 4. Transfer of marijuana to a person other than the
220 qualified patient for whom it was authorized or the qualified
221 patient's caregiver on behalf of the qualified patient.

222 5. Use or administration of marijuana in the following
223 locations:

224 a. On any form of public transportation, except for low-THC
225 cannabis.

226 b. In any public place, except for low-THC cannabis.

227 c. In a qualified patient's place of employment, except
228 when permitted by his or her employer.

229 d. In a state correctional institution, as defined in s.
230 944.02, or a correctional institution, as defined in s. 944.241.

231 e. On the grounds of a preschool, primary school, or
232 secondary school, except as provided in s. 1006.062.

20178Aer

233 f. In a school bus, a vehicle, an aircraft, or a motorboat,
234 except for low-THC cannabis.

235 (k) "Physician certification" means a qualified physician's
236 authorization for a qualified patient to receive marijuana and a
237 marijuana delivery device from a medical marijuana treatment
238 center.

239 (l) "Qualified patient" means a resident of this state who
240 has been added to the medical marijuana use registry by a
241 qualified physician to receive marijuana or a marijuana delivery
242 device for a medical use and who has a qualified patient
243 identification card.

244 (m) "Qualified physician" means a person who holds an
245 active, unrestricted license as an allopathic physician under
246 chapter 458 or as an osteopathic physician under chapter 459 and
247 is in compliance with the physician education requirements of
248 subsection (3).

249 (n) "Smoking" means burning or igniting a substance and
250 inhaling the smoke.

251 (o) "Terminal condition" means a progressive disease or
252 medical or surgical condition that causes significant functional
253 impairment, is not considered by a treating physician to be
254 reversible without the administration of life-sustaining
255 procedures, and will result in death within 1 year after
256 diagnosis if the condition runs its normal course.

257 (2) QUALIFYING MEDICAL CONDITIONS.—A patient must be
258 diagnosed with at least one of the following conditions to
259 qualify to receive marijuana or a marijuana delivery device:

260 (a) Cancer.

261 (b) Epilepsy.

20178Aer

(c) Glaucoma.

(d) Positive status for human immunodeficiency virus.

(e) Acquired immune deficiency syndrome.

(f) Post-traumatic stress disorder.

(g) Amyotrophic lateral sclerosis.

(h) Crohn's disease.

(i) Parkinson's disease.

(j) Multiple sclerosis.

(k) Medical conditions of the same kind or class as or comparable to those enumerated in paragraphs (a)-(j).

(l) A terminal condition diagnosed by a physician other than the qualified physician issuing the physician certification.

(m) Chronic nonmalignant pain.

(3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.-

(a) Before being approved as a qualified physician, as defined in paragraph (1)(m), and before each license renewal, a physician must successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association which encompass the requirements of this section and any rules adopted hereunder. The course and examination shall be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The price of the course may not exceed \$500. A physician who has met the physician education requirements of former s. 381.986(4), Florida Statutes 2016, before the effective date of this section, shall be deemed to be in compliance with this paragraph from the effective date of this

20178Aer

act until 90 days after the course and examination required by
this paragraph become available.

(b) A qualified physician may not be employed by, or have
any direct or indirect economic interest in, a medical marijuana
treatment center or marijuana testing laboratory.

(c) Before being employed as a medical director, as defined
in paragraph (1)(i), and before each license renewal, a medical
director must successfully complete a 2-hour course and
subsequent examination offered by the Florida Medical
Association or the Florida Osteopathic Medical Association which
encompass the requirements of this section and any rules adopted
hereunder. The course and examination shall be administered at
least annually and may be offered in a distance learning format,
including an electronic, online format that is available upon
request. The price of the course may not exceed \$500.

(4) PHYSICIAN CERTIFICATION.—

(a) A qualified physician may issue a physician
certification only if the qualified physician:

1. Conducted a physical examination while physically
present in the same room as the patient and a full assessment of
the medical history of the patient.

2. Diagnosed the patient with at least one qualifying
medical condition.

3. Determined that the medical use of marijuana would
likely outweigh the potential health risks for the patient, and
such determination must be documented in the patient's medical
record. If a patient is younger than 18 years of age, a second
physician must concur with this determination, and such
concurrence must be documented in the patient's medical record.

20178Aer

320 4. Determined whether the patient is pregnant and
321 documented such determination in the patient's medical record. A
322 physician may not issue a physician certification, except for
323 low-THC cannabis, to a patient who is pregnant.

324 5. Reviewed the patient's controlled drug prescription
325 history in the prescription drug monitoring program database
326 established pursuant to s. 893.055.

327 6. Reviews the medical marijuana use registry and confirmed
328 that the patient does not have an active physician certification
329 from another qualified physician.

330 7. Registers as the issuer of the physician certification
331 for the named qualified patient on the medical marijuana use
332 registry in an electronic manner determined by the department,
333 and:

334 a. Enters into the registry the contents of the physician
335 certification, including the patient's qualifying condition and
336 the dosage not to exceed the daily dose amount determined by the
337 department, the amount and forms of marijuana authorized for the
338 patient, and any types of marijuana delivery devices needed by
339 the patient for the medical use of marijuana.

340 b. Updates the registry within 7 days after any change is
341 made to the original physician certification to reflect such
342 change.

343 c. Deactivates the registration of the qualified patient
344 and the patient's caregiver when the physician no longer
345 recommends the medical use of marijuana for the patient.

346 8. Obtains the voluntary and informed written consent of
347 the patient for medical use of marijuana each time the qualified
348 physician issues a physician certification for the patient,

20178Aer

349 which shall be maintained in the patient's medical record. The
350 patient, or the patient's parent or legal guardian if the
351 patient is a minor, must sign the informed consent acknowledging
352 that the qualified physician has sufficiently explained its
353 content. The qualified physician must use a standardized
354 informed consent form adopted in rule by the Board of Medicine
355 and the Board of Osteopathic Medicine, which must include, at a
356 minimum, information related to:

357 a. The Federal Government's classification of marijuana as
358 a Schedule I controlled substance.

359 b. The approval and oversight status of marijuana by the
360 Food and Drug Administration.

361 c. The current state of research on the efficacy of
362 marijuana to treat the qualifying conditions set forth in this
363 section.

364 d. The potential for addiction.

365 e. The potential effect that marijuana may have on a
366 patient's coordination, motor skills, and cognition, including a
367 warning against operating heavy machinery, operating a motor
368 vehicle, or engaging in activities that require a person to be
369 alert or respond quickly.

370 f. The potential side effects of marijuana use.

371 g. The risks, benefits, and drug interactions of marijuana.

372 h. That the patient's de-identified health information
373 contained in the physician certification and medical marijuana
374 use registry may be used for research purposes.

375 (b) If a qualified physician issues a physician
376 certification for a qualified patient diagnosed with a
377 qualifying medical condition pursuant to paragraph (2)(k), the

20178Aer

physician must submit the following to the applicable board
within 14 days after issuing the physician certification:

1. Documentation supporting the qualified physician's
opinion that the medical condition is of the same kind or class
as the conditions in paragraphs (2)(a)-(j).

2. Documentation that establishes the efficacy of marijuana
as treatment for the condition.

3. Documentation supporting the qualified physician's
opinion that the benefits of medical use of marijuana would
likely outweigh the potential health risks for the patient.

4. Any other documentation as required by board rule.

The department must submit such documentation to the Coalition
for Medical Marijuana Research and Education established
pursuant to s. 1004.4351.

(c) A qualified physician may not issue a physician
certification for more than three 70-day supply limits of
marijuana. The department shall quantify by rule a daily dose
amount with equivalent dose amounts for each allowable form of
marijuana dispensed by a medical marijuana treatment center. The
department shall use the daily dose amount to calculate a 70-day
supply.

1. A qualified physician may request an exception to the
daily dose amount limit. The request shall be made
electronically on a form adopted by the department in rule and
must include, at a minimum:

a. The qualified patient's qualifying medical condition.

b. The dosage and route of administration that was
insufficient to provide relief to the qualified patient.

20178Aer

c. A description of how the patient will benefit from an increased amount.

d. The minimum daily dose amount of marijuana that would be sufficient for the treatment of the qualified patient's qualifying medical condition.

2. A qualified physician must provide the qualified patient's records upon the request of the department.

3. The department shall approve or disapprove the request within 14 days after receipt of the complete documentation required by this paragraph. The request shall be deemed approved if the department fails to act within this time period.

(d) A qualified physician must evaluate an existing qualified patient at least once every 30 weeks before issuing a new physician certification. A physician must:

1. Determine if the patient still meets the requirements to be issued a physician certification under paragraph (a).

2. Identify and document in the qualified patient's medical records whether the qualified patient experienced either of the following related to the medical use of marijuana:

a. An adverse drug interaction with any prescription or nonprescription medication; or

b. A reduction in the use of, or dependence on, other types of controlled substances as defined in s. 893.02.

3. Submit a report with the findings required pursuant to subparagraph 2. to the department. The department shall submit such reports to the Coalition for Medical Marijuana Research and Education established pursuant to s. 1004.4351.

(e) An active order for low-THC cannabis or medical cannabis issued pursuant to former s. 381.986, Florida Statutes

20178Aer

2016, and registered with the compassionate use registry before the effective date of this section, is deemed a physician certification, and all patients possessing such orders are deemed qualified patients until the department begins issuing medical marijuana use registry identification cards.

(f) The department shall monitor physician registration in the medical marijuana use registry and the issuance of physician certifications for practices that could facilitate unlawful diversion or misuse of marijuana or a marijuana delivery device and shall take disciplinary action as appropriate.

(g) The Board of Medicine and the Board of Osteopathic Medicine shall jointly create a physician certification pattern review panel that shall review all physician certifications submitted to the medical marijuana use registry. The panel shall track and report the number of physician certifications and the qualifying medical conditions, dosage, supply amount, and form of marijuana certified. The panel shall report the data both by individual qualified physician and in the aggregate, by county, and statewide. The physician certification pattern review panel shall, beginning January 1, 2018, submit an annual report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(h) The department, the Board of Medicine, and the Board of Osteopathic Medicine may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(5) MEDICAL MARIJUANA USE REGISTRY.—

(a) The department shall create and maintain a secure, electronic, and online medical marijuana use registry for physicians, patients, and caregivers as provided under this

20178Aer

section. The medical marijuana use registry must be accessible to law enforcement agencies, qualified physicians, and medical marijuana treatment centers to verify the authorization of a qualified patient or a caregiver to possess marijuana or a marijuana delivery device and record the marijuana or marijuana delivery device dispensed. The medical marijuana use registry must also be accessible to practitioners licensed to prescribe prescription drugs to ensure proper care for patients before medications that may interact with the medical use of marijuana are prescribed. The medical marijuana use registry must prevent an active registration of a qualified patient by multiple physicians.

(b) The department shall determine whether an individual is a resident of this state for the purpose of registration of qualified patients and caregivers in the medical marijuana use registry. To prove residency:

1. An adult resident must provide the department with a copy of his or her valid Florida driver license issued under s. 322.18 or a copy of a valid Florida identification card issued under s. 322.051.

