



Development Review Report (DRR)

To: Planning & Zoning Board
From: Molly Howson, City Planner
RE: Amendment to the Land Development Regulations– Curaleaf, Medical Marijuana Dispensing Centers
Date: January 18, 2025

Staff has prepared an amendment to the Land Development Regulations (LDRs) for your consideration. The matter before Planning and Zoning Board is a proposed ordinance amending the Land Development Regulations (LDRs) as they pertain to Medical Marijuana Uses. This Ordinance proposes to make Medical Marijuana Dispensing Center Uses, allowable Uses within the General Commercial (CG) and Community Commercial (CC) zoning district, subject to supplemental regulations.

I. BACKGROUND INFORMATION

On June 6, 2014, Governor Rick Scott signed the “Compassionate Medical Cannabis Act of 2014”
The act:

- Allows a licensed physician to treat a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms to treat such condition with low-THC cannabis provided certain conditions are met;
- Makes it a misdemeanor of the first degree if the licensed physician does not have a reasonable belief that the patient is suffering as described above;
- Requires physician education, including successful completion of an 8 hour course and passing a subsequent examination;
- Prescribes duties for the Department of Health, including creation of a registry of physicians, and the establishment of five dispensing organizations;
- Allows for refractory and intractable epilepsy treatment and research at recognized medical center.

Florida voters approved the Florida Medical Marijuana Legislative Initiative, also known as Amendment 2 on November 8, 2016 in the Florida General Election. Amendment 2, and the expanded qualifying medical conditions, became effective on January 3, 2017.

On May 14, 2018, The Lauderhill City Commission approved Ordinance 18O-04-109, Providing for definitions for various Medical Marijuana related Uses and providing that a Medical Marijuana Dispensing Center is allowed in the City of Lauderhill through Special Exception Use approval by the City Commission in the General Commercial (CG), Commercial Warehouse (CW), and Light Industrial (IL) zoning districts. Ordinance 18O-04-109 and the associated development review report is included in the attachments for review (attachments B and C respectively).

On August 26, 2019, The Lauderhill City Commission approved Ordinance 19O-08-114, rescinding the SEU provisions for Medical Marijuana Dispensing Center within the General Commercial (CG), Commercial Warehouse (CW), and Light Industrial (IL) zoning districts and making the Use of Medical Marijuana Dispensing Centers a prohibited Use City wide.

In 2021, the Florida Legislature adopted amendments to F.S. 381.986 related to the medical use of marijuana and providing for standards and requirements. As it pertains to the permitting and locating of Medical Marijuana Dispensing Centers, the Florida Legislature preempted municipalities from enacting regulations on dispensaries which are more restrictive than the permitting and locating of Pharmacies. Specifically, F.S. 381.986 Section (11) Preemption (11) (b) 2. provides that:

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 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.

On October 22, 2024 the applicant, Curaleaf, submitted application (24-TA-005) proposing to change the provisions of the Land Development Regulations pertaining to Medical Marijuana Dispensing Centers to make them an allowable use in certain zoning district and subject to supplemental regulations.

Staff has compared the applicant's proposed text amendment against the Land Development Regulations as they pertain to the permitting and locating of Pharmacies to ensure conformance with F.S. 381.986.

II. PROPOSED TEXT AMENDMENTS

The amendment to the Land Development Regulations seeks to modify the following sections:

- **Schedule A., Land Use Classifications**
 - **Medical Marijuana Dispensing Center**
 - Deleting a provision in the definition of Medical Marijuana Dispensing Centers which prohibits Medical Marijuana Dispensing Centers citywide.
 - **Medical Marijuana Health Care Establishments**
 - Adding a reference to medical marijuana dispensary centers in accordance with Article III Section 5.50
 - **Medical Marijuana Health Care Establishment**
 - Adding medical marijuana dispensing center standards listed in Article III, Section 5.50(B)
- **Schedule B, Allowable Uses**
 - Providing for medical marijuana dispensing center, walk-up Uses to be allowable as Permitted by right in the General Commercial, (CG), and Community Commercial, (CC), Zoning Districts and providing for medical marijuana dispensing center, with drive-through Uses to be allowable by Special Exception Use (SEU) Approval in the General Commercial, (CG), and Community Commercial, (CC), Zoning Districts
- **Article III Sec. 5.50 Medical Marijuana Health Care Establishments**
 - Strike health care establishment in the title of Sec. 5.50 and change to establishments, to reconfigure this section to provide for supplemental regulations and to provide for supplemental regulations for Medical marijuana dispensing center uses.

