SPONSOR: Sen. Henry & Rep. Keeley
Sens. Marshall, Peterson, Sorenson, Venables; Reps. Barbieri, George, Kowalko, Manolakos, Mulrooney, Schooley, B. Short, Viola

DELAWARE STATE SENATE
146th GENERAL ASSEMBLY

SENATE BILL NO. 17

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE CREATING THE DELAWARE MEDICAL MARIJUANA ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 16 of the Delaware Code by adding a new Chapter 49A to read as follows:

"Chapter 49A. The Delaware Medical Marijuana Act

§4901A. Findings.

(a) Marijuana's recorded use as a medicine goes back nearly 5,000 years. Modern medical research has confirmed the beneficial uses for marijuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis, and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

(b) Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of marijuana in treating a wide array of debilitating medical conditions. These include relief of the neuropathic pain caused by multiple sclerosis, HIV/AIDS, and other illnesses that often fails to respond to conventional treatments and relief of nausea, vomiting, and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens. Specifically, in February 2010, the Center for Medicinal Cannabis Research released a lengthy report that summarized 15 recent studies clearly demonstrating marijuana's medical efficacy for a broad range of conditions. These studies, many of which were double blind, placebo-controlled trials, included neuropathic pain trials published in the Journal of Pain, Neuropsychopharmacology and Neurology, a study on the analgesic efficacy of smoked marijuana published in Anesthesiology, a study on the mechanisms of cannabinoid analgesia in rats published in Pain, and a study on vaporization as a "smokeless" marijuana delivery system published in Clinical Pharmacology & Therapeutics..

(c) Marijuana has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to at least 350,000 patients in states with medical marijuana laws. Marijuana's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy

of HIV Medicine, the American College of Physicians, the American Nurses Association, the American Public Health Association and the Leukemia & Lymphoma Society.

(d) Data from the Federal Bureau of Investigation's Uniform Crime Reports and the Compendium of Federal Justice Statistics show that approximately 99 out of every 100 marijuana arrests in the U.S. are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use marijuana.

(e) Alaska, California, Colorado, the District of Columbia, Hawaii, Maine, Michigan, Montana, Nevada, New Mexico, New Jersey, Oregon, Vermont, Rhode Island, and Washington have removed state-level criminal penalties from the medical use of marijuana. Delaware joins in this effort for the health and welfare of its citizens.

(f) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with this act does not put the state of Delaware in violation of federal law.

(g) State law should make a distinction between the medical and non-medical uses of marijuana. Hence, the purpose of this act is to protect patients with debilitating medical conditions, as well as their physicians and providers, from arrest and prosecution, criminal and other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

§4902A. Definitions.

In this chapter, unless the context otherwise requires, the following definitions shall apply:

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

(b) “Compassion center agent” means a principal officer, board member, employee, or agent of a registered compassion center who is 21 years of age or older and has not been convicted of an excluded felony offense.

(c) "Debilitating medical condition" means one or more of the following:

(1) cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, post-traumatic stress disorder, or the treatment of these conditions;

(2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain, that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects; severe nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis;

(3) glaucoma, when the written certification is signed by a properly licensed ophthalmologist subject to Chapter 17, Title 24 of the Delaware Code; or

(4) any other medical condition or its treatment added by the Department, as provided for in §4906A.

(d) "Department" means the Delaware Department of Health and Social Services or its successor agency.

(e) "Designated caregiver" means a person who:

(1) is at least 21 years of age;

(2) has agreed to assist with a patient's medical use of marijuana;

(3) has not been convicted of an excluded felony offense; and

(4) assists no more than five qualifying patients with their medical use of marijuana.

(f) "Enclosed, locked facility" means a greenhouse, building, or other enclosed area equipped with locks or other security devices that is on a registered compassion center's property and permits access only the compassion center agents working for the registered compassion center.

(g) "Excluded felony offense" means:

(1) a violent crime defined in Title 11, §4214(b), that was classified as a felony in the jurisdiction where the person was convicted; or

(2) a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, not including:

a. an offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed 10 or more years earlier; or

b. an offense that consisted of conduct for which this chapter would likely have prevented a conviction, but the conduct either occurred prior to the enactment of this chapter or was prosecuted by an authority other than the state of Delaware.

(h) "Marijuana" has the meaning given that term in Title 16, §4701(23).

(i) "Medical use" means the acquisition; administration; delivery; possession; transportation; transfer; transportation; or use of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition.

(j) "Physician" means a properly licensed physician subject to Chapter 17 and Chapter 19, Title 24 of the Delaware Code except as otherwise provided in this subsection. If the qualifying patient's debilitating medical condition is post-traumatic stress disorder, the physician must also be a licensed psychiatrist. If the qualifying patient's debilitating

medical condition is glaucoma, the physician must also be a licensed ophthalmologist subject to Chapter 17, Title 24 of the Delaware Code. In relation to a visiting qualifying patient, “physician” means a person who is licensed with authority to prescribe drugs to humans and who may issue a written certifications or its equivalent in the state of the patient’s residence.

(k)"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(l) “Registered compassion center” means a not-for-profit entity registered pursuant to §4914A that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, sells, supplies, or dispenses marijuana, paraphernalia, or related supplies and educational materials to registered qualifying patients.

(m) "Registry identification card" means a document issued by the Department that identifies a person as a registered qualifying patient or registered designated caregiver.