2. An adult seasonal resident who cannot meet the requirements of subparagraph 1. may provide the department with a copy of two of the following that show proof of residential address:

a. A deed, mortgage, monthly mortgage statement, mortgage payment booklet or residential rental or lease agreement.

b. One proof of residential address from the seasonal resident's parent, step-parent, legal guardian or other person with whom the seasonal resident resides and a statement from the

20178Aer

person with whom the seasonal resident resides stating that the seasonal resident does reside with him or her.

c. A utility hookup or work order dated within 60 days before registration in the medical use registry.

d. A utility bill, not more than 2 months old.

e. Mail from a financial institution, including checking, savings, or investment account statements, not more than 2 months old.

f. Mail from a federal, state, county, or municipal government agency, not more than 2 months old.

g. Any other documentation that provides proof of residential address as determined by department rule.

3. A minor must provide the department with a certified copy of a birth certificate or a current record of registration from a Florida K-12 school and must have a parent or legal guardian who meets the requirements of subparagraph 1.

For the purposes of this paragraph, the term "seasonal resident" means any person who temporarily resides in this state for a period of at least 31 consecutive days in each calendar year, maintains a temporary residence in this state, returns to the state or jurisdiction of his or her residence at least one time during each calendar year, and is registered to vote or pays income tax in another state or jurisdiction.

(c) The department may suspend or revoke the registration of a qualified patient or caregiver if the qualified patient or caregiver:

1. Provides misleading, incorrect, false, or fraudulent information to the department;

20178Aer

523 2. Obtains a supply of marijuana in an amount greater than
524 the amount authorized by the physician certification;

525 3. Falsifies, alters, or otherwise modifies an
526 identification card;

527 4. Fails to timely notify the department of any changes to
528 his or her qualified patient status; or

529 5. Violates the requirements of this section or any rule
530 adopted under this section.

531 (d) The department shall immediately suspend the
532 registration of a qualified patient charged with a violation of
533 chapter 893 until final disposition of any alleged offense.
534 Thereafter, the department may extend the suspension, revoke the
535 registration, or reinstate the registration.

536 (e) The department shall immediately suspend the
537 registration of any caregiver charged with a violation of
538 chapter 893 until final disposition of any alleged offense. The
539 department shall revoke a caregiver registration if the
540 caregiver does not meet the requirements of subparagraph
541 (6)(b)6.

542 (f) The department may revoke the registration of a
543 qualified patient or caregiver who cultivates marijuana or who
544 acquires, possesses, or delivers marijuana from any person or
545 entity other than a medical marijuana treatment center.

546 (g) The department shall revoke the registration of a
547 qualified patient, and the patient's associated caregiver, upon
548 notification that the patient no longer meets the criteria of a
549 qualified patient.

550 (h) The department may adopt rules pursuant to ss.
551 120.536(1) and 120.54 to implement this subsection.

20178Aer

(6) CAREGIVERS.—

(a) The department must register an individual as a caregiver on the medical marijuana use registry and issue a caregiver identification card if an individual designated by a qualified patient meets all of the requirements of this subsection and department rule.

(b) A caregiver must:

1. Not be a qualified physician and not be employed by or have an economic interest in a medical marijuana treatment center or a marijuana testing laboratory.

2. Be 21 years of age or older and a resident of this state.

3. Agree in writing to assist with the qualified patient's medical use of marijuana.

4. Be registered in the medical marijuana use registry as a caregiver for no more than one qualified patient, except as provided in this paragraph.

5. Successfully complete a caregiver certification course developed and administered by the department or its designee, which must be renewed biennially. The price of the course may not exceed \$100.

6. Pass a background screening pursuant to subsection (9), unless the patient is a close relative of the caregiver.

(c) A qualified patient may designate no more than one caregiver to assist with the qualified patient's medical use of marijuana, unless:

1. The qualified patient is a minor and the designated caregivers are parents or legal guardians of the qualified patient;

20178Aer

2. The qualified patient is an adult who has an intellectual or developmental disability that prevents the patient from being able to protect or care for himself or herself without assistance or supervision and the designated caregivers are the parents or legal guardians of the qualified patient; or

3. The qualified patient is admitted to a hospice program.

(d) A caregiver may be registered in the medical marijuana use registry as a designated caregiver for no more than one qualified patient, unless:

1. The caregiver is a parent or legal guardian of more than one minor who is a qualified patient;

2. The caregiver is a parent or legal guardian of more than one adult who is a qualified patient and who has an intellectual or developmental disability that prevents the patient from being able to protect or care for himself or herself without assistance or supervision; or

3. All qualified patients the caregiver has agreed to assist are admitted to a hospice program and have requested the assistance of that caregiver with the medical use of marijuana; the caregiver is an employee of the hospice; and the caregiver provides personal care or other services directly to clients of the hospice in the scope of that employment.

(e) A caregiver may not receive compensation, other than actual expenses incurred, for any services provided to the qualified patient.

(f) If a qualified patient is younger than 18 years of age, only a caregiver may purchase or administer marijuana for medical use by the qualified patient. The qualified patient may

20178Aer

not purchase marijuana.

(g) A caregiver must be in immediate possession of his or her medical marijuana use registry identification card at all times when in possession of marijuana or a marijuana delivery device and must present his or her medical marijuana use registry identification card upon the request of a law enforcement officer.

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(7) IDENTIFICATION CARDS.—

(a) The department shall issue medical marijuana use registry identification cards for qualified patients and caregivers who are residents of this state, which must be renewed annually. The identification cards must be resistant to counterfeiting and tampering and must include, at a minimum, the following:

1. The name, address, and date of birth of the qualified patient or caregiver.

2. A full-face, passport-type, color photograph of the qualified patient or caregiver taken within the 90 days immediately preceding registration or the Florida driver license or Florida identification card photograph of the qualified patient or caregiver obtained directly from the Department of Highway Safety and Motor Vehicles.

3. Identification as a qualified patient or a caregiver.

4. The unique numeric identifier used for the qualified patient in the medical marijuana use registry.

5. For a caregiver, the name and unique numeric identifier of the caregiver and the qualified patient or patients that the

20178Aer

caregiver is assisting.

6. The expiration date of the identification card.

(b) The department must receive written consent from a qualified patient's parent or legal guardian before it may issue an identification card to a qualified patient who is a minor.

(c) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing procedures for the issuance, renewal, suspension, replacement, surrender, and revocation of medical marijuana use registry identification cards pursuant to this section and shall begin issuing qualified patient identification cards by October 3, 2017.

(d) Applications for identification cards must be submitted on a form prescribed by the department. The department may charge a reasonable fee associated with the issuance, replacement, and renewal of identification cards. The department shall allocate \$10 of the identification card fee to the Division of Research at Florida Agricultural and Mechanical University for the purpose of educating minorities about marijuana for medical use and the impact of the unlawful use of marijuana on minority communities. The department shall contract with a third-party vendor to issue identification cards. The vendor selected by the department must have experience performing similar functions for other state agencies.

(e) A qualified patient or caregiver shall return his or her identification card to the department within 5 business days after revocation.

(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(a) The department shall license medical marijuana treatment centers to ensure reasonable statewide accessibility

20178Aer

and availability as necessary for qualified patients registered
in the medical marijuana use registry and who are issued a
physician certification under this section.

1. As soon as practicable, but no later than July 3, 2017,
the department shall license as a medical marijuana treatment
center any entity that holds an active, unrestricted license to
cultivate, process, transport, and dispense low-THC cannabis,
medical cannabis, and cannabis delivery devices, under former s.
381.986, Florida Statutes 2016, before July 1, 2017, and which
meets the requirements of this section. In addition to the
authority granted under this section, these entities are
authorized to dispense low-THC cannabis, medical cannabis, and
cannabis delivery devices ordered pursuant to former s. 381.986,
Florida Statutes 2016, which were entered into the compassionate
use registry before July 1, 2017, and are authorized to begin
dispensing marijuana under this section on July 3, 2017. The
department may grant variances from the representations made in
such an entity's original application for approval under former
s. 381.986, Florida Statutes 2014, pursuant to paragraph (e).

2. The department shall license as medical marijuana
treatment centers 10 applicants that meet the requirements of
this section, under the following parameters:

a. As soon as practicable, but no later than August 1,
2017, the department shall license any applicant whose
application was reviewed, evaluated, and scored by the
department and which was denied a dispensing organization
license by the department under former s. 381.986, Florida
Statutes 2014; which had one or more administrative or judicial
challenges pending as of January 1, 2017, or had a final ranking

20178Aer

697 within one point of the highest final ranking in its region
698 under former s. 381.986, Florida Statutes 2014; which meets the
699 requirements of this section; and which provides documentation
700 to the department that it has the existing infrastructure and
701 technical and technological ability to begin cultivating
702 marijuana within 30 days after registration as a medical
703 marijuana treatment center.

704 b. As soon as practicable, but no later than October 3,
705 2017, the department shall license one applicant that is a
706 recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82
707 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1
708 (D.D.C. 2011) and is a member of the Black Farmers and
709 Agriculturalists Association-Florida Chapter. An applicant
710 licensed under this sub-subparagraph is exempt from the
711 requirements of subparagraphs (b)1. and (b)2.

712 c. As soon as practicable, but no later than October 3,
713 2017, the department shall license applicants that meet the
714 requirements of this section in sufficient numbers to result in
715 10 total licenses issued under this subparagraph, while
716 accounting for the number of licenses issued under sub-
717 paragraphs a. and b.

718 3. For up to two of the licenses issued under subparagraph
719 2., the department shall give preference to applicants that
720 demonstrate in their applications that they own one or more
721 facilities that are, or were, used for the canning,
722 concentrating, or otherwise processing of citrus fruit or citrus
723 molasses and will use or convert the facility or facilities for
724 the processing of marijuana.

725 4. Within 6 months after the registration of 100,000 active

20178Aer

qualified patients in the medical marijuana use registry, the department shall license four additional medical marijuana treatment centers that meet the requirements of this section. Thereafter, the department shall license four medical marijuana treatment centers within 6 months after the registration of each additional 100,000 active qualified patients in the medical marijuana use registry that meet the requirements of this section.

5. Dispensing facilities are subject to the following requirements:

a. A medical marijuana treatment center may not establish or operate more than a statewide maximum of 25 dispensing facilities, unless the medical marijuana use registry reaches a total of 100,000 active registered qualified patients. When the medical marijuana use registry reaches 100,000 active registered qualified patients, and then upon each further instance of the total active registered qualified patients increasing by 100,000, the statewide maximum number of dispensing facilities that each licensed medical marijuana treatment center may establish and operate increases by five.

b. A medical marijuana treatment center may not establish more than the maximum number of dispensing facilities allowed in each of the Northwest, Northeast, Central, Southwest, and Southeast Regions. The department shall determine a medical marijuana treatment center's maximum number of dispensing facilities allowed in each region by calculating the percentage of the total statewide population contained within that region and multiplying that percentage by the medical marijuana treatment center's statewide maximum number of dispensing

20178Aer

755 facilities established under sub-subparagraph a., rounded to the
756 nearest whole number. The department shall ensure that such
757 rounding does not cause a medical marijuana treatment center's
758 total number of statewide dispensing facilities to exceed its
759 statewide maximum. The department shall initially calculate the
760 maximum number of dispensing facilities allowed in each region
761 for each medical marijuana treatment center using county
762 population estimates from the Florida Estimates of Population
763 2016, as published by the Office of Economic and Demographic
764 Research, and shall perform recalculations following the
765 official release of county population data resulting from each
766 United States Decennial Census. For the purposes of this
767 subparagraph:

768 (I) The Northwest Region consists of Bay, Calhoun,
769 Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson,
770 Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla,
771 Walton, and Washington Counties.