Based on the Legislation to treat medical marijuana dispensaries identical to pharmacies, Staff has prepared the following recommendations for consideration:

LDR SCH A, Land Use Classifications

MEDICIAL MARIJUANA DISPENSING CENTER: A use or a structure occupied by a use involving acquiring, possessing, transferring, transporting, selling, distributing, delivering, or dispensing of medical marijuana, products containing marijuana, related supplies, or educational materials. ~~Medical marijuana dispensing centers are not allowed to operate in the City of Lauderhill.~~

~~MEDICAL MARIJUANA DISPENSING CENTERS, as defined herein, is the building or structure where medical cannabis, as well as cannabis delivery devices is dispensed.~~

MEDICAL MARIJUANA ESTABLISHMENTS: Medical marijuana establishments are regulated under state law (F.S. Ch. 381.986). Medical marijuana related businesses that involve growing, processing or dispensing medical marijuana must be associated with a state licensed medical marijuana treatment center (MMTC). The state licensed MMTC will not be allowed to operate in the City of Lauderhill excluding the operation of medical marijuana health care establishments and medical marijuana dispensary centers in accordance to Section 5.50.

MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT: A physician's office where the primary medical services offered is the processing of physician certifications to qualify patients for the use of medical marijuana, patient care, and ordering of medical marijuana for qualified patients. Exterior advertising or signage or documentation from the Florida Department of Health may be used in determining if a physician's office will be classified as a medical marijuana health care establishment. The State of Florida defines qualified physicians as those that hold an active, unrestricted license as an allopathic physician under Chapter 458 or as an osteopathic physician under Chapter 459 and is in compliance with the physician's education requirements of SB 8-A (2017) and is not employed by or associated with a licensed MMTC.

A medical marijuana health care establishment is a physician's office where the primary medical services offered is diagnosis of a qualifying medical condition and the processing of physician certifications, (which means a qualified physician's authorization for a qualified patient to receive marijuana and related devices); patient care; and ordering of medical marijuana for qualified patients. ~~Medical marijuana health care establishment, as defined herein, are only permitted by special exception as an accessory use for a hospital licensed by the Agency for Health Care Administration (ACHA) and licensed medical offices that provides care and treatment for debilitating medical conditions as determined by a licensed Florida physician as defined in the Florida Constitution, for the treatment of a debilitating medical condition such as cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient. A personal caregiver may acquire, transport, and administer marijuana to a qualified patient, and a qualified patient as defined in the Florida Constitution may possess and consume medical marijuana. Retail sales of medical marijuana are prohibited, unless in accordance with the medical marijuana dispensing center standards listed in Section 5.50(B).~~

MEDICIAL MARIJUANA TREATMENT CENTER: (MMTC) per F.S. Ch. 381.986. An establishment licensed by the State of Florida Department of Health to engage in the cultivation, preparation, wholesale storage, distribution, transfer, processing and dispensing of medical marijuana and medical marijuana products and related supplies and which does not allow on-site consumption of marijuana or marijuana products. The state licensed MMTC will not be allowed to operate in the City of Lauderhill.

LDR SCH B Section B-2 Uses Allowed in Non-Residential Districts

Land Use Category	CO	CN	CG	CC	CW	CE	IL	PO	PL	PR	CR	S-1	CF	UT
Medical Marijuana Treatment Center														
Medical Marijuana Health Care Establishment	SE		SE	SE	SE		SE							
Medical Marijuana Dispensing Center ¹														
• Walk-up			P	P										
• Drive-through			SE	SE										
Mental health facility ¹	P		P	P										
Minor food outlet														
Mixed use (with residential use) ¹	SE		SE	SE	P	P								
...														
Pharmacy ¹														
• Walk-up			P	P										
• Drive-through			SE	SE										
Public parks administration	P		P	P	P		A		P	P	P	P	P	

LDR Article III, Zoning Districts, Section 5.50 Medical Marijuana Health Care Establishment**Sec. 5.50. Medical ~~m~~Marijuana Establishments.health care establishment**(A) Medical Marijuana Health Care Establishment.