(n) “Registered safety compliance facility” means a nonprofit entity registered under §4915A by the Department to provide one or more of the following services: testing marijuana produced for medical use for potency and contaminants; and training cardholders and prospective compassion center agents. The training may include, but need not be limited to, information related to one or more of the following:

(1) the safe and efficient cultivation, harvesting, packaging, labeling, and distribution of marijuana;

(2) security and inventory accountability procedures; and

(3) up-to-date scientific and medical research findings related to medical marijuana.

(o) “Safety compliance facility agent” means a principal officer, board member, employee, or agent of a registered safety compliance facility who is 21 years of age or older and has not been convicted of an excluded felony offense.

(p) "Usable marijuana" means the flowers of the marijuana plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant. It does not include the weight of any non-marijuana ingredients combined with marijuana, such as ingredients added to prepare a topical administration, food, or drink.

(q) “Verification system” means a phone or Web-based system established and maintained by the Department that is available to law enforcement personnel and compassion center agents on a twenty-four-hour basis for verification of registry identification cards.

(r) "Visiting qualifying patient" means a person who:

(1) has been diagnosed with a debilitating medical condition;

(2) possesses a valid registry identification card, or its equivalent, that was issued pursuant to the laws of another state, district, territory, commonwealth, insular possession of the United States or country recognized by the United States that allows the person to use marijuana for medical purposes in the jurisdiction of issuance; and

(3) is not a resident of Delaware or who has been a resident of Delaware for less than 30 days.

(s) "Written certification" means a document dated and signed by a physician, stating that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide physician-patient relationship where the qualifying patient is under the physician's care for her or his primary care or for her or his debilitating medical condition after the physician has completed an assessment of the qualifying patient's medical history and current medical condition. The bona fide physician-patient relationship may not be limited to authorization for the patient to use medical marijuana or consultation for that purpose. The written certification shall specify the qualifying patient's debilitating medical condition.

§4903A. Protections for the Medical Use of Marijuana.

(a) A registered qualifying patient shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of marijuana pursuant to this chapter, if the registered qualifying patient does not possess more than 6 ounces of usable marijuana.

(b) A registered designated caregiver shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau:

(1) for assisting a registered qualifying patient to whom he or she is connected through the Department's registration process with the medical use of marijuana if the designated caregiver does not possess more than 6 ounces of usable marijuana for each qualifying patient to whom he or she is connected through the Department's registration process; and

(2) for receiving compensation for costs associated with assisting a registered qualifying patient's medical use of marijuana if the registered designated caregiver is connected to the registered qualifying patient through the Department's registration process.

(c) A visiting qualifying patient shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for the medical use of marijuana pursuant to this chapter if the visiting qualifying patient does not possess more than 6 ounces of usable marijuana.

(d) A registered qualifying patient, visiting qualifying patient, or registered designated caregiver shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau:

(1) for possession of marijuana that is incidental to medical use, but is not usable marijuana as defined in this chapter; or

(2) for giving marijuana to a registered qualifying patient, a registered compassion center, or a registered designated caregiver for a registered qualifying patient's medical use where nothing of value is transferred in return, or for offering to do the same, if the person giving the marijuana does not knowingly cause the recipient to possess more marijuana than is permitted by this section.

(e) (1) There shall be a presumption that a qualifying patient is engaged in, or a designated caregiver is assisting with, the medical use of marijuana in accordance with this chapter if the qualifying patient or designated caregiver:

a. is in possession of a valid registry identification card; and

b. is in possession of an amount of marijuana that does not exceed the amount allowed under §4903A(a)-(c).

(2) The presumption may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition in compliance with this chapter.

(f) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Delaware Medical Board or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided that nothing in this chapter shall be deemed to release a physician from the duty to exercise a professional standard of care for evaluating a patient’s medical condition.

(g) No person may be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

(1) selling marijuana paraphernalia to a cardholder upon presentation of an unexpired registry identification card in the recipient’s name or to a compassion center agent or safety compliance facility agent upon presentation of an unexpired copy of the entity’s registration certificate;

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

(3) assisting a registered qualifying patient with using or administering marijuana.

(h) A registered compassion center shall not be subject to prosecution; search or inspection, except by the Department pursuant to §4919A(u); seizure; or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board or entity, for:

(1) acting pursuant to this chapter and Department regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, sell, or dispense marijuana or related supplies and educational materials to registered qualifying patients and visiting qualifying patients who have designated the compassion center to provide for them, to registered designated caregivers on behalf of the registered qualifying patients who have designated the registered compassion center, or to other registered compassion centers; or

(2) selling or transferring marijuana seeds to entities that are licensed or registered in another jurisdiction to dispense marijuana for medical purposes.

(3) transferring marijuana to and from a registered safety compliance facility for the purposes of analytical testing.

(i) A compassion center agent shall not be subject to prosecution, search, or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board or entity, for working or volunteering for a registered compassion center pursuant to this chapter and Department regulations to perform the actions on behalf of a registered compassion center that are authorized by this chapter.

(j) A registered safety compliance facility and safety compliance facility agents acting on behalf of a registered safety compliance facility shall not be subject to prosecution; search, except by the Department pursuant to §4919A(u); seizure; or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with this chapter and Department regulations to provide the following services:

(1) acquiring or possessing marijuana obtained from registered compassion centers;

(2) returning the marijuana to the same registered compassion centers;

(3) transporting marijuana that was produced by registered compassion centers to or from those registered compassion centers;

(4) cultivating, manufacturing, and possessing marijuana for training and analytical testing;

(5) the production or sale of educational materials related to medical marijuana;

(6) the production, sale, or transportation of equipment or materials other than marijuana to registered

compassion centers, including lab equipment and packaging materials, that are used by registered compassion centers;

(7) testing of medical marijuana samples, including for potency and contamination;

(8) providing training to prospective compassion center agents and compassion center agents, provided that only compassion center agents and safety compliance facility agents may be allowed to possess or cultivate marijuana and any possession or cultivation of marijuana must occur on the location registered with the Department; and

(9) receiving compensation for actions allowed under this section.