772 (II) The Northeast Region consists of Alachua, Baker,
773 Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist,
774 Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns,
775 Suwannee, and Union Counties.

776 (III) The Central Region consists of Brevard, Citrus,
777 Hardee, Hernando, Indian River, Lake, Orange, Osceola, Pasco,
778 Pinellas, Polk, Seminole, St. Lucie, Sumter, and Volusia
779 Counties.

780 (IV) The Southwest Region consists of Charlotte, Collier,
781 DeSoto, Glades, Hendry, Highlands, Hillsborough, Lee, Manatee,
782 Okeechobee, and Sarasota Counties.

783 (V) The Southeast Region consists of Broward, Miami-Dade,

20178Aer

Martin, Monroe, and Palm Beach Counties.

c. If a medical marijuana treatment center establishes a number of dispensing facilities within a region that is less than the number allowed for that region under sub-subparagraph b., the medical marijuana treatment center may sell one or more of its unused dispensing facility slots to other licensed medical marijuana treatment centers. For each dispensing facility slot that a medical marijuana treatment center sells, that medical marijuana treatment center's statewide maximum number of dispensing facilities, as determined under sub-subparagraph a., is reduced by one. The statewide maximum number of dispensing facilities for a medical marijuana treatment center that purchases an unused dispensing facility slot is increased by one per slot purchased. Additionally, the sale of a dispensing facility slot shall reduce the seller's regional maximum and increase the purchaser's regional maximum number of dispensing facilities, as determined in sub-subparagraph b., by one for that region. For any slot purchased under this sub-subparagraph, the regional restriction applied to that slot's location under sub-subparagraph b. before the purchase shall remain in effect following the purchase. A medical marijuana treatment center that sells or purchases a dispensing facility slot must notify the department within 3 days of sale.

d. This subparagraph shall expire on April 1, 2020.

If this subparagraph or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this

20178Aer

end, the provisions of this subparagraph are severable.

(b) An applicant for licensure as a medical marijuana treatment center shall apply to the department on a form prescribed by the department and adopted in rule. The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for the issuance and biennial renewal of licenses, including initial application and biennial renewal fees sufficient to cover the costs of implementing and administering this section, and establishing supplemental licensure fees for payment beginning May 1, 2018, sufficient to cover the costs of administering ss. 381.989 and 1004.4351. The department shall identify applicants with strong diversity plans reflecting this state's commitment to diversity and implement training programs and other educational programs to enable minority persons and minority business enterprises, as defined in s. 288.703, and veteran business enterprises, as defined in s. 295.187, to compete for medical marijuana treatment center licensure and contracts. Subject to the requirements in subparagraphs (a)2.-4., the department shall issue a license to an applicant if the applicant meets the requirements of this section and pays the initial application fee. The department shall renew the licensure of a medical marijuana treatment center biennially if the licensee meets the requirements of this section and pays the biennial renewal fee. An individual may not be an applicant, owner, officer, board member, or manager on more than one application for licensure as a medical marijuana treatment center. An individual or entity may not be awarded more than one license as a medical marijuana treatment center. An applicant for licensure as a medical marijuana treatment

20178Aer

center must demonstrate:

1. That, for the 5 consecutive years before submitting the application, the applicant has been registered to do business in the state.

2. Possession of a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131.

3. The technical and technological ability to cultivate and produce marijuana, including, but not limited to, low-THC cannabis.

4. The ability to secure the premises, resources, and personnel necessary to operate as a medical marijuana treatment center.

5. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.

6. An infrastructure reasonably located to dispense marijuana to registered qualified patients statewide or regionally as determined by the department.

7. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financial statements to the department.

a. Upon approval, the applicant must post a \$5 million performance bond issued by an authorized surety insurance company rated in one of the three highest rating categories by a nationally recognized rating service. However, a medical marijuana treatment center serving at least 1,000 qualified patients is only required to maintain a \$2 million performance

20178Aer

bond.

b. In lieu of the performance bond required under sub-
subparagraph a., the applicant may provide an irrevocable letter
of credit payable to the department or provide cash to the
department. If provided with cash under this sub-subparagraph,
the department shall deposit the cash in the Grants and
Donations Trust Fund within the Department of Health, subject to
the same conditions as the bond regarding requirements for the
applicant to forfeit ownership of the funds. If the funds
deposited under this sub-subparagraph generate interest, the
amount of that interest shall be used by the department for the
administration of this section.

8. That all owners, officers, board members, and managers
have passed a background screening pursuant to subsection (9).

9. The employment of a medical director to supervise the
activities of the medical marijuana treatment center.

10. A diversity plan that promotes and ensures the
involvement of minority persons and minority business
enterprises, as defined in s. 288.703, or veteran business
enterprises, as defined in s. 295.187, in ownership, management,
and employment. An applicant for licensure renewal must show the
effectiveness of the diversity plan by including the following
with his or her application for renewal:

a. Representation of minority persons and veterans in the
medical marijuana treatment center's workforce;

b. Efforts to recruit minority persons and veterans for
employment; and

c. A record of contracts for services with minority
business enterprises and veteran business enterprises.

20178Aer

900 (c) A medical marijuana treatment center may not make a
901 wholesale purchase of marijuana from, or a distribution of
902 marijuana to, another medical marijuana treatment center, unless
903 the medical marijuana treatment center seeking to make a
904 wholesale purchase of marijuana submits proof of harvest failure
905 to the department.

906 (d) The department shall establish, maintain, and control a
907 computer software tracking system that traces marijuana from
908 seed to sale and allows real-time, 24-hour access by the
909 department to data from all medical marijuana treatment centers
910 and marijuana testing laboratories. The tracking system must
911 allow for integration of other seed-to-sale systems and, at a
912 minimum, include notification of when marijuana seeds are
913 planted, when marijuana plants are harvested and destroyed, and
914 when marijuana is transported, sold, stolen, diverted, or lost.
915 Each medical marijuana treatment center shall use the seed-to-
916 sale tracking system established by the department or integrate
917 its own seed-to-sale tracking system with the seed-to-sale
918 tracking system established by the department. Each medical
919 marijuana treatment center may use its own seed-to-sale system
920 until the department establishes a seed-to-sale tracking system.
921 The department may contract with a vendor to establish the seed-
922 to-sale tracking system. The vendor selected by the department
923 may not have a contractual relationship with the department to
924 perform any services pursuant to this section other than the
925 seed-to-sale tracking system. The vendor may not have a direct
926 or indirect financial interest in a medical marijuana treatment
927 center or a marijuana testing laboratory.

928 (e) A licensed medical marijuana treatment center shall

20178Aer

929 cultivate, process, transport, and dispense marijuana for
930 medical use. A licensed medical marijuana treatment center may
931 not contract for services directly related to the cultivation,
932 processing, and dispensing of marijuana or marijuana delivery
933 devices, except that a medical marijuana treatment center
934 licensed pursuant to subparagraph (a)1. may contract with a
935 single entity for the cultivation, processing, transporting, and
936 dispensing of marijuana and marijuana delivery devices. A
937 licensed medical marijuana treatment center must, at all times,
938 maintain compliance with the criteria demonstrated and
939 representations made in the initial application and the criteria
940 established in this subsection. Upon request, the department may
941 grant a medical marijuana treatment center a variance from the
942 representations made in the initial application. Consideration
943 of such a request shall be based upon the individual facts and
944 circumstances surrounding the request. A variance may not be
945 granted unless the requesting medical marijuana treatment center
946 can demonstrate to the department that it has a proposed
947 alternative to the specific representation made in its
948 application which fulfills the same or a similar purpose as the
949 specific representation in a way that the department can
950 reasonably determine will not be a lower standard than the
951 specific representation in the application. A variance may not
952 be granted from the requirements in subparagraph 2. and
953 subparagraphs (b)1. and 2.

954 1. A licensed medical marijuana treatment center may
955 transfer ownership to an individual or entity who meets the
956 requirements of this section. A publicly traded corporation or
957 publicly traded company that meets the requirements of this

20178Aer

section is not precluded from ownership of a medical marijuana treatment center. To accommodate a change in ownership:

a. The licensed medical marijuana treatment center shall notify the department in writing at least 60 days before the anticipated date of the change of ownership.

b. The individual or entity applying for initial licensure due to a change of ownership must submit an application that must be received by the department at least 60 days before the date of change of ownership.

c. Upon receipt of an application for a license, the department shall examine the application and, within 30 days after receipt, notify the applicant in writing of any apparent errors or omissions and request any additional information required.

d. Requested information omitted from an application for licensure must be filed with the department within 21 days after the department's request for omitted information or the application shall be deemed incomplete and shall be withdrawn from further consideration and the fees shall be forfeited.

Within 30 days after the receipt of a complete application, the department shall approve or deny the application.

2. A medical marijuana treatment center, and any individual or entity who directly or indirectly owns, controls, or holds with power to vote 5 percent or more of the voting shares of a medical marijuana treatment center, may not acquire direct or indirect ownership or control of any voting shares or other form of ownership of any other medical marijuana treatment center.

3. A medical marijuana treatment center may not enter into

20178Aer

any form of profit-sharing arrangement with the property owner or lessor of any of its facilities where cultivation, processing, storing, or dispensing of marijuana and marijuana delivery devices occurs.

4. All employees of a medical marijuana treatment center must be 21 years of age or older and have passed a background screening pursuant to subsection (9).

5. Each medical marijuana treatment center must adopt and enforce policies and procedures to ensure employees and volunteers receive training on the legal requirements to dispense marijuana to qualified patients.

6. When growing marijuana, a medical marijuana treatment center:

a. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. 487.042.

b. Must grow marijuana within an enclosed structure and in a room separate from any other plant.

c. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state in accordance with chapter 581 and any rules adopted thereunder.

d. Must perform fumigation or treatment of plants, or remove and destroy infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

7. Each medical marijuana treatment center must produce and make available for purchase at least one low-THC cannabis

20178Aer

product.

8. A medical marijuana treatment center that produces edibles must hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and must comply with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder. Edibles may not contain more than 200 milligrams of tetrahydrocannabinol and a single serving portion of an edible may not exceed 10 milligrams of tetrahydrocannabinol. Edibles may have a potency variance of no greater than 15 percent. Edibles may not be attractive to children; be manufactured in the shape of humans, cartoons, or animals; be manufactured in a form that bears any reasonable resemblance to products available for consumption as commercially available candy; or contain any color additives. To discourage consumption of edibles by children, the department shall determine by rule any shapes, forms, and ingredients allowed and prohibited for edibles. Medical marijuana treatment centers may not begin processing or dispensing edibles until after the effective date of the rule. The department shall also adopt sanitation rules providing the standards and requirements for the storage, display, or dispensing of edibles.