A medical marijuana health care establishment shall comply with the following standards:

1. Medical marijuana health care establishment shall comply with all of the use specific standards for a medical office listed in Section 5.28.1, Offices, Medical.
2. On-site dispensing of medical marijuana is prohibited

(B) Medical Marijuana Dispensing Center.

A medical marijuana dispensing center shall comply with the following standards where permitted:

1. Dispensing of medical marijuana shall only be permitted in accordance with the requirements of this article and the applicable zoning district. Dispensing of medical marijuana shall be permitted in the CG, Commercial General and CC Community Commercial, zoning districts.
2. Separation standard. This term shall be interpreted and applied as is provided for in LDR Article I, Section 1.5.
 - a. There shall be a one-half (½) mile separation between each medical marijuana dispensing facility and any pain management clinic regardless of City jurisdictional boundaries.
 - b. There shall be a one-half (½) mile separation between each medical marijuana dispensing center regardless of City jurisdictional boundaries.
 - c. A certified survey from a land surveyor registered in the State of Florida displaying the distance in linear feet between a medical marijuana dispensing center and a pain management clinic or between medical marijuana dispensing centers shall be submitted with a Zoning Verification Request and fee in order to establish compliance with this section.
3. Structure and lot requirement. A medical marijuana dispensing center shall be exempted from the separation standard if it is:

1. located in a freestanding building with a single tenant on a separately platted lot or lots
2. has building has a minimum floor area of 2,500 square feet.
4. Dispensing of, payment for, and receipt of medical marijuana is prohibited anywhere outside of the dispensing center, including, but not limited to, on sidewalks, in parking areas, or in the rights-of-way surrounding the dispensing center; provided, however, this provision shall not be construed to prohibit delivery of medical marijuana to an eligible patient, as permitted by state law or rule.
5. Consumption of medical marijuana or alcoholic beverages is prohibited onsite at the dispensing center, including, but not limited to, in the parking areas, sidewalks, or rights-of-way surrounding the dispensing center; provided, however, this provision shall not be construed to prohibit consumption associated with a dispensing center employee, trained by a medical professional such as a doctor, nurse, pharmacist, or medical or physician's assistant, instructing an eligible patient on the mechanism of consumption of medical marijuana, as permitted by state law or rule.
6. Centers dispensing medical marijuana shall only be allowed to operate between the hours of 7:00 a.m. and 9:00 p.m. daily, as provided by Section 381.986, Florida Statutes.
7. No certificate of use, license, or building or other permit shall be issued for a medical marijuana dispensing center where the proposed place of business does not conform to the requirements of this subsection.
8. Medical Marijuana Dispensing Center Uses must comply with the provisions of State of Florida F.S. 381.986.

LDR Article III, Zoning Districts, Section 5.30.A.- Pharmacy.

Sec. 5.30.A. Pharmacy.

As used herein, a pharmacy includes a drive-through pharmacy.

- A. *Separation standard.* This term shall be interpreted and applied as is provided for in LDR Article I, Section 1.5.
 1. There shall be a one-half (½) mile separation between each pharmacy and any pain management clinic regardless of City jurisdictional boundaries.
 2. There shall be a one-half (½) mile separation between each pharmacy regardless of City jurisdictional boundaries.
 3. A certified survey from a land surveyor registered in the State of Florida displaying the distance in linear feet between a pharmacy and a pain management clinic or between pharmacies shall be submitted with a ~~certificate of use~~ Zoning Verification Request and fee in order to establish compliance with this section.
- B. *Structure and lot requirement.* A pharmacy shall be exempted from the separation standard if it is:
 1. located in a freestanding building with a single tenant on a separately platted lot or lots and
 2. the building has a minimum floor area of 2,500 square feet.
- C. *Vested use.* Any existing pharmacy that is not in compliance with the separation standard shall be considered a legal, nonconforming use.