(k) A visiting qualifying patient or an entity that is registered to dispense marijuana for medical use in other jurisdictions shall not be subject to prosecution; search or inspection, except by the Department pursuant to §4919A(u); seizure; or penalty in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board or entity, for providing marijuana seeds to registered compassion centers.

(l) Any marijuana, marijuana paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of marijuana as allowed under this chapter, or acts incidental to such use, shall not be seized or forfeited. This chapter shall not prevent the seizure or forfeiture of marijuana exceeding the amounts allowed under this chapter nor shall it prevent seizure or forfeiture if the basis for the action is unrelated to the marijuana that is possessed, manufactured, transferred, or used pursuant to this chapter.

(m) Mere possession of, or application for, a registry identification card or registration certificate shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person, property, or home of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

(n) For the purposes of Delaware state law, the medical use of marijuana by a cardholder or registered compassion center shall be considered lawful as long as it is in accordance with this chapter.

(o) Where a state-funded or locally funded law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that he or she is a registered cardholder, or encounters an entity whose personnel credibly assert that it is a registered compassion center, the law enforcement agency shall not provide any information from any marijuana-related investigation of the person to any law enforcement authority that does not recognize the protection of this chapter and any prosecution of the individual, individuals, or entity for a violation of this chapter shall be conducted pursuant to the laws of this state.

§4904A. Limitations.

(a) This chapter shall does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

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

(2) Possessing marijuana, or otherwise engaging in the medical use of marijuana:

(A) in a school bus;

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

(C) in any correctional facility.

(3) Smoking marijuana:

(A) on any form of public transportation; or

(B) in any public place.

(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana, except that a registered qualifying patient or visiting qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

(5) Using marijuana if that person does not have a serious or debilitating medical condition.

(6) Transferring marijuana to any person who is not allowed to possess marijuana under this act.

§4905A. Discrimination Prohibited.

(a) (1) No school or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for his or her status as a registered qualifying patient or a registered designated caregiver, unless failing to do so would cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.

(2) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of marijuana in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.

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

a. The person's status as a cardholder; or

b. A registered qualifying patient's positive drug test for marijuana components or metabolites, unless the patient used, possessed, or was impaired by marijuana on the premises of the place of employment or during the hours of employment.

(b) A person otherwise entitled to custody of or visitation or parenting time with a minor shall not be denied such a right, and there shall be no presumption of neglect or child endangerment, for conduct allowed under this chapter, unless the person's actions in relation to marijuana were such that they created an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

(c) No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.

§4906A. Addition of Debilitating Medical Conditions.

Any citizen may petition the Department to add conditions or treatments to the list of debilitating medical conditions listed in §4902A(c). The Department shall consider petitions in the manner required by Department regulation, including public notice and hearing. The Department shall approve or deny a petition within 180 days of its submission. The approval or denial of any petition is a final decision of the Department subject to judicial review. Jurisdiction and venue are vested in the Superior Court.

§4907A. Acts Not Required, Acts Not Prohibited.

(a) Nothing in this chapter requires:

(1) a government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana;

(2) any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke marijuana on or in that property; or

(3) an employer to allow the ingestion of marijuana in any workplace or to allow any employee to work while under the influence of marijuana, except that a registered qualifying patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment.

(b) Nothing in this chapter prohibits an employer from disciplining an employee for ingesting marijuana in the workplace or working while under the influence of marijuana.

(c) Nothing in this act shall be construed to prevent the arrest or prosecution of a registered qualifying patient for reckless driving or driving under the influence of marijuana where probable cause exists.

§4908A. Registration of Qualifying Patients and Designated Caregivers.

(a) The Department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the Department's regulations:

(1) a written certification issued by a physician within 90 days immediately preceding the date of an application, except that in the case of a visiting qualifying patient, the visiting qualifying patient shall submit a copy of the visiting qualifying patient's registry identification card or its equivalent that was issued pursuant to the laws of the jurisdiction of the person's residence, proof of residency in the jurisdiction where the registry identification card or its equivalent was issued; and a certification by the visiting qualifying patient's physician that he or she has a debilitating qualifying condition;

(2) the application or renewal fee;

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

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

(5) the name, address, and date of birth of the designated caregiver, if any, chosen by the qualifying patient, except that a visiting qualifying patient shall not have a designated caregiver;

(6) the name of the registered compassion center the qualifying patient designates, if any;

(7) a statement signed by the qualifying patient, pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter; and

(8) a signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert marijuana to anyone who is not allowed to possess marijuana pursuant to this chapter.

(b) The application for qualifying patients' registry identification cards shall ask whether the patient would like the Department to notify him or her of any clinical studies needing human subjects for research on the medical use of marijuana. The Department shall notify interested patients if it is notified of studies that will be conducted in the United States.

§4909A. Issuance of Registry Identification Cards.

(a) Except as provided in subsection (b), the Department shall:

(1) verify the information contained in an application or renewal submitted pursuant to this chapter, and shall approve or deny an application or renewal within forty-five (45) days of receiving a completed application or renewal application.

(2) issue registry identification cards to a qualifying patient and his or her designated caregiver, if any, within thirty (30) days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his qualifying patients.