9. Within 12 months after licensure, a medical marijuana treatment center must demonstrate to the department that all of its processing facilities have passed a Food Safety Good Manufacturing Practices, such as Global Food Safety Initiative or equivalent, inspection by a nationally accredited certifying body. A medical marijuana treatment center must immediately stop processing at any facility which fails to pass this inspection

20178Aer

until it demonstrates to the department that such facility has met this requirement.

10. When processing marijuana, a medical marijuana treatment center must:

a. Process the marijuana within an enclosed structure and in a room separate from other plants or products.

b. Comply with department rules when processing marijuana with hydrocarbon solvents or other solvents or gases exhibiting potential toxicity to humans. The department shall determine by rule the requirements for medical marijuana treatment centers to use such solvents or gases exhibiting potential toxicity to humans.

c. Comply with federal and state laws and regulations and department rules for solid and liquid wastes. The department shall determine by rule procedures for the storage, handling, transportation, management, and disposal of solid and liquid waste generated during marijuana production and processing. The Department of Environmental Protection shall assist the department in developing such rules.

d. Test the processed marijuana using a medical marijuana testing laboratory before it is dispensed. Results must be verified and signed by two medical marijuana treatment center employees. Before dispensing, the medical marijuana treatment center must determine that the test results indicate that low-THC cannabis meets the definition of low-THC cannabis, the concentration of tetrahydrocannabinol meets the potency requirements of this section, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and all marijuana is safe for human consumption and free from

20178Aer

1074 contaminants that are unsafe for human consumption. The
1075 department shall determine by rule which contaminants must be
1076 tested for and the maximum levels of each contaminant which are
1077 safe for human consumption. The Department of Agriculture and
1078 Consumer Services shall assist the department in developing the
1079 testing requirements for contaminants that are unsafe for human
1080 consumption in edibles. The department shall also determine by
1081 rule the procedures for the treatment of marijuana that fails to
1082 meet the testing requirements of this section, s. 381.988, or
1083 department rule. The department may select a random sample from
1084 edibles available for purchase in a dispensing facility which
1085 shall be tested by the department to determine that the edible
1086 meets the potency requirements of this section, is safe for
1087 human consumption, and the labeling of the tetrahydrocannabinol
1088 and cannabidiol concentration is accurate. A medical marijuana
1089 treatment center may not require payment from the department for
1090 the sample. A medical marijuana treatment center must recall
1091 edibles, including all edibles made from the same batch of
1092 marijuana, which fail to meet the potency requirements of this
1093 section, which are unsafe for human consumption, or for which
1094 the labeling of the tetrahydrocannabinol and cannabidiol
1095 concentration is inaccurate. The medical marijuana treatment
1096 center must retain records of all testing and samples of each
1097 homogenous batch of marijuana for at least 9 months. The medical
1098 marijuana treatment center must contract with a marijuana
1099 testing laboratory to perform audits on the medical marijuana
1100 treatment center's standard operating procedures, testing
1101 records, and samples and provide the results to the department
1102 to confirm that the marijuana or low-THC cannabis meets the

20178Aer

requirements of this section and that the marijuana or low-THC cannabis is safe for human consumption. A medical marijuana treatment center shall reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of such audits. A medical marijuana treatment center may use a laboratory that has not been certified by the department under s. 381.988 until such time as at least one laboratory holds the required certification, but in no event later than July 1, 2018.

e. Package the marijuana in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

f. Package the marijuana in a receptacle that has a firmly affixed and legible label stating the following information:

(I) The marijuana or low-THC cannabis meets the requirements of sub-subparagraph d.

(II) The name of the medical marijuana treatment center from which the marijuana originates.

(III) The batch number and harvest number from which the marijuana originates and the date dispensed.

(IV) The name of the physician who issued the physician certification.

(V) The name of the patient.

(VI) The product name, if applicable, and dosage form, including concentration of tetrahydrocannabinol and cannabidiol. The product name may not contain wording commonly associated with products marketed by or to children.

(VII) The recommended dose.

(VIII) A warning that it is illegal to transfer medical

20178Aer

marijuana to another person.

(IX) A marijuana universal symbol developed by the
department.

11. The medical marijuana treatment center shall include in
each package a patient package insert with information on the
specific product dispensed related to:

a. Clinical pharmacology.

b. Indications and use.

c. Dosage and administration.

d. Dosage forms and strengths.

e. Contraindications.

f. Warnings and precautions.

g. Adverse reactions.

12. Each edible shall be individually sealed in plain,
opaque wrapping marked only with the marijuana universal symbol.
Where practical, each edible shall be marked with the marijuana
universal symbol. In addition to the packaging and labeling
requirements in subparagraphs 10. and 11., edible receptacles
must be plain, opaque, and white without depictions of the
product or images other than the medical marijuana treatment
center's department-approved logo and the marijuana universal
symbol. The receptacle must also include a list all of the
edible's ingredients, storage instructions, an expiration date,
a legible and prominent warning to keep away from children and
pets, and a warning that the edible has not been produced or
inspected pursuant to federal food safety laws.

13. When dispensing marijuana or a marijuana delivery
device, a medical marijuana treatment center:

a. May dispense any active, valid order for low-THC

20178Aer

cannabis, medical cannabis and cannabis delivery devices issued pursuant to former s. 381.986, Florida Statutes 2016, which was entered into the medical marijuana use registry before July 1, 2017.

b. May not dispense more than a 70-day supply of marijuana to a qualified patient or caregiver.

c. Must have the medical marijuana treatment center's employee who dispenses the marijuana or a marijuana delivery device enter into the medical marijuana use registry his or her name or unique employee identifier.

d. Must verify that the qualified patient and the caregiver, if applicable, each has an active registration in the medical marijuana use registry and an active and valid medical marijuana use registry identification card, the amount and type of marijuana dispensed matches the physician certification in the medical marijuana use registry for that qualified patient, and the physician certification has not already been filled.

e. May not dispense marijuana to a qualified patient who is younger than 18 years of age. If the qualified patient is younger than 18 years of age, marijuana may only be dispensed to the qualified patient's caregiver.

f. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes, bongs, or wrapping papers, other than a marijuana delivery device required for the medical use of marijuana and which is specified in a physician certification.

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana

20178Aer

delivery device dispensed; and the name and medical marijuana
use registry identification number of the qualified patient or
caregiver to whom the marijuana delivery device was dispensed.

h. Must ensure that patient records are not visible to
anyone other than the qualified patient, his or her caregiver,
and authorized medical marijuana treatment center employees.

(f) To ensure the safety and security of premises where the
cultivation, processing, storing, or dispensing of marijuana
occurs, and to maintain adequate controls against the diversion,
theft, and loss of marijuana or marijuana delivery devices, a
medical marijuana treatment center shall:

1.a. Maintain a fully operational security alarm system
that secures all entry points and perimeter windows and is
equipped with motion detectors; pressure switches; and duress,
panic, and hold-up alarms; and

b. Maintain a video surveillance system that records
continuously 24 hours a day and meets the following criteria:

(I) Cameras are fixed in a place that allows for the clear
identification of persons and activities in controlled areas of
the premises. Controlled areas include grow rooms, processing
rooms, storage rooms, disposal rooms or areas, and point-of-sale
rooms.

(II) Cameras are fixed in entrances and exits to the
premises, which shall record from both indoor and outdoor, or
ingress and egress, vantage points.

(III) Recorded images must clearly and accurately display
the time and date.

(IV) Retain video surveillance recordings for at least 45
days or longer upon the request of a law enforcement agency.

20178Aer

1219 2. Ensure that the medical marijuana treatment center's
1220 outdoor premises have sufficient lighting from dusk until dawn.

1221 3. Ensure that the indoor premises where dispensing occurs
1222 includes a waiting area with sufficient space and seating to
1223 accommodate qualified patients and caregivers and at least one
1224 private consultation area that is isolated from the waiting area
1225 and area where dispensing occurs. A medical marijuana treatment
1226 center may not display products or dispense marijuana or
1227 marijuana delivery devices in the waiting area.

1228 4. Not dispense from its premises marijuana or a marijuana
1229 delivery device between the hours of 9 p.m. and 7 a.m., but may
1230 perform all other operations and deliver marijuana to qualified
1231 patients 24 hours a day.

1232 5. Store marijuana in a secured, locked room or a vault.

1233 6. Require at least two of its employees, or two employees
1234 of a security agency with whom it contracts, to be on the
1235 premises at all times where cultivation, processing, or storing
1236 of marijuana occurs.

1237 7. Require each employee or contractor to wear a photo
1238 identification badge at all times while on the premises.

1239 8. Require each visitor to wear a visitor pass at all times
1240 while on the premises.

1241 9. Implement an alcohol and drug-free workplace policy.

1242 10. Report to local law enforcement within 24 hours after
1243 the medical marijuana treatment center is notified or becomes
1244 aware of the theft, diversion, or loss of marijuana.

1245 (g) To ensure the safe transport of marijuana and marijuana
1246 delivery devices to medical marijuana treatment centers,
1247 marijuana testing laboratories, or qualified patients, a medical

20178Aer

marijuana treatment center must:

1. Maintain a marijuana transportation manifest in any vehicle transporting marijuana. The marijuana transportation manifest must be generated from a medical marijuana treatment center's seed-to-sale tracking system and include the:

a. Departure date and approximate time of departure.

b. Name, location address, and license number of the originating medical marijuana treatment center.

c. Name and address of the recipient of the delivery.

d. Quantity and form of any marijuana or marijuana delivery device being transported.

e. Arrival date and estimated time of arrival.

f. Delivery vehicle make and model and license plate number.

g. Name and signature of the medical marijuana treatment center employees delivering the product.

(I) A copy of the marijuana transportation manifest must be provided to each individual, medical marijuana treatment center, or marijuana testing laboratory that receives a delivery. The individual, or a representative of the center or laboratory, must sign a copy of the marijuana transportation manifest acknowledging receipt.

(II) An individual transporting marijuana or a marijuana delivery device must present a copy of the relevant marijuana transportation manifest and his or her employee identification card to a law enforcement officer upon request.

(III) Medical marijuana treatment centers and marijuana testing laboratories must retain copies of all marijuana transportation manifests for at least 3 years.

20178Aer

2. Ensure only vehicles in good working order are used to transport marijuana.

3. Lock marijuana and marijuana delivery devices in a separate compartment or container within the vehicle.

4. Require employees to have possession of their employee identification card at all times when transporting marijuana or marijuana delivery devices.

5. Require at least two persons to be in a vehicle transporting marijuana or marijuana delivery devices, and require at least one person to remain in the vehicle while the marijuana or marijuana delivery device is being delivered.

6. Provide specific safety and security training to employees transporting or delivering marijuana and marijuana delivery devices.

(h) A medical marijuana treatment center may not engage in advertising that is visible to members of the public from any street, sidewalk, park, or other public place, except:

1. The dispensing location of a medical marijuana treatment center may have a sign that is affixed to the outside or hanging in the window of the premises which identifies the dispensary by the licensee's business name, a department-approved trade name, or a department-approved logo. A medical marijuana treatment center's trade name and logo may not contain wording or images commonly associated with marketing targeted toward children or which promote recreational use of marijuana.

2. A medical marijuana treatment center may engage in Internet advertising and marketing under the following conditions:

a. All advertisements must be approved by the department.