III. ANALYSIS

The City of Lauderhill Land Development Regulations define a Medical Marijuana Dispensing Center as follows:

MEDICAL MARIJUANA DISPENSING CENTER: A use involving acquiring, possessing, transferring, transporting, selling, distributing, delivering, or dispensing of marijuana, products containing marijuana, related supplies, or educational materials. Medical marijuana dispensing centers are not allowed to operate in the City of Lauderhill.

State of Florida Statute 381.986 provides that a 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 licensed pharmacies. Therefore, any ordinance approved by the City Commission relating to the locating of Medical Marijuana Dispensing Centers may not be more restrictive than the provisions relating to Pharmacies.

Amendment factors. LDR Article IV., Part 2.0., Section 2.4., requires the Board and City Commission to consider and evaluate zoning text changes in relation to all pertinent factors but with reference to six (6) specific factors. The proposed Ordinance is evaluated below against the six (6) identified factors.

a. *The character of the district and its peculiar suitability for particular uses.*

The Ordinance proposes that medical marijuana dispensing centers be allowed subject to supplemental regulations within the (CG) General Commercial and Community Commercial zoning districts. Within the City of Lauderhill, these zoning districts are largely located along major thoroughfares within the City making the site easily accessible to patients seeking these services.

b. *Conservation of the value of buildings and encouraging the most appropriate use of land and water throughout the City.*

The proposed Ordinance neither conserves nor wastes the value of buildings because it addresses land uses. The proposed Ordinance encourages the most appropriate use of land and water because it prohibits the land use.

c. *The applicable portions of the adopted City Comprehensive Plan and programs such as land use, trafficways, recreation, schools, neighborhoods, drainage and housing and so forth.*

Staff finds that the proposed Ordinance is generally consistent with Future Land Use Element (FLUE), Objective 2.20., Land Development Regulations, which provides in part “Maintain Land Development Regulations ... promoting well-planned, orderly, compatible, and attractive development.”

d. *The need of the City for land areas for specific purposes to serve population and economic activities.*

Whether there is a future need for land areas for the specific purpose of allowing Medical Marijuana Dispensing Centers is a public policy issue that needs to be determined by the City Commission.

Staff reviewed neighboring city regulations & found that there is a medical marijuana dispensary located in Tamarac (6899 N University Dr, Tamarac, FL 33321), but aside from Fort Lauderdale no other neighboring cities (Lauderdale Lakes, Sunrise, and Plantation) have dispensaries active.

Lauderdale Lakes and Plantation prohibit dispensaries, and Sunrise permit it in certain districts.

- e. *Whether there have been substantial changes in the character of development in or near an area under consideration for rezoning.***

This factor applies to Zoning District Map amendments and not LDR text amendments. Since this is essentially an LDR text amendment, this factor does not apply.

- f. *The facts and opinions presented to the Planning and Zoning Board through hearings.***

This Development Review Report includes data, analysis and written findings of information submitted by the Applicant. Staff reserves the right to take into consideration any additional information that may be brought to our attention.

IV. RECOMMENDATION/ACTION

The Florida Statutes preempts municipalities from adopting unique regulations for pharmacies and medical marijuana dispensaries. The Comprehensive Plan would categorize these uses as “commercial” in nature, and the proposed amendment maintains that these uses are permitted in commercial zoning districts (CG & CC).

Therefore, the Planning & Zoning Department does not object to the proposed text amendment, with the modifications by Staff.