(3) enter the registry identification number of the registered compassion center the patient designates into the verification system.

(b) The Department shall not issue a registry identification card to a qualifying patient who is younger than 21 years of age.

§4910A. Denial of Registry Identification Cards.

(a) The Department shall deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

(1) did not provide the required information and materials;

(2) previously had a registry identification card revoked; or

(3) provided false or falsified information.

(b) The Department shall deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:

(1) the designated caregiver does not meet the requirements of §4902A(e)

(2) the applicant did not provide the information required;

(3) the designated caregiver previously had a registry identification card revoked; or

(4) the applicant or the designated caregiver provides false or falsified information.

(c) The Department shall conduct a background check of the prospective designated caregiver in order to carry out this provision.

(d) The Department shall notify the qualifying patient who has designated someone to serve as his or her designated caregiver if a registry identification card will not be issued to the designated caregiver.

(e) Denial of an application or renewal is considered a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

§4911A. Registry Identification Cards.

(a) Registry identification cards shall contain all of the following:

(1) The name of the cardholder;

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

(3) If the cardholder is a visiting qualifying patient, a designation as such, including the state of the

patient's residence;

(4) The date of issuance and expiration date of the registry identification card;

(5) A random 10-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;

(6) If the cardholder is a designated caregiver, the random 10-digit alphanumeric identification number of the qualifying patient the designated caregiver is receiving the registry identification card to assist;

(7) A photograph of the cardholder, if the Department's regulations require one; and

(8) The phone number or Web address for the verification system.

(b) (1) Except as provided in this subsection, the expiration date shall be one year after the date of issuance.

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

(3) If the patient is a visiting qualifying patient whose permission to use medical marijuana in the person's home jurisdiction would expire sooner than one year after the issuance date, then the registry identification card shall expire on the date their home jurisdiction documentation would expire.

(c) The Department may, at its discretion, electronically store in the card all of the information listed in subsection (a), along with the address and date of birth of the cardholder, to allow it to be read by law enforcement agents.

§4912A. Notifications to Department and Responses; Civil Penalty.

(a) The following notifications and Department responses are required:

(1) A registered qualifying patient shall notify the Department of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days of the change.

(2) A registered designated caregiver shall notify the Department of any change in his or her name or address, or if the designated caregiver becomes aware the qualifying patient passed away, within 10 days of the change.

(3) Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient must notify the Department.

(4) If a cardholder loses his or her registry identification card, he or she shall notify the Department within 10 days of becoming aware the card has been lost.

(b) When a cardholder notifies the Department of items listed in subsection (a), but remains eligible under this chapter, the Department shall issue the cardholder a new registry identification card with a new random 10-digit

alphanumeric identification number within 10 days of receiving the updated information and a $20 fee. If the person notifying the Department is a registered qualifying patient, the Department shall also issue his or her registered designated caregiver, if any, a new registry identification card within 10 days of receiving the updated information.

(c) If a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered designated caregiver, the Department shall promptly notify the designated caregiver. The registered designated caregiver's protections under this chapter as to that qualifying patient shall expire 15 days after notification by the Department.

(d) A cardholder who fails to make a notification to the Department that is required by this section is subject to a civil infraction, punishable by a penalty of no more than $150.

(e) A registered qualifying patient shall notify the Department before changing his or her designated registered compassion center and pay a $20 fee. The Department must, within thirty (30) business days of receiving the notification, update the registered qualifying patient’s entry in the identification registry system to reflect the change in designation and notify the patient that the change has been processed.

(f) If the registered qualifying patient's certifying physician notifies the Department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the physician no longer believes the patient would receive therapeutic or palliative benefit from the medical use of marijuana, the card shall become null and void. However, the registered qualifying patient shall have 15 days to dispose of his or her marijuana or give it to a registered compassion center where nothing of value is transferred in return.

§4913A. Affirmative Defense and Dismissal for Medical Marijuana.

(a) Except as provided in §4904A and this section, an individual may assert a medical purpose for using marijuana as a defense to any prosecution of an offense involving marijuana intended for the patient’s medical use, and this defense shall be presumed valid and the prosecution shall be dismissed where the evidence shows that:

(1) A physician states that, in the physician's professional opinion, after having completed a full assessment of the individual's medical history and current medical condition made in the course of a bona fide physician-patient relationship, the patient is likely to receive therapeutic or palliative benefit from marijuana to treat or alleviate the individual's serious or debilitating medical condition or symptoms associated with the individual's serious or debilitating medical condition; and

(2) The individual was in possession of no more than six ounces of usable marijuana; and

(3) The individual was engaged in the acquisition, possession, use, or transportation of marijuana, paraphernalia, or both, relating to the administration of marijuana to treat or alleviate the individual's serious or debilitating medical condition or symptoms associated with the individual's serious or debilitating medical

condition.

(b) The defense and motion to dismiss shall not prevail if the prosecution proves that

(1) the individual had a registry identification card revoked for misconduct; or

(2) the purposes for the possession of marijuana were not solely for palliative or therapeutic use by the individual with a serious or debilitating medical condition who raised the defense.

(c) An individual is not required to possess a registry identification card to raise the affirmative defense set forth in this section.

(d) If an individual demonstrates the individual's medical purpose for using marijuana pursuant to this section, except as provided in §4919A, the individual shall not be subject to the following for the individual's use of marijuana for medical purposes:

(1) disciplinary action by an occupational or professional licensing board or bureau; or

(2) forfeiture of any interest in or right to non-marijuana, licit property.

§4914A. Registration of Compassion Centers.