20178Aer

b. An advertisement may not have any content that specifically targets individuals under the age of 18, including cartoon characters or similar images.

c. An advertisement may not be an unsolicited pop-up advertisement.

d. Opt-in marketing must include an easy and permanent opt-out feature.

(i) Each medical marijuana treatment center that dispenses marijuana and marijuana delivery devices shall make available to the public on its website:

1. Each marijuana and low-THC product available for purchase, including the form, strain of marijuana from which it was extracted, cannabidiol content, tetrahydrocannabinol content, dose unit, total number of doses available, and the ratio of cannabidiol to tetrahydrocannabinol for each product.

2. The price for a 30-day, 50-day, and 70-day supply at a standard dose for each marijuana and low-THC product available for purchase.

3. The price for each marijuana delivery device available for purchase.

4. If applicable, any discount policies and eligibility criteria for such discounts.

(j) Medical marijuana treatment centers are the sole source from which a qualified patient may legally obtain marijuana.

(k) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(9) BACKGROUND SCREENING.-An individual required to undergo a background screening pursuant to this section must pass a level 2 background screening as provided under chapter 435,

20178Aer

which, in addition to the disqualifying offenses provided in s. 435.04, shall exclude an individual who has an arrest awaiting final disposition for, has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to an offense under chapter 837, chapter 895, or chapter 896 or similar law of another jurisdiction.

(a) Such individual must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

(b) Fees for state and federal fingerprint processing and retention shall be borne by the individual. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other than those specified as exceptions therein.

(c) Fingerprints submitted to the Department of Law Enforcement pursuant to this subsection shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the department.

(10) MEDICAL MARIJUANA TREATMENT CENTER INSPECTIONS;
ADMINISTRATIVE ACTIONS.—

(a) The department shall conduct announced or unannounced

20178Aer

inspections of medical marijuana treatment centers to determine compliance with this section or rules adopted pursuant to this section.

(b) The department shall inspect a medical marijuana treatment center upon receiving a complaint or notice that the medical marijuana treatment center has dispensed marijuana containing mold, bacteria, or other contaminant that may cause or has caused an adverse effect to human health or the environment.

(c) The department shall conduct at least a biennial inspection of each medical marijuana treatment center to evaluate the medical marijuana treatment center's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The Department of Agriculture and Consumer Services and the department shall enter into an interagency agreement to ensure cooperation and coordination in the performance of their obligations under this section and their respective regulatory and authorizing laws. The department, the Department of Highway Safety and Motor Vehicles, and the Department of Law Enforcement may enter into interagency agreements for the purposes specified in this subsection or subsection (7).

(e) The department shall publish a list of all approved medical marijuana treatment centers, medical directors, and qualified physicians on its website.

(f) The department may impose reasonable fines not to exceed \$10,000 on a medical marijuana treatment center for any of the following violations:

1. Violating this section or department rule.

20178Aer

- 1393 2. Failing to maintain qualifications for approval.
- 1394 3. Endangering the health, safety, or security of a
- 1395 qualified patient.
- 1396 4. Improperly disclosing personal and confidential
- 1397 information of the qualified patient.
- 1398 5. Attempting to procure medical marijuana treatment center
- 1399 approval by bribery, fraudulent misrepresentation, or extortion.
- 1400 6. Being convicted or found guilty of, or entering a plea
- 1401 of guilty or nolo contendere to, regardless of adjudication, a
- 1402 crime in any jurisdiction which directly relates to the business
- 1403 of a medical marijuana treatment center.
- 1404 7. Making or filing a report or record that the medical
- 1405 marijuana treatment center knows to be false.
- 1406 8. Willfully failing to maintain a record required by this
- 1407 section or department rule.
- 1408 9. Willfully impeding or obstructing an employee or agent
- 1409 of the department in the furtherance of his or her official
- 1410 duties.
- 1411 10. Engaging in fraud or deceit, negligence, incompetence,
- 1412 or misconduct in the business practices of a medical marijuana
- 1413 treatment center.
- 1414 11. Making misleading, deceptive, or fraudulent
- 1415 representations in or related to the business practices of a
- 1416 medical marijuana treatment center.
- 1417 12. Having a license or the authority to engage in any
- 1418 regulated profession, occupation, or business that is related to
- 1419 the business practices of a medical marijuana treatment center
- 1420 suspended, revoked, or otherwise acted against by the licensing
- 1421 authority of any jurisdiction, including its agencies or

20178Aer

subdivisions, for a violation that would constitute a violation under Florida law.

13. Violating a lawful order of the department or an agency of the state, or failing to comply with a lawfully issued subpoena of the department or an agency of the state.

(g) The department may suspend, revoke, or refuse to renew a medical marijuana treatment center license if the medical marijuana treatment center commits any of the violations in paragraph (f).

(h) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

(11) PREEMPTION.—Regulation of cultivation, processing, and delivery of marijuana by medical marijuana treatment centers is preempted to the state except as provided in this subsection.

(a) A medical marijuana treatment center cultivating or processing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school.

(b)1. A county or municipality may, by ordinance, ban medical marijuana treatment center dispensing facilities from being located within the boundaries of that county or municipality. A county or municipality that does not ban dispensing facilities under this subparagraph may not place specific limits, by ordinance, on the number of dispensing facilities that may locate within that county or municipality.

2. A municipality may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, medical marijuana treatment center dispensing facilities located within

20178Aer

the boundaries of that municipality. A county may determine by ordinance the criteria for the location of, and other permitting requirements that do not conflict with state law or department rule for, all such dispensing facilities located within the unincorporated areas of that county. Except as provided in paragraph (c), a county or municipality may not enact ordinances for permitting or for determining the location of dispensing facilities which are more restrictive than its ordinances permitting or determining the locations for pharmacies licensed under chapter 465. A municipality or county may not charge a medical marijuana treatment center a license or permit fee in an amount greater than the fee charged by such municipality or county to pharmacies. A dispensing facility location approved by a municipality or county pursuant to former s. 381.986(8)(b), Florida Statutes 2016, is not subject to the location requirements of this subsection.

(c) A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety, and general welfare of the community.

(d) This subsection does not prohibit any local jurisdiction from ensuring medical marijuana treatment center facilities comply with the Florida Building Code, the Florida Fire Prevention Code, or any local amendments to the Florida Building Code or the Florida Fire Prevention Code.

20178Aer

(12) PENALTIES.—

(a) A qualified physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the qualified physician issues a physician certification for the medical use of marijuana for a patient without a reasonable belief that the patient is suffering from a qualifying medical condition.

(b) A person who fraudulently represents that he or she has a qualifying medical condition to a qualified physician for the purpose of being issued a physician certification commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A qualified patient who uses marijuana, not including low-THC cannabis, or a caregiver who administers marijuana, not including low-THC cannabis, in plain view of or in a place open to the general public; in a school bus, a vehicle, an aircraft, or a boat; or on the grounds of a school except as provided in s. 1006.062, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A qualified patient or caregiver who cultivates marijuana or who purchases or acquires marijuana from any person or entity other than a medical marijuana treatment center violates s. 893.13 and is subject to the penalties provided therein.

(e)1. A qualified patient or caregiver in possession of marijuana or a marijuana delivery device who fails or refuses to present his or her marijuana use registry identification card upon the request of a law enforcement officer commits a misdemeanor of the second degree, punishable as provided in s.

20178Aer

1509 775.082 or s. 775.083, unless it can be determined through the
1510 medical marijuana use registry that the person is authorized to
1511 be in possession of that marijuana or marijuana delivery device.

1512 2. A person charged with a violation of this paragraph may
1513 not be convicted if, before or at the time of his or her court
1514 or hearing appearance, the person produces in court or to the
1515 clerk of the court in which the charge is pending a medical
1516 marijuana use registry identification card issued to him or her
1517 which is valid at the time of his or her arrest. The clerk of
1518 the court is authorized to dismiss such case at any time before
1519 the defendant's appearance in court. The clerk of the court may
1520 assess a fee of \$5 for dismissing the case under this paragraph.

1521 (f) A caregiver who violates any of the applicable
1522 provisions of this section or applicable department rules, for
1523 the first offense, commits a misdemeanor of the second degree,
1524 punishable as provided in s. 775.082 or s. 775.083 and, for a
1525 second or subsequent offense, commits a misdemeanor of the first
1526 degree, punishable as provided in s. 775.082 or s. 775.083.

1527 (g) A qualified physician who issues a physician
1528 certification for marijuana or a marijuana delivery device and
1529 receives compensation from a medical marijuana treatment center
1530 related to the issuance of a physician certification for
1531 marijuana or a marijuana delivery device is subject to
1532 disciplinary action under the applicable practice act and s.
1533 456.072(1)(n).

1534 (h) A person transporting marijuana or marijuana delivery
1535 devices on behalf of a medical marijuana treatment center or
1536 marijuana testing laboratory who fails or refuses to present a
1537 transportation manifest upon the request of a law enforcement

20178Aer

officer commits a misdemeanor of the second degree, punishable
as provided in s. 775.082 or s. 775.083.

(i) Persons and entities conducting activities authorized
and governed by this section and s. 381.988 are subject to ss.
456.053, 456.054, and 817.505, as applicable.

(j) A person or entity that cultivates, processes,
distributes, sells, or dispenses marijuana, as defined in s.
29(b)(4), Art. X of the State Constitution, and is not licensed
as a medical marijuana treatment center violates s. 893.13 and
is subject to the penalties provided therein.

(k) A person who manufactures, distributes, sells, gives,
or possesses with the intent to manufacture, distribute, sell,
or give marijuana or a marijuana delivery device that he or she
holds out to have originated from a licensed medical marijuana
treatment center but that is counterfeit commits a felony of the
third degree, punishable as provided in s. 775.082, s. 775.083,
or s. 775.084. For the purposes of this paragraph, the term
"counterfeit" means marijuana; a marijuana delivery device; or a
marijuana or marijuana delivery device container, seal, or label
which, without authorization, bears the trademark, trade name,
or other identifying mark, imprint, or device, or any likeness
thereof, of a licensed medical marijuana treatment center and
which thereby falsely purports or is represented to be the
product of, or to have been distributed by, that licensed
medical marijuana treatment facility.

(l) Any person who possesses or manufactures a blank,
forged, stolen, fictitious, fraudulent, counterfeit, or
otherwise unlawfully issued medical marijuana use registry
identification card commits a felony of the third degree,

20178Aer

punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(13) UNLICENSED ACTIVITY.—

(a) If the department has probable cause to believe that a person or entity that is not registered or licensed with the department has violated this section, s. 381.988, or any rule adopted pursuant to this section, the department may issue and deliver to such person or entity a notice to cease and desist from such violation. The department also may issue and deliver a notice to cease and desist to any person or entity who aids and abets such unlicensed activity. The issuance of a notice to cease and desist does not constitute agency action for which a hearing under s. 120.569 or s. 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person or entity who violates any provisions of such order.

(b) In addition to the remedies under paragraph (a), the department may impose by citation an administrative penalty not to exceed \$5,000 per incident. The citation shall be issued to the subject and must contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. If the subject does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation shall become a final order of the department. The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section. Each day that the unlicensed activity continues after issuance of a notice to cease and desist

20178Aer

constitutes a separate violation. The department shall be entitled to recover the costs of investigation and prosecution in addition to the fine levied pursuant to the citation. Service of a citation may be made by personal service or by mail to the subject at the subject's last known address or place of practice. If the department is required to seek enforcement of the cease and desist or agency order, it shall be entitled to collect attorney fees and costs.