V. ATTACHMENTS

1. Ordinance 18O-04-109
2. Development Review Report (DRR) for 18O-04-109
3. F.S. 381.986

ORDINANCE NO. 180-04-109

AN ORDINANCE OF THE CITY OF LAUDERHILL, FLORIDA AMENDING THE LAND DEVELOPMENT REGULATIONS PERTAINING TO MEDICAL MARIJUANA; AMENDING SCHEDULE A., LAND USE CLASSIFICATIONS, ADDING DEFINITIONS FOR: MEDICAL MARIJUANA ESTABLISHMENTS, MEDICAL MARIJUANA TREATMENT CENTER ("MMTC"), MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT, AND MEDICAL MARIJUANA DISPENSING CENTER; PROVIDING EXCEPTIONS FOR A PERSONAL CAREGIVER AND QUALIFYING PATIENT FOR MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENTS; PROVIDING DISTANCE REQUIREMENTS; AMENDING SCHEDULE B, ALLOWABLE USES, PROVIDING FOR USES ALLOWABLE BY SPECIAL EXCEPTION APPROVAL IN CERTAIN ZONING DISTRICTS; AMENDING ARTICLE III, ZONING DISTRICTS, CREATING SECTION 5.50, MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT; CREATING SECTION 5.51, MEDICAL MARIJUANA DISPENSING CENTERS; AMENDING SECTION 5.28, OFFICES, SECTION 5.28.1 MEDICAL OFFICES; AMENDING SECTION 6.5 PARKING STANDARDS; AMENDING ARTICLE IV, DEVELOPMENT REVIEW REQUIREMENTS, SECTION 4.10, CONVEYANCE OF USES THAT ARE SUBJECT TO SPECIAL EXCEPTION TO CREATE SUBSECTION 4.10.9 PROHIBITING THE CONVEYANCE REGARDING A MEDICAL MARIJUANA DISPENSING CENTERS; PROVIDING FOR FINDINGS AND CONCLUSIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE (REQUESTED BY CITY MANAGER, CHARLES FARANDA).

WHEREAS, the City Commission adopted its Comprehensive Plan as is required by the Regional Government Comprehensive Planning and Land Development Regulation Act (Act), which Comprehensive Plan was subsequently determined to be in-compliance with said Act; and

WHEREAS, Section 163.3202, Florida Statutes, requires each municipality to adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan; and

WHEREAS, on June 11th, 1990, the City Commission implement its adopted Comprehensive Plan as is required by Section 163.3202, Florida Statutes, by adopting the City of Lauderhill Land Development Regulations; and

WHEREAS, Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain specific and detailed provisions necessary to regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open spaces; and

WHEREAS, on January 10th, 2011, the City Commission adopted Ordinance No. 100-12-173, which Ordinance added to Land Development Regulations Schedule A, Land Use Classifications, a land use classification and definition for pain management clinic, and which provided that such use is prohibited notwithstanding that in some cases the prescribing or dispensing of controlled substances may be medically useful; and

WHEREAS, on July 9th, 2012, the City Commission adopted Ordinance No. 120-06-127, which Ordinance make it illegal for any pharmacy to compound, cultivate, dispense, distribute, fill, possess, store, sell or use medical marijuana; and

WHEREAS, on the November 4th, 2014 general election, the voters of the State of Florida will vote on Florida Amendment 2, which adds Article X, Section 29, Medical marijuana production, possession and use; and

WHEREAS, Florida Amendment 2 defines "Medical Marijuana Treatment Center" as an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers and is registered with the Department of Health or its successor agency; and

WHEREAS, notwithstanding the adoption of Florida Amendment 2, marijuana is still a controlled substance under Florida and federal law, and there is still a potential for abuse; and

WHEREAS, the City of Lauderhill City Commission has carefully considered the impacts of medical marijuana treatment centers on the health, safety, and welfare of the City and its inhabitants, and it has determined that it should exercise its local land use authority to regulate medical marijuana treatment centers within the corporate limits of the City; and

WHEREAS, the City Commission recognizes that medical marijuana and its products may comfort those persons with a debilitating medical condition as defined in Florida Amendment 2 and the City Commission does not intend to impose a prohibition of a personal caregiver or qualifying patient as defined in Florida Amendment 2; and

WHEREAS, the City of Lauderhill wishes to make a distinction between the state licensed Medical Marijuana Treatment Centers, Medical Marijuana Health Care Establishments, and Medical Marijuana Dispensing Centers since the appropriate location for zoning of each different use would vary; and

WHEREAS, at their duly noticed meeting and public hearing of February 27, 2018 the City's Planning and Zoning Board, sitting as the Local Planning