(a) Compassion centers may only operate if they have been issued a valid registration certificate from the Department. When applying for a compassion center registration certificate, the applicant shall submit the following in accordance with Department regulations:

(1) A non-refundable application fee in an amount determined by the Department’s regulations.

(2) The proposed legal name of the compassion center.

(3) The proposed physical address of the compassion center and the proposed physical address of any additional locations, if any, where marijuana will be cultivated, harvested, packaged, labeled, or otherwise prepared for distribution by the compassion center.

(4) The name, address, and date of birth of each principal officer and board member of the compassion center, provided that all such individuals shall be at least 21 years of age.

(5) Any instances in which a business or not-for-profit that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding.

(6) Proposed operating bylaws that include procedures for the oversight of the compassion center and procedures to ensure accurate record keeping and security measures that are in accordance with the regulations issued by the Department pursuant to this chapter. The by-laws shall include a description of the enclosed, locked facility where medical marijuana will be grown, cultivated, harvested, packaged, labeled, or otherwise prepared for

distribution by the compassion center.

(7) Any information required by the Department to evaluate the applicant pursuant to the competitive bidding process described in subsection (b).

(b) The Department shall evaluate applications for compassion center registration certificates using an impartial and numerically scored competitive bidding process developed by the Department in accordance with this chapter. The registration considerations shall consist of the following criteria:

(1) Documentation of not-for-profit status, consistent with §4919A(a).

(2) The suitability of the proposed location or locations, including but not limited to compliance with any local zoning laws and the geographic convenience to patients from throughout the state of Delaware to compassion centers if the applicant were approved.

(3) The principal officer and board members' character and relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or marijuana cultivation and preparation and their experience running businesses or not-for-profits.

(4) The proposed compassion center's plan for operations and services, including its staffing and training plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical marijuana to the registered patients in the state.

(5) The sufficiency of the applicant's plans for record keeping.

(6) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed.

(7) The applicant's plan for making medical marijuana available on an affordable basis to registered qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance.

(8) The applicant's plan for safe and accurate packaging and labeling of medical marijuana, including the applicant's plan for ensuring that all medical marijuana is free of contaminants.

(c) No later than one year after the effective date of this chapter, provided that at least one application has been submitted from each county, the Department shall issue compassion center registration certificate to the highest scoring applicant in each county. If there are only applicants from one or two counties, no later than one year after the effective date of this chapter, the Department shall issue compassion center registration certificate to the highest scoring applicant in each county with an applicant.

(d) By two years after the effective date of this chapter, the Department shall issue registration certifications to at

least three of the highest scoring applicants not already awarded a registration certificate, provided a sufficient number of qualified additional applicants have applied. If the Department determines, after reviewing the report issued pursuant to §4922A, that additional compassion centers are needed to meet the needs of registered qualifying patients throughout the state, the Department shall issue registration certificates to the corresponding number of applicants who score the highest.

(e) (1) At any time after two years after the effective date of this chapter that the number of outstanding and valid registered compassion center certificates is lower than the number of registration certificates the Department is required to issue pursuant to subsection (d), the Department shall accept applications for compassion centers and issue registration certificates to the corresponding number of additional applicants who score the highest while ensuring at least one compassion center is registered in each county.

(2) Notwithstanding subsections (c), (d), and (e)(1), an application for a compassion center registration certificate must be denied if any of the following conditions are met:

a. the applicant failed to submit the materials required by this section, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping regulations issued by the Department;

b. the applicant would not be in compliance with local zoning regulations issued in accordance with §4917A;

c. the applicant does not meet the requirements of §4919A;

d. one or more of the prospective principal officers or board members has been convicted of an excluded felony offense; and

e. one or more of the prospective principal officers or board members has served as a principal officer or board member for a registered compassion center that has had its registration certificate revoked; and

f. one or more of the principal officers or board members is younger than 21 years of age.

(f) After a compassion center is approved, but before it begins operations, it shall submit a registration fee to the Department in the amount determined by the Department's regulations and, if a physical address had not been finalized when it applied, it shall submit a complete listing of all its physical addresses.

(g) When issuing a compassion center registration certificate, the Department shall also issue a renewable registration certificate with an identification number.

§4915A. Registration and Certification of Safety Compliance Facilities.

(a) Safety compliance facilities may only operate if they have been issued a valid registration certificate from the

Department. When applying for a safety compliance facility registration certificate, the applicant shall submit the following in accordance with Department regulations:

(1) a non-refundable application fee in an amount determined by the Department's regulations;

(2) the proposed legal name of the safety compliance facility;

(3) the proposed physical address of the safety compliance facility;

(4) the name, address, and date of birth of each principal officer and board member of the safety compliance facility, provided that all such individuals shall be at least 21 years of age;

(5) any instances in which a business or not-for-profit that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding; and

(6) any information required by the Department to evaluate the applicant pursuant to the competitive bidding process described in subsection (b).

(b) The Department shall evaluate applications for safety compliance facility registration certificates using an impartial and numerically scored competitive bidding process developed by the Department in accordance with this chapter. The registration considerations shall consist of the following criteria:

(1) The proposed principal officers' and board members' relevant experience, including any training or professional licensing related to analytical testing, medicine, pharmaceuticals, natural treatments, botany, or marijuana cultivation, preparation, and testing and their experience running businesses or not-for-profits;

(2) The suitability of the proposed location, including compliance with any local zoning laws and the geographic convenience to compassion centers from throughout the state of Delaware to registered safety compliance facilities if the applicant were approved;

(3) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed; and

(4) The proposed safety compliance facility's plan for operations and services, including its staffing and training plans, and whether it has sufficient capital to operate.