(c) In addition to or in lieu of any other administrative remedy, the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist. The civil penalty shall be no less than \$5,000 and no more than \$10,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation and prosecution.

(d) In addition to the other remedies provided in this section, the department or any state attorney may bring an action for an injunction to restrain any unlicensed activity or to enjoin the future operation or maintenance of the unlicensed activity or the performance of any service in violation of this section.

(e) The department must notify local law enforcement of such unlicensed activity for a determination of any criminal violation of chapter 893.

(14) EXCEPTIONS TO OTHER LAWS.—

(a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of

20178Aer

1625 this section, a qualified patient and the qualified patient's
1626 caregiver may purchase from a medical marijuana treatment center
1627 for the patient's medical use a marijuana delivery device and up
1628 to the amount of marijuana authorized in the physician
1629 certification, but may not possess more than a 70-day supply of
1630 marijuana at any given time and all marijuana purchased must
1631 remain in its original packaging.

1632 (b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
1633 any other provision of law, but subject to the requirements of
1634 this section, an approved medical marijuana treatment center and
1635 its owners, managers, and employees may manufacture, possess,
1636 sell, deliver, distribute, dispense, and lawfully dispose of
1637 marijuana or a marijuana delivery device as provided in this
1638 section, s. 381.988, and by department rule. For the purposes of
1639 this subsection, the terms "manufacture," "possession,"
1640 "deliver," "distribute," and "dispense" have the same meanings
1641 as provided in s. 893.02.

1642 (c) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
1643 any other provision of law, but subject to the requirements of
1644 this section, a certified marijuana testing laboratory,
1645 including an employee of a certified marijuana testing
1646 laboratory acting within the scope of his or her employment, may
1647 acquire, possess, test, transport, and lawfully dispose of
1648 marijuana as provided in this section, in s. 381.988, and by
1649 department rule.

1650 (d) A licensed medical marijuana treatment center and its
1651 owners, managers, and employees are not subject to licensure or
1652 regulation under chapter 465 or chapter 499 for manufacturing,
1653 possessing, selling, delivering, distributing, dispensing, or

20178Aer

lawfully disposing of marijuana or a marijuana delivery device,
as provided in this section, s. 381.988, and by department rule.

(e) This subsection does not exempt a person from
prosecution for a criminal offense related to impairment or
intoxication resulting from the medical use of marijuana or
relieve a person from any requirement under law to submit to a
breath, blood, urine, or other test to detect the presence of a
controlled substance.

(f) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
any other provision of law, but subject to the requirements of
this section and pursuant to policies and procedures established
pursuant to s. 1006.62(8), school personnel may possess
marijuana that is obtained for medical use pursuant to this
section by a student who is a qualified patient.

(g) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
any other provision of law, but subject to the requirements of
this section, a research institute established by a public
postsecondary educational institution, such as the H. Lee
Moffitt Cancer Center and Research Institute, Inc., established
under s. 1004.43, or a state university that has achieved the
preeminent state research university designation under s.
1001.7065 may possess, test, transport, and lawfully dispose of
marijuana for research purposes as provided by this section.

(15) APPLICABILITY.—This section does not limit the ability
of an employer to establish, continue, or enforce a drug-free
workplace program or policy. This section does not require an
employer to accommodate the medical use of marijuana in any
workplace or any employee working while under the influence of
marijuana. This section does not create a cause of action

20178Aer

against an employer for wrongful discharge or discrimination.
Marijuana, as defined in this section, is not reimbursable under
chapter 440.

(16) FINES AND FEES.—Fines and fees collected by the
department under this section shall be deposited in the Grants
and Donations Trust Fund within the Department of Health.

Section 4. Paragraph (uu) is added to subsection (1) of
section 458.331, Florida Statutes, to read:

458.331 Grounds for disciplinary action; action by the
board and department.—

(1) The following acts constitute grounds for denial of a
license or disciplinary action, as specified in s. 456.072(2):

(uu) Issuing a physician certification, as defined in s.
381.986, in a manner out of compliance with the requirements of
that section and rules adopted thereunder.

Section 5. Paragraph (ww) is added to subsection (1) of
section 459.015, Florida Statutes, to read:

459.015 Grounds for disciplinary action; action by the
board and department.—

(1) The following acts constitute grounds for denial of a
license or disciplinary action, as specified in s. 456.072(2):

(ww) Issuing a physician certification, as defined in s.
381.986, in a manner not in compliance with the requirements of
that section and rules adopted thereunder.

Section 6. Section 381.988, Florida Statutes, is created to
read:

381.988 Medical marijuana testing laboratories; marijuana
tests conducted by a certified laboratory.—

(1) A person or entity seeking to be a certified marijuana

20178Aer

testing laboratory must:

(a) Not be owned or controlled by a medical marijuana treatment center.

(b) Submit a completed application accompanied by an application fee, as established by department rule.

(c) Submit proof of an accreditation or a certification approved by the department issued by an accreditation or a certification organization approved by the department. The department shall adopt by rule a list of approved laboratory accreditations or certifications and accreditation or certification organizations.

(d) Require all owners and managers to submit to and pass a level 2 background screening pursuant to s. 435.04 and shall deny certification if the person or entity has been found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, any offense listed in chapter 837, chapter 895, or chapter 896 or similar law of another jurisdiction.

1. Such owners and managers must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing.

2. Fees for state and federal fingerprint processing and retention shall be borne by such owners or managers. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e) for records provided to persons or entities other

20178Aer

than those specified as exceptions therein.

3. Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) and, when the Department of Law Enforcement begins participation in the program, enrolled in the Federal Bureau of Investigation's national retained print arrest notification program. Any arrest record identified shall be reported to the department.

(e) Demonstrate to the department the capability of meeting the standards for certification required by this subsection, and the testing requirements of s. 381.986 and this section and rules adopted thereunder.

(2) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for initial certification and biennial renewal, including initial application and biennial renewal fees sufficient to cover the costs of administering this certification program. The department shall renew the certification biennially if the laboratory meets the requirements of this section and pays the biennial renewal fee.

(3) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing the standards for certification of marijuana testing laboratories under this section. The Department of Agriculture and Consumer Services and the Department of Environmental Protection shall assist the department in developing the rule, which must include, but is not limited to:

(a) Security standards.

20178Aer

(b) Minimum standards for personnel.

(c) Sample collection method and process standards.

(d) Proficiency testing for tetrahydrocannabinol potency, concentration of cannabidiol, and contaminants unsafe for human consumption, as determined by department rule.

(e) Reporting content, format, and frequency.

(f) Audits and onsite inspections.

(g) Quality assurance.

(h) Equipment and methodology.

(i) Chain of custody.

(j) Any other standard the department deems necessary to ensure the health and safety of the public.

(4) A marijuana testing laboratory may acquire marijuana only from a medical marijuana treatment center. A marijuana testing laboratory is prohibited from selling, distributing, or transferring marijuana received from a marijuana treatment center, except that a marijuana testing laboratory may transfer a sample to another marijuana testing laboratory in this state.

(5) A marijuana testing laboratory must properly dispose of all samples it receives, unless transferred to another marijuana testing laboratory, after all necessary tests have been conducted and any required period of storage has elapsed, as established by department rule.

(6) A marijuana testing laboratory shall use the computer software tracking system selected by the department under s. 381.986.

(7) The following acts constitute grounds for which disciplinary action specified in subsection (8) may be taken against a certified marijuana testing laboratory:

20178Aer

1799 (a) Permitting unauthorized persons to perform technical
1800 procedures or issue reports.

1801 (b) Demonstrating incompetence or making consistent errors
1802 in the performance of testing or erroneous reporting.

1803 (c) Performing a test and rendering a report thereon to a
1804 person or entity not authorized by law to receive such services.

1805 (d) Failing to file any report required under this section
1806 or s. 381.986 or the rules adopted thereunder.

1807 (e) Reporting a test result if the test was not performed.

1808 (f) Failing to correct deficiencies within the time
1809 required by the department.

1810 (g) Violating or aiding and abetting in the violation of
1811 any provision of s. 381.986 or this section or any rules adopted
1812 thereunder.

1813 (8) The department may refuse to issue or renew, or may
1814 suspend or revoke, the certification of a marijuana testing
1815 laboratory that is found to be in violation of this section or
1816 any rules adopted hereunder. The department may impose fines for
1817 violations of this section or rules adopted thereunder, based on
1818 a schedule adopted in rule. In determining the administrative
1819 action to be imposed for a violation, the department must
1820 consider the following factors:

1821 (a) The severity of the violation, including the
1822 probability of death or serious harm to the health or safety of
1823 any person that may result or has resulted; the severity or
1824 potential harm; and the extent to which s. 381.986 or this
1825 section were violated.

1826 (b) The actions taken by the marijuana testing laboratory
1827 to correct the violation or to remedy the complaint.

20178Aer

(c) Any previous violation by the marijuana testing laboratory.

(d) The financial benefit to the marijuana testing laboratory of committing or continuing the violation.

(9) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

(10) Fees collected by the department under this section shall be deposited in the Grants and Donations Trust Fund within the Department of Health.

Section 7. Section 381.989, Florida Statutes, is created to read:

381.989 Public education campaigns.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Cannabis" has the same meaning as in s. 893.02.

(b) "Department" means the Department of Health.

(c) "Marijuana" has the same meaning as in s. 381.986.

(2) STATEWIDE CANNABIS AND MARIJUANA EDUCATION AND ILLICIT USE PREVENTION CAMPAIGN.—

(a) The department shall implement a statewide cannabis and marijuana education and illicit use prevention campaign to publicize accurate information regarding:

1. The legal requirements for licit use and possession of marijuana in this state.

2. Safe use of marijuana, including preventing access by persons other than qualified patients as defined in s. 381.986, particularly children.

3. The short-term and long-term health effects of cannabis and marijuana use, particularly on minors and young adults.

4. Other cannabis-related and marijuana-related education

20178Aer

determined by the department to be necessary to the public health and safety.

(b) The department shall provide educational materials regarding the eligibility for medical use of marijuana by individuals diagnosed with a terminal condition to individuals that provide palliative care or hospice services.

(c) The department may use television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign. The department may work with school districts, community organizations, and businesses and business organizations and other entities to provide training and programming.

(d) The department may contract with one or more vendors to implement the campaign.

(e) The department shall contract with an independent entity to conduct annual evaluations of the campaign. The evaluations shall assess the reach and impact of the campaign, success in educating the citizens of the state regarding the legal parameters for marijuana use, success in preventing illicit access by adults and youth, and success in preventing negative health impacts from the legalization of marijuana. The first year of the program, the evaluator shall conduct surveys to establish baseline data on youth and adult cannabis use, the attitudes of youth and the general public toward cannabis and marijuana, and any other data deemed necessary for long-term analysis. By January 31 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives the annual evaluation of

20178Aer

the campaign.