Agency (LPA) entered the Development Review Report on the proposed Ordinance and all other relevant and substantial competent evidence into the record, and forwarded the record to the City Commission with the recommendation that the proposed Ordinance be adopted; and

WHEREAS, the City Commission requested that the item be tabled for further discussion on the April 16, 2018 workshop meeting; and

WHEREAS, at their duly noticed meeting and public hearing of April 30, 2018, the City Commission considered the record, adopted findings and conclusions, and approved the proposed Ordinance on first reading; and

WHEREAS, at their subsequently duly noticed meeting and public hearing of May 14, 2018 the City Commission on second reading adopted the Ordinance incorporating revisions to the Land Development Regulations.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1. Schedule A amended. Land Development Regulations Schedule A, Land Use Classifications, is amended as set forth below:

MEDICAL MARIJUANA ESTABLISHMENTS: Medical marijuana establishments are regulated under state law (F.S. Ch. 381.986). Medical marijuana related businesses that involve growing, processing or dispensing medical marijuana must be associated with a state licensed medical marijuana treatment center (MMTC). The state licensed MMTC will not be allowed to operate in the City of Lauderhill excluding the operation of Medical Marijuana Health Care Establishments and Medical Marijuana Dispensing Centers.

MEDICAL MARIJUANA TREATMENT CENTER: (MMTC) per F.S. Ch. 381.986. An establishment licensed by the State of Florida Department of Health to engage in the cultivation, preparation, wholesale storage, distribution, transfer, processing and dispensing of medical marijuana and medical marijuana products and related supplies and which does not allow on-site consumption of marijuana or marijuana products. The state licensed MMTC will not be allowed to operate in the City of Lauderhill.

MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT: A physician's office where the primary medical services offered is the processing of physician certifications to qualify patients for the use of medical marijuana, patient care, and ordering of medical marijuana for qualified patients. Exterior advertising or signage or documentation from the Florida Department of Health may be used in determining if a physician's office will be classified as a Medical Marijuana Health Care Establishment. The State of Florida defines qualified physicians as

those that hold an active, unrestricted license as an allopathic physician under Chapter 458 or as an osteopathic physician under Chapter 459 and is in compliance with the physician's education requirements of SB 8-A (2017) and is not employed by or associated with a licensed MMTC.

A Medical Marijuana Health Care Establishment is a physician's office where the primary medical services offered is diagnosis of a qualifying medical condition and the processing of physician certifications, (which means a qualified physician's authorization for a qualified patient to receive marijuana and related devices); patient care; and ordering of medical marijuana for qualified patients. Medical Marijuana Health Care Establishment, as defined herein, are only permitted by Special Exception as an accessory use for a hospital licensed by the Agency for Health Care Administration (ACHA) and licensed medical offices that provides care and treatment for debilitating medical conditions as determined by a licensed Florida physician as defined in the Florida Constitution, for the treatment of a debilitating medical condition such as cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient. A personal caregiver may acquire, transport, and administer marijuana to a qualified patient, and a qualified patient as defined in the Florida Constitution may possess and consume medical marijuana. Retail sales of medical marijuana are prohibited;

MEDICAL MARIJUANA DISPENSING CENTER:

A use involving acquiring, possessing, transferring, transporting, selling, distributing, delivering, or dispensing of marijuana, products containing marijuana, related supplies, or educational materials.

MEDICAL MARIJUANA DISPENSING CENTERS, as defined herein, is the building or structure where medical cannabis, as well as cannabis delivery devices is dispensed are only permitted by Special Exception Use in the General Commercial (CG) zoning district, Light Industrial (IL) zoning district and the Commercial Warehouse (CW) zoning district

SECTION 2. Schedule B amended. Land Development Regulations Schedule B, Allowable Uses, is amended as set forth below:

SCHEDULE B. - ALLOWABLE USES

B-1. Uses Allowed in Residential Districts.

Land Use Category	RS-4	RS-4A	RS-5	RS-5A	RM-5	RM-8	RM-10	RT-15	RM-18	RM-22	RM-40	RM-45	RMH-50	RO
<u>Medical Marijuana Treatment Center</u>														
<u>Medical Marijuana Dispensing Center</u>														
<u>Medical Marijuana Health Care Establishment</u>														

B-2. Uses Allowed in Non-residential Districts.