(c) The Department shall issue at least one safety compliance facility registration certificate to the highest scoring applicant within one year of the effective date of this chapter.

(d) (1) The Department may issue additional safety compliance facility registration certificates to the highest scoring applicant or applicants. If the Department determines, after reviewing the report issued pursuant to §4922A, that additional safety compliance facilities are needed to meet the needs of cardholders and registered compassion centers

throughout the state, the Department shall issue registration certificates to the corresponding number of applicants who score the highest.

(2) Notwithstanding subsections (c) and (d)(1), an application for a safety compliance facility registration certificate must be denied if any of the following conditions are met:

a. the applicant failed to submit the materials required by this section, including if the plans do not satisfy the security, oversight, or recordkeeping regulations issued by the Department;

b. the applicant would not be in compliance with local zoning regulations issued in accordance with §4917A;

c. the applicant does not meet the requirements of §4919A;

d. one or more of the prospective principal officers or board members has been convicted of an excluded felony offense;

e. one or more of the prospective principal officers or board members has served as a principal officer or board member for a registered safety compliance facility or registered compassion center that has had its registration certificate revoked; and

f. One or more of the principal officers or board members is younger than 21 years of age.

(e) After a safety compliance facility is approved, but before it begins operations, it shall submit a registration fee paid to the Department in the amount determined by Department regulation and, if a physical address had not been finalized when it applied, its physical address.

(f) When issuing a safety compliance facility registration certificate, the Department shall also issue a renewable registration certificate with an identification number. The Department shall also provide the registered safety compliance facility with the contact information for the verification system.

§4916A. Compassion Center and Safety Compliance Facilities Renewal.

Registration certificates may be renewed every two years. The registered compassion center or registered safety compliance facility may submit a renewal application beginning 90 days prior to the expiration of its registration certificate. The Department shall grant a renewal application within 30 days of its submission if the following conditions are all satisfied:

(a) the registered compassion center or registered safety compliance facility submits a renewal application and the required renewal fee, which shall be refunded within 30 days if the renewal application is rejected;

(b) the Department has not suspended the registered compassion center or registered safety compliance facility's registration certificate for violations of this chapter or regulations adopted pursuant to this chapter; and

(c) the inspections authorized by §4919A(u) and the annual report, provided pursuant to §4922A, do not raise serious concerns about the continued operation of the registered compassion center or registered safety compliance facility applying for renewal.

§4917A. Local Ordinances.

Nothing shall prohibit local governments from enacting ordinances or regulations not in conflict with this chapter or with Department regulations regulating the time, place, and manner of registered compassion center operations and registered safety compliance facilities, provided that no local government may prohibit registered compassion center operation altogether, either expressly or though the enactment of ordinances or regulations which make registered compassion center and registered safety compliance facility operation unreasonably impracticable in the jurisdiction.

§4918A. Compassion Center and Safety Compliance Facility Agents.

(a) (1) Registered compassion centers and registered safety compliance facilities shall conduct a background check into the criminal history of every person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the registered compassion centers or registered safety compliance facility.

(2) A registered compassion center may not employ any person who:

a. was convicted of an excluded felony offense; or

b. is under 21 years of age.

(b) A registered compassion center or safety compliance facility agent must have documentation when transporting marijuana on behalf of the registered safety compliance facility or registered compassion center that specifies the amount of marijuana being transported, the date the marijuana is being transported, the registry ID certificate number of the registered compassion center or registered safety compliance facility, and a contact number to verify that the marijuana is being transported on behalf of the registered compassion center or registered safety compliance facility.

§4919A. Requirements, Prohibitions, Penalties.

(a) A registered compassion center shall be operated on a not-for-profit basis. The by-laws of a registered compassion center shall contain such provisions relative to the disposition of revenues to establish and maintain its not-for-profit character. A registered compassion center need not be recognized as tax-exempt by the Internal Revenue Service and is not required to incorporate pursuant to Title 8 of the Delaware Code.

(b) The operating documents of a registered compassion center shall include procedures for the oversight of the registered compassion center and procedures to ensure accurate recordkeeping.

(c) A registered compassion center and a registered safety compliance facility shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana.

(d) A registered compassion center and a registered safety compliance facility may not be located within 500 feet of the property line of a preexisting public or private school.

(e) A registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients with the medical use of marijuana directly or through the qualifying patients' designated caregivers.

(f) All cultivation of marijuana for registered compassion centers must take place in an enclosed, locked location at the physical address or addresses provided to the Department during the registration process, which can only be accessed by compassion center agents working or volunteering for the registered compassion center.

(g) A registered compassion center may not purchase usable marijuana or mature marijuana plants from any person other than another registered compassion center.

(h) Before marijuana may be dispensed to a designated caregiver or a registered qualifying patient, a compassion center agent must determine that the individual is a current cardholder in the verification system and must verify each of the following:

(1) that the registry identification card presented to the registered compassion center is valid;

(2) that the person presenting the card is the person identified on the registry identification card presented to the compassion center agent; and

(3) that the registered compassion center is the designated compassion center for the registered qualifying patient who is obtaining the marijuana directly or via his or her designated caregiver.

(i) A registered compassion center shall not dispense more than 3 ounces of marijuana to a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. Registered compassion centers shall ensure compliance with this limitation by maintaining internal, confidential records that include records specifying how much marijuana is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the designated caregiver. Each entry must include the date and time the marijuana was dispensed.