(3) STATEWIDE IMPAIRED DRIVING EDUCATION CAMPAIGN.—

(a) The Department of Highway Safety and Motor Vehicles shall implement a statewide impaired driving education campaign to raise awareness and prevent marijuana-related and cannabis-related impaired driving and may contract with one or more vendors to implement the campaign. The Department of Highway Safety and Motor Vehicles may use television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign.

(b) At a minimum, the Department of Highway Safety and Motor Vehicles or a contracted vendor shall establish baseline data on the number of marijuana-related citations for driving under the influence, marijuana-related traffic arrests, marijuana-related traffic accidents, and marijuana-related traffic fatalities, and shall track these measures annually thereafter. The Department of Highway Safety and Motor Vehicles or a contracted vendor shall annually evaluate and compile a report on the efficacy of the campaign based on those measures and other measures established by the Department of Highway Safety and Motor Vehicles. By January 31 of each year, the Department of Highway Safety and Motor Vehicles shall submit the report on the evaluation of the campaign to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 8. Subsection (1) of section 385.211, Florida Statutes, is amended to read:

385.211 Refractory and intractable epilepsy treatment and

20178Aer

research at recognized medical centers.—

(1) As used in this section, the term "low-THC cannabis" means "low-THC cannabis" as defined in s. 381.986 that is dispensed only from a dispensing organization as defined in former s. 381.986, Florida Statutes 2016, or a medical marijuana treatment center as defined in s. 381.986.

Section 9. Paragraphs (b) through (e) of subsection (2) of section 499.0295, Florida Statutes, are redesignated as paragraphs (a) through (d), respectively, and present paragraphs (a) and (c) of that subsection, and subsection (3) of that section are amended, to read:

499.0295 Experimental treatments for terminal conditions.—

(2) As used in this section, the term:

~~(a) "Dispensing organization" means an organization approved by the Department of Health under s. 381.986(5) to cultivate, process, transport, and dispense low THC cannabis, medical cannabis, and cannabis delivery devices.~~

(b)~~(e)~~ "Investigational drug, biological product, or device" means:

~~1.~~ a drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration; ~~or~~

~~2. Medical cannabis that is manufactured and sold by a dispensing organization.~~

(3) Upon the request of an eligible patient, a manufacturer may, ~~or upon a physician's order pursuant to s. 381.986, a~~

20178Aer

~~dispensing organization may:~~

(a) Make its investigational drug, biological product, or device available under this section.

(b) Provide an investigational drug, biological product, or device, ~~or cannabis delivery device as defined in s. 381.986~~ to an eligible patient without receiving compensation.

(c) Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, or device, ~~or cannabis delivery device as defined in s. 381.986.~~

Section 10. Subsection (3) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) "Cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "marijuana," ~~"low-THC cannabis,"~~ as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986.

Section 11. Section 1004.4351, Florida Statutes, is created to read:

1004.4351 Medical marijuana research and education.—

(1) SHORT TITLE.—This section shall be known and may be cited as the "Medical Marijuana Research and Education Act."

(2) LEGISLATIVE FINDINGS.—The Legislature finds that:

20178Aer

(a) The present state of knowledge concerning the use of marijuana to alleviate pain and treat illnesses is limited because permission to perform clinical studies on marijuana is difficult to obtain, with access to research-grade marijuana so restricted that little or no unbiased studies have been performed.

(b) Under the State Constitution, marijuana is available for the treatment of certain debilitating medical conditions.

(c) Additional clinical studies are needed to ensure that the residents of this state obtain the correct dosing, formulation, route, modality, frequency, quantity, and quality of marijuana for specific illnesses.

(d) An effective medical marijuana research and education program would mobilize the scientific, educational, and medical resources that presently exist in this state to determine the appropriate and best use of marijuana to treat illness.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Board" means the Medical Marijuana Research and Education Board.

(b) "Coalition" means the Coalition for Medical Marijuana Research and Education.

(c) "Marijuana" has the same meaning as provided in s. 29, Art. X of the State Constitution.

(4) COALITION FOR MEDICAL MARIJUANA RESEARCH AND EDUCATION.—

(a) There is established within the H. Lee Moffitt Cancer Center and Research Institute, Inc., the Coalition for Medical Marijuana Research and Education. The purpose of the coalition is to conduct rigorous scientific research, provide education,

20178Aer

disseminate research, and guide policy for the adoption of a
statewide policy on ordering and dosing practices for the
medical use of marijuana. The coalition shall be physically
located at the H. Lee Moffitt Cancer Center and Research
Institute, Inc.

(b) The Medical Marijuana Research and Education Board is
established to direct the operations of the coalition. The board
shall be composed of seven members appointed by the chief
executive officer of the H. Lee Moffitt Cancer Center and
Research Institute, Inc. Board members must have experience in a
variety of scientific and medical fields, including, but not
limited to, oncology, neurology, psychology, pediatrics,
nutrition, and addiction. Members shall be appointed to 4-year
terms and may be reappointed to serve additional terms. The
chair shall be elected by the board from among its members to
serve a 2-year term. The board shall meet at least semiannually
at the call of the chair or, in his or her absence or
incapacity, the vice chair. Four members constitute a quorum. A
majority vote of the members present is required for all actions
of the board. The board may prescribe, amend, and repeal a
charter governing the manner in which it conducts its business.
A board member shall serve without compensation but is entitled
to be reimbursed for travel expenses by the coalition or the
organization he or she represents in accordance with s. 112.061.

(c) The coalition shall be administered by a coalition
director, who shall be appointed by and serve at the pleasure of
the board. The coalition director shall, subject to the approval
of the board:

1. Propose a budget for the coalition.

20178Aer

2031 2. Foster the collaboration of scientists, researchers, and
2032 other appropriate personnel in accordance with the coalition's
2033 charter.

2034 3. Identify and prioritize the research to be conducted by
2035 the coalition.

2036 4. Prepare the Medical Marijuana Research and Education
2037 Plan for submission to the board.

2038 5. Apply for grants to obtain funding for research
2039 conducted by the coalition.

2040 6. Perform other duties as determined by the board.

2041 (d) The board shall advise the Board of Governors, the
2042 State Surgeon General, the Governor, and the Legislature with
2043 respect to medical marijuana research and education in this
2044 state. The board shall explore methods of implementing and
2045 enforcing medical marijuana laws in relation to cancer control,
2046 research, treatment, and education.

2047 (e) The board shall annually adopt a plan for medical
2048 marijuana research, known as the "Medical Marijuana Research and
2049 Education Plan," which must be in accordance with state law and
2050 coordinate with existing programs in this state. The plan must
2051 include recommendations for the coordination and integration of
2052 medical, pharmacological, nursing, paramedical, community, and
2053 other resources connected with the treatment of debilitating
2054 medical conditions; research related to the treatment of such
2055 medical conditions; and education.

2056 (f) By February 15 of each year, the board shall issue a
2057 report to the Governor, the President of the Senate, and the
2058 Speaker of the House of Representatives on research projects,
2059 community outreach initiatives, and future plans for the

20178Aer

coalition.

(g) Beginning January 15, 2018, and quarterly thereafter,
the Department of Health shall submit to the board a data set
that includes, for each patient registered in the medical
marijuana use registry, the patient's qualifying medical
condition and the daily dose amount and forms of marijuana
certified for the patient.

(5) RESPONSIBILITIES OF THE H. LEE MOFFITT CANCER CENTER
AND RESEARCH INSTITUTE, INC.—The H. Lee Moffitt Cancer Center
and Research Institute, Inc., shall allocate staff and provide
information and assistance, as the coalition's budget permits,
to assist the board in fulfilling its responsibilities.

Section 12. Subsection (1) of section 1004.441, Florida
Statutes, is amended to read:

1004.441 Refractory and intractable epilepsy treatment and
research.—

(1) As used in this section, the term "low-THC cannabis"
means "low-THC cannabis" as defined in s. 381.986 that is
dispensed only from a dispensing organization as defined in
former s. 381.986, Florida Statutes 2016, or a medical marijuana
treatment center as defined in s. 381.986.

Section 13. Subsection (8) is added to section 1006.062,
Florida Statutes, to read:

1006.062 Administration of medication and provision of
medical services by district school board personnel.—

(8) Each district school board shall adopt a policy and a
procedure for allowing a student who is a qualified patient, as
defined in s. 381.986, to use marijuana obtained pursuant to
that section. Such policy and procedure shall ensure access by

20178Aer

the qualified patient; identify how the marijuana will be
received, accounted for, and stored; and establish processes to
prevent access by other students and school personnel whose
access would be unnecessary for the implementation of the
policy.

Section 14. Department of Health; authority to adopt rules;
cause of action.—

(1) EMERGENCY RULEMAKING.—

(a) The Department of Health and the applicable boards
shall adopt emergency rules pursuant to s. 120.54(4), Florida
Statutes, and this section necessary to implement ss. 381.986
and 381.988, Florida Statutes. If an emergency rule adopted
under this section is held to be unconstitutional or an invalid
exercise of delegated legislative authority, and becomes void,
the department or the applicable boards may adopt an emergency
rule pursuant to this section to replace the rule that has
become void. If the emergency rule adopted to replace the void
emergency rule is also held to be unconstitutional or an invalid
exercise of delegated legislative authority and becomes void,
the department and the applicable boards must follow the
nonemergency rulemaking procedures of the Administrative
Procedures Act to replace the rule that has become void.

(b) For emergency rules adopted under this section, the
department and the applicable boards need not make the findings
required by s. 120.54(4)(a), Florida Statutes. Emergency rules
adopted under this section are exempt from ss. 120.54(3)(b) and
120.541, Florida Statutes. The department and the applicable
boards shall meet the procedural requirements in s. 120.54(a),
Florida Statutes, if the department or the applicable boards

20178Aer

2118 have, before the effective date of this act, held any public
2119 workshops or hearings on the subject matter of the emergency
2120 rules adopted under this subsection. Challenges to emergency
2121 rules adopted under this subsection are subject to the time
2122 schedules provided in s. 120.56(5), Florida Statutes.

2123 (c) Emergency rules adopted under this section are exempt
2124 from s. 120.54(4)(c), Florida Statutes, and shall remain in
2125 effect until replaced by rules adopted under the nonemergency
2126 rulemaking procedures of the Administrative Procedures Act. By
2127 January 1, 2018, the department and the applicable boards shall
2128 initiate nonemergency rulemaking pursuant to the Administrative
2129 Procedures Act to replace all emergency rules adopted under this
2130 section by publishing a notice of rule development in the
2131 Florida Administrative Register. Except as provided in paragraph
2132 (a), after January 1, 2018, the department and applicable boards
2133 may not adopt rules pursuant to the emergency rulemaking
2134 procedures provided in this section.

2135 (2) CAUSE OF ACTION.—

2136 (a) As used in s. 29(d)(3), Article X of the State
2137 Constitution, the term:

2138 1. "Issue regulations" means the filing by the department
2139 of a rule or emergency rule for adoption with the Department of
2140 State.

2141 2. "Judicial relief" means an action for declaratory
2142 judgment pursuant to chapter 86, Florida Statutes.

2143 (b) The venue for actions brought against the department
2144 pursuant to s. 29(d)(3), Article X of the State Constitution
2145 shall be in the circuit court in and for Leon County.

2146 (c) If the department is not issuing patient and caregiver

20178Aer

2147 identification cards or licensing medical marijuana treatment
2148 centers by October 3, 2017, the following shall be a defense to
2149 a cause of action brought under s. 29(d)(3), Article X of the
2150 State Constitution:

2151 1. The department is unable to issue patient and caregiver
2152 identification cards or license medical marijuana treatment
2153 centers due to litigation challenging a rule as an invalid
2154 exercise of delegated legislative authority or unconstitutional.

2155 2. The department is unable to issue patient or caregiver
2156 identification cards or license medical marijuana treatment
2157 centers due to a rule being held as an invalid exercise of
2158 delegated legislative authority or unconstitutional.

2159 Section 15. Department of Law Enforcement; training related
2160 to medical use of marijuana.-The Department of Law Enforcement
2161 shall develop a 4-hour online initial training course, and a 2-
2162 hour online continuing education course, which shall be made
2163 available for use by all law enforcement agencies in this state.
2164 Such training shall cover the legal parameters of marijuana-
2165 related activities governed by ss. 381.986 and 381.988, Florida
2166 Statutes, relating to criminal laws governing marijuana.

2167 Section 16. Section 385.212, Florida Statutes, is amended
2168 to read:

2169 385.212 Powers and duties of the Department of Health;
2170 Office of ~~Medical Marijuana~~ Compassionate Use.-

2171 (1) The Department of Health shall establish an Office of
2172 ~~Medical Marijuana~~ Compassionate Use under the direction of the
2173 Deputy State Health Officer.

2174 (2) The Office of ~~Medical Marijuana~~ Compassionate Use may
2175 enhance access to investigational new drugs for Florida patients

20178Aer

through approved clinical treatment plans or studies. The Office of Medical Marijuana ~~Compassionate~~ Use may:

(a) Create a network of state universities and medical centers recognized pursuant to s. 381.925.

(b) Make any necessary application to the United States Food and Drug Administration or a pharmaceutical manufacturer to facilitate enhanced access to medical ~~compassionate~~ use of marijuana for Florida patients.

(c) Enter into any agreements necessary to facilitate enhanced access to medical ~~compassionate~~ use of marijuana for Florida patients.

(3) The department may adopt rules necessary to implement this section.

(4) The Office of Medical Marijuana Use shall administer and enforce s. 381.986.

Section 17. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 18. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date the act becomes a law.

Section 19. (1) For the 2017-2018 fiscal year, 55 full-time equivalent positions, with associated salary rate of 2,198,860, are authorized and the sums of \$3.5 million in nonrecurring funds from the General Revenue Fund and \$4,055,292 in recurring

20178Aer

2205 funds and \$1,238,148 in nonrecurring funds from the Grants and
2206 Donations Trust Fund are appropriated to the Department of
2207 Health for the purpose of implementing the requirements of this
2208 act. Of the funds appropriated, \$3,158,572 in recurring funds
2209 and \$1,238,148 in nonrecurring funds from the Grants and
2210 Donations Trust Fund and 27 full-time equivalent positions shall
2211 be placed in reserve. The Department of Health is authorized to
2212 submit budget amendments requesting the release of funds being
2213 held in reserve pursuant to chapter 216, Florida Statutes
2214 contingent upon need and demonstration of fee collections to
2215 support the budget authority.

2216 (2) For the 2017-2018 fiscal year, the sum of \$500,000 in
2217 nonrecurring funds from the General Revenue Fund is appropriated
2218 to the Department of Health to implement the statewide cannabis
2219 and marijuana education and illicit use prevention campaign
2220 established under s. 381.989, Florida Statutes.

2221 (3) For the 2017-2018 fiscal year, the sum of \$5 million in
2222 nonrecurring funds from the Highway Safety Operating Trust Fund
2223 are appropriated to the Department of Highway Safety and Motor
2224 Vehicles to implement the statewide impaired driving education
2225 campaign established under s. 381.989, Florida Statutes.

2226 (4) For the 2017-2018 fiscal year, the sum of \$100,000 in
2227 recurring funds from the Highway Safety Operating Trust Fund is
2228 appropriated to the Department of Highway Safety and Motor
2229 Vehicles for the purpose of training additional law enforcement
2230 officers as drug recognition experts.

2231 (5) For the 2017-2018 fiscal year, the sum of \$750,000 in
2232 nonrecurring funds from the General Revenue Fund is provided for
2233 the Coalition for Medicinal Cannabis Research and Education at

20178Aer

2234 the H. Lee Moffitt Cancer Center and Research Institute, Inc.,
2235 to conduct medical cannabis research.

2236 Section 20. This act shall take effect upon becoming a law.

ORDINANCE NO. 17-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, RELATING TO ZONING; CREATING SECTION 13-799.7, PROHIBITING CANNABIS DISPENSING ORGANIZATIONS, MEDICAL MARIJUANA TREATMENT FACILITIES, AND INDEPENDENT TESTING LABORATORIES WITHIN THE TERRITORIAL JURISDICTION OF THE TOWN; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR ORDINANCES IN CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature in 2014 enacted a Low-THC and Medical Cannabis law, the “Compassionate Medical Cannabis Act of 2014” (codified as Section 381.986, Florida Statutes) (“Act”) which, among other provisions, authorized a limited number of large nurseries to cultivate, process, transport and dispense non-euphoric, low THC cannabis and operate as “Dispensing Organizations” for individuals with certain specified serious ailments; and

WHEREAS, the Florida Legislature in 2016 amended the Compassionate Medical Cannabis Act (Section 381.986, Florida Statutes) to include the use of full strength “medical marijuana” for eligible patients with terminal conditions; and

WHEREAS, the 2016 Amendment to Section 381.986, Florida Statutes, expanded the type of marijuana available to eligible patients beyond low THC cannabis to include all types of marijuana, and the statutory amendment has been codified and has become effective in the State of Florida; and

WHEREAS, on November 8, 2016, Florida’s voters voted in favor of an amendment to the Florida Constitution, titled “Use of Marijuana for Debilitating Medical Conditions (“Amendment 2”); and

WHEREAS, Amendment 2 fully legalizes the medical use of marijuana throughout the State of Florida for those individuals with specified debilitating conditions, and authorized the cultivation processing, distribution and sale of marijuana and related activities by licensed “Medical Marijuana Treatment Centers”; and

WHEREAS, Section 381.986(11)(b), Florida Statutes, permits municipalities to determine by ordinance to ban dispensing facilities and medical marijuana treatment facilities; and

WHEREAS, the Administrative Official reviewed the proposed amendment to the and recommends approval, as set forth in the Staff Analysis and Recommendation dated July 7, 2017, and incorporated into this Ordinance by reference; and

WHEREAS, the Town Council appointed the Planning and Zoning Board as the Local Planning Agency (LPA) for the Town pursuant to Section 163.3174, Florida Statutes; and

WHEREAS, on July 18, 2017, after conducting a properly noticed public hearing, the Planning and Zoning Board, acting in its capacity as the Local Planning Agency, acted in accordance with state law, and in specific compliance with Section 163.3174, Florida Statutes and reviewed and recommended approval to the Miami Lakes Town Council; and

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

WHEREAS, on July 25, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council moved the proposed amendment on first reading for second reading and consideration of adoption; and

WHEREAS, The Town Council finds that the proposed amendment to is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development Code found in Subsection 13-306(b) of the Town Code; and

WHEREAS, on September ____, 2017, after conducting a properly noticed public hearing and considering the recommendations of the public, the Local Planning Agency, and the Administrative Official, the Town Council finds it in the public interest to adopt the proposed ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, HEREBY ORDAINS AS FOLLOWS.

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Findings. After considering Staff's report, both submitted in writing and presented orally and the public, the Town Council finds, pursuant to Subsection 13-306(b) of the Town Code, that the proposed amendment is consistent with the Town of Miami Lakes Comprehensive Plan and the criteria for evaluation of an amendment to the Land Development

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

Code found at Subsection 13-306(b) of the Town Code as provided for in the Staff Recommendation and Analysis Report.

Section 3. Approval. The Town Council hereby adopts the amendment as provided at Exhibit "A"

Section 4. Repeal of Conflicting Provisions. All provisions of the Code of the Town of Miami Lakes that are in conflict with this Ordinance are hereby repealed.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Inclusion in the Town Code. It is the intention of the Town Council, and it is hereby ordained, that the provisions of this Ordinance shall be included in the Town Code.

Section 7. Effective date. This Ordinance shall become effective immediately upon adoption.

THIS SPACE INTENTIONAL LEFT BLANK

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

FIRST READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on first reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid

Vice Mayor Tony Lama

Councilmember Luis Collazo

Councilmember Tim Daubert

Councilmember Caesar Mestre

Councilmember Frank Mingo

Councilmember Nelson Rodriguez

Passed on first reading this _____ day of _____, 2017.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

SECOND READING

The foregoing ordinance was offered by Councilmember _____ who moved its adoption on second reading. The motion was seconded by Councilmember _____ and upon being put to a vote, the vote was as follows:

Mayor Manny Cid

Vice Mayor Tony Lama

Councilmember Luis Collazo

Councilmember Tim Daubert

Councilmember Caesar Mestre

Councilmember Frank Mingo

Councilmember Nelson Rodriguez

Passed and adopted on second reading this _____ day of _____, 2017.

Manny Cid

Mayor

Attest:

Gina M. Inguanzo

Town Clerk

Approved as to form and legal sufficiency:

Raul Gastesi, Jr.

Gastesi & Associates, P.A.

Town Attorney

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

EXHIBIT A

Chapter 13 - LAND DEVELOPMENT CODE

* * *

ARTICLE IV. - ZONING DISTRICT REGULATIONS

* * *

DIVISION 21. - ADDITIONAL BUSINESS, COMMERCIAL, INDUSTRIAL AND OTHER USE REGULATIONS

* * *

13-799.7 Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories.

Cannabis Dispensaries, Medical Marijuana Treatment Facilities, and Independent Testing Laboratories are prohibited within the territorial jurisdiction of the Town of Miami Lakes as provided at Florida Statue 381.986.

13-799.7(1) Definitions. For purposes of this section, the following words terms and phrases, including their respective derivatives have the following meanings:

- a. Cannabis means all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant and every compound, manufacture, salt derivative, mixture or preparation of the plant or its seeds or resin. Also known as marijuana.
- b. Cannabis dispensary means an establishment where the cultivation of the cannabis plant, sale of the cannabis plant, sale of any part of the cannabis plant, including its flowers and any derivative product of the cannabis plant, including low-THC cannabis, is dispensed at retail.
- c. Derivative product means any form of cannabis suitable for routes of administration.
- d. Independent testing laboratory means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.

- e. Low-THC cannabis means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin that is dispensed only from a dispensing organization approved by the Florida Department of Health pursuant to Section 381.986, Florida Statutes.
- f. Low-THC cannabis dispensary means an establishment where low-THC cannabis is dispensed at retail.
- g. Medical cannabis means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient as defined in s. 499.0295, Florida Statutes.
- h. Medical Marijuana Treatment Facility means business entities that cultivate, process, and dispense cannabis for medicinal purposes to qualified patients.

Additions to the text are shown in underlined; deletions from the text are shown in ~~striketrough~~.

Omitted portions of this ordinance are shown as “* * *”.