(j) A registered compassion center or compassion center agent shall only dispense marijuana to a visiting qualifying patient if he or she possesses a valid Delaware registry identification card and if the procedures in sections (h) and (i) are followed.

(k) No person may advertise medical marijuana sales in print, broadcast, or by paid in-person solicitation of customers. This shall not prevent appropriate signs on the property of the registered compassion center, listings in business directories including phone books, listings in trade or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events.

(l) A registered compassion center shall not share office space with nor refer patients to a physician.

(m) A physician shall not refer patients to a registered compassion center or registered designated caregiver, advertise in a registered compassion center, or, if the physician issues written certifications, hold any financial interest in a registered compassion center.

(n) No person who has been convicted of an excluded felony offense may be a compassion center agent.

(o) The Department shall issue a civil fine of up to $3,000 for violations of this section.

(p) The Department shall suspend or revoke a registration certificate for serious or multiple violations of this chapter and regulations issued in accordance with this chapter. A registered compassion center may continue to cultivate and possess marijuana plants during a suspension, but it may not dispense, transfer, or sell marijuana.

(q) The suspension or revocation of a certificate is a final Department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Superior Court.

(r) Any cardholder who sells marijuana to a person who is not allowed to possess marijuana for medical purposes under this chapter shall have his or her registry identification card revoked and shall be subject to other penalties for the unauthorized sale of marijuana.

(s) Any registered qualifying patient, registered designated caregiver, compassion center agent, or safety compliance facility agent who sells marijuana to someone who is not allowed to use marijuana for medical purposes under this is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both, in addition to any other penalties for the distribution of marijuana.

(t) The Department shall revoke the registry identification card of any cardholder who knowingly commits multiple or serious violations of this chapter.

(u) Registered compassion centers are subject to random and reasonable inspection by the Department. The Department shall give reasonable notice of an inspection under this paragraph.

(v) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be a class B misdemeanor which may be punishable by up to 6 months incarceration at Level V under §4204 of the Delaware Code and a fine of up to $1,150, as the court deems appropriate which shall be in addition to any other penalties that may apply for making a false statement or for the use of marijuana other than use undertaken pursuant to this act and jurisdiction for prosecution shall be exclusively in Superior Court.

§4920A. Confidentiality.

(a) The following information received and records kept by the Department for purposes of administering this chapter are confidential and exempt from the Delaware Freedom of Information Act, and not subject to disclosure to any

individual or public or private entity, except as necessary for authorized employees of the Department to perform official duties pursuant to this chapter:

(1) Applications and renewals, their contents, and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and physicians.

(2) Applications and renewals, their contents, and supporting information submitted by or on behalf of compassion centers and safety compliance facilities in compliance with this chapter, including their physical addressees.

(3) The individual names and other information identifying persons to whom the Department has issued registry identification cards.

(4) Any dispensing information required to be kept under §4919A or Department regulation shall identify cardholders and registered compassion centers by their registry identification numbers and not contain names or other personally identifying information.

(5) Any Department hard drives or other data-recording media that are no longer in use and that contain cardholder information must be destroyed. The Department shall retain a signed statement from a Department employee confirming the destruction.

(6) Data subject to this section shall not be combined or linked in any manner with any other list or database and it shall not be used for any purpose not provided for in this chapter.

(b) Nothing in this section precludes the following:

(1) Department employees shall notify law enforcement about falsified or fraudulent information submitted to the Department if the employee who suspects that falsified or fraudulent information has been submitted conferred with his or her supervisor and both agree that circumstances exist that warrant reporting.

(2) The Department shall notify state or local law enforcement about apparent criminal violations of this chapter if the employee who suspects the offense has conferred with his or her supervisor and both agree that circumstances exist that warrant reporting.

(3) Compassion center agents shall notify the Department of a suspected violation or attempted violation of this chapter or the regulations issued pursuant to it.

(4) The Department shall verify registry identification cards pursuant to 4921A.

(5) The submission of the §4922A report to the legislature.

(c) It shall be a misdemeanor punishable by up to 180 days in jail and a $1,000 fine for any person, including an employee or official of the Department or another state agency or local government, to breach the confidentiality of

information obtained pursuant to this chapter and jurisdiction for prosecution shall be exclusively in Superior Court.

§4921A. Registry Identification and Registration Certificate Verification.

(a) The Department shall maintain a confidential list of the persons to whom the Department has issued registry identification cards and their addresses, phone numbers, and registry identification numbers. This confidential list shall not be combined or linked in any manner with any other list or database, nor shall it be used for any purpose not provided for in this chapter.

(b) Within 120 days of the effective date of this chapter, the Department shall establish a verification system. The verification system must allow law enforcement personnel, compassion center agents, and safety compliance facility agents to enter a registry identification number to determine whether or not the number corresponds with a current, valid registry identification card. The system shall only disclose whether the identification card is valid; whether the cardholder is a registered qualifying patient or a registered designated caregiver; the registry identification number of the registered compassion center designated to serve the registered qualifying patient; and, if the cardholder is a registered designated caregiver, the registry identification number of the registered qualified patient who is assisted by the cardholder.

(c) The Department shall, with a cardholder's permission, confirm his or her status as a registered qualifying patient or registered designated caregiver to a landlord, employer, school, medical professional, or court.

(d) The Department shall disclose the names of any person whose registry identification card was revoked to any court where the person is seeking to assert the protections of 4913A.

§4922A. Annual Reports.

(a) (1) The legislature shall appoint a nine-member oversight committee comprised of: one member of the House of Representatives; one representative of the Department; one member of the Senate; one physician with experience in medical marijuana issues; one nurse; one board member or principal officer of a registered safety compliance facility; one individual with experience in policy development or implementation in the field of medical marijuana; and three registered patients.

(2) The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the legislature and the Department regarding:

a. The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical marijuana.

b. The effectiveness of the registered compassion centers, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services, the reasonableness of their fees, whether they are generating any complaints or security problems,

and the sufficiency of the number operating to serve the registered qualifying patients of Delaware.

c. The effectiveness of the registered safety compliance facility or facilities, including whether a sufficient number are operating.

d. The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the Department to ensure that access to and use of marijuana cultivated is provided only to cardholders authorized for such purposes.

e. Any recommended additions or revisions to the Department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature.

f. Any research studies regarding health effects of medical marijuana for patients.

(b) The Department shall submit to the legislature an annual report that does not disclose any identifying information about cardholders, registered compassion centers, or physicians, but does contain, at a minimum, all of the following information:

(1) the number of applications and renewals filed for registry identification cards;

(2) the number of qualifying patients and designated caregivers approved in each county;

(3) the nature of the debilitating medical conditions of the qualifying patients;

(4) the number of registry identification cards revoked for misconduct;

(5) the number of physicians providing written certifications for qualifying patients,

(6) the number of registered compassion centers, and

(7) specific accounting of fees and costs.

§4923A. Department to Issue Regulations.

Not later than 120 days after the effective date of this chapter, the Department shall promulgate regulations:

(a) governing the manner in which the Department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in §4902A(c) of this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;

(b) establishing the form and content of registration and renewal applications submitted under this chapter;

(c) governing the manner in which it shall consider applications for and renewals of registry identification cards; and

(d) governing the following matters related to registered compassion centers, with the goal of protecting against diversion and theft, without imposing an undue burden on the registered compassion centers or compromising the

confidentiality of cardholders:

(1) minimum oversight requirements for registered compassion centers;

(2) minimum recordkeeping requirements for registered compassion centers;

(3) minimum security requirements for registered compassion centers, which shall include that each registered compassion center location must be protected by a fully operational security alarm system;

(4) the competitive scoring process addressed in §4914A and §4915A; and

(5) procedures for suspending or terminating the registration certificates or registry identification cards of cardholders, registered compassion centers, and registered safety compliance facilities that commit multiple or serious violations of the provisions of this chapter or the regulations promulgated pursuant to this section.

(e) requiring application and renewal fees for registry identification cards, and registered compassion center registration certificates, according to the following:

(1) the total fees collected must generate revenues sufficient to offset all expenses of implementing and administering this chapter, except that fee revenue may be offset or supplemented by private donations;

(2) the total amount of revenue from application, renewal, and registration fees for compassion centers and security compliance facilities shall be sufficient to implement and administer the compassion center and safety compliance facility provisions of this chapter;

(3) the Department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income; and

(4) the Department may accept donations from private sources to reduce application and renewal fees.

§4924A. Enforcement of this Chapter.

(a) If the Department fails to adopt regulations to implement this chapter within the times provided for in this chapter, any citizen may commence an action in Superior Court to compel the Department to perform the actions mandated pursuant to the provisions of this chapter.

(b) If the Department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to this chapter within 20 days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal shall be deemed a valid registry identification card.

(c) If at any time after the 140 days following the effective date of this chapter the Department has not established a process for accepting and approving or denying applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to §4908A(a)(2-8) together with a written certification issued by a physician within 90 days immediately preceding the notarized statement, shall be deemed a valid registry identification card

for all purposes under this chapter.

§4925A. Severability.

Any section of this chapter being held invalid as to any person or circumstance shall not affect the application of any other section of this chapter that can be given full effect without the invalid section or application.

§4926A. Date of Effect.

This chapter shall take effect upon its enactment into law.

SYNOPSIS

This legislation is based on the Marijuana Policy Project's model medical marijuana legislation. The Bill creates an exception to a state's criminal laws to permit the doctor-recommended medical use of marijuana by patients with serious medical conditions. A patient would only be protected from arrest of controlled substance laws if his or her physician certifies, in writing, that the patient has a specified debilitating medical condition and that the patient would receive therapeutic benefit from medical marijuana. The patient would send a copy of the written certification to the state Department of Health and Social Services and the Department would issue an ID card after verifying the information. Police officers could verify an ID card's validity with the Department. As long as the patient is in compliance with the law, there would be no arrest.

Patients would be allowed to possess up to 6 ounces for their medical use. Six ounces is less than the federal government has determined is a one-month supply for patients in the Compassionate Investigational New Drug Program. The legislation allows them to designate a caregiver who would also receive an ID card. Each caregiver may assist no more than five qualifying patients.

The legislation would allow for the state-regulated, non-profit distribution of medical marijuana. The Department of Health and Social Services would issue registration certificates to qualified applicants, who would have to abide by the rules on security, recordkeeping, and oversight provided for by the model medical marijuana legislation, in addition to any additional rules that the Department may develop. All dispensaries would be subject to random inspection and all of their staff would have to register with the Department of health. It is important that the law provide for both caregivers and dispensaries, since patients in rural areas are unlikely to have access to dispensaries, and because many low-income patients will not be able to afford medical marijuana at dispensaries. In addition, very ill patients would need a caregiver to pick up their medicine for them.

The Bill maintains commonsense restrictions on the medical use of marijuana, including prohibitions on public use of marijuana and driving under the influence of marijuana. Employers are not required to allow patients to be impaired at work or to allow the possession of marijuana at a workplace. Insurance providers would not have to cover medical marijuana.

Author: Senator Henry