Land Use Category	CO	CN	CG	CC	CW	CE	IL	P O	PL	PR	CR	S-1	CF	UT
<u>Medical Marijuana Treatment Center</u>														
<u>Medical Marijuana Health Care Establishment</u>	<u>SE</u>		<u>SE</u>	<u>SE</u>	<u>SE</u>		<u>SE</u>							
<u>Medical Marijuana Dispensing Center</u>			<u>SE</u>		<u>SE</u>		<u>SE</u>							

SECTION 3. Article III, Section 5.50. Medical Marijuana Health Care Establishment Created. Land Development Regulations, Article III, Zoning Districts, is hereby amended to create Section 5.50, as set forth below:

Sec. 5.50. Medical Marijuana Health Care Establishment. A medical marijuana health care establishment shall comply with the following standards:

a. Medical marijuana health care establishment shall comply with all of the use specific standards for a medical office listed in § 5.28.1.Offices, *Medical*.

b. On-site dispensing of medical marijuana is prohibited.

SECTION 4. Article III, Section 5.51. Medication Marijuana Dispensing Centers Created. Land Development Regulations, Article III, Zoning Districts, is hereby amended to create Section 5.51, as set forth below:

Sec. 5.51 – Medical Marijuana Dispensing Centers.

The following regulations shall apply to the location, operation of Medical Marijuana Dispensing Centers, and shall be in addition to other requirements or limitations of these Land Development Regulations.

5.51.1. Definitions.

Cannabis Delivery Device - a device utilized for the consumption of prescribed medical marijuana. Such devices can only be sold to a qualified patient that has been prescribed medical marijuana or low-THC cannabis or someone authorized by the qualified patient or the qualified patient's legal representative authorized to receive the device on the qualified patient's behalf.

Medical Marijuana Dispensing Center - the building or structure where medical cannabis, as well as cannabis delivery devices, is dispensed.

Hospice – a free-standing separate building or stand-alone facility that operates a program designed to provide care and emotional support to the terminally ill patient residing on premise only in their final phase of life to enable them to be comfortable and pain free in a homelike setting, allowing for a quality of life to be maintained and family members to be active participants in their care. This specifically excludes any residential in-home hospice.

5.51.2. *In general.* All Medical Marijuana Dispensing Centers shall be subject to the following general standards and requirements.

(a) If the sale of medical marijuana/cannabis is subsequently permitted under Federal law and/or State law, it shall be unlawful for any person to operate a Medical Marijuana Dispensing Centers within the corporate limits of the city without the approval as set forth within this Article.

(b) It is hereby specifically and expressly provided that an application for a Medical Marijuana Dispensing Center is presumed to be incompatible with adjacent zoning, land uses and development unless an applicant can clearly establish otherwise to the satisfaction of the

city commission, and further provide that the applicant can demonstrate a need or community benefit which need is not adequately met by another similar facility within a one (1) mile radius, unless otherwise provided.

(c) Conditional use approval required. No Medical Marijuana Dispensing Center shall be permitted to operate in the (IL) Light Industrial zoning districts, the (CW) Commercial Warehouse zoning districts, or the (CG) General Commercial zoning districts unless such facility has been approved as a conditional use pursuant to the criteria set forth in Schedule B of this Code and the requirements set forth below.

(d) Application. In addition to meeting the general and conditional use application requirements, an application for conditional use for a Medical Marijuana Dispensing Centers shall:

(1) Be a joint application by the property owner and the tenant, if the Medical Marijuana Dispensing Center and the property are not owned by the same person or entity;

(2) The business operating name and all Applicant and Owner information. If the Applicant or Owner is:

a. An individual, his/her legal name, aliases, home address and business address, date of birth, copy of driver's license or state or federally issued identification card;

b. A partnership, the full and complete name of all general and limited partners, dates of birth, copy of driver's license or state or federally issued identification card of all general and limited partners, and all aliases used by all of the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the Applicant shall submit the required information for corporate Applicant in addition to the information concerning the partnership); or

c. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, copy of the driver's licenses or state or federally issued identification cards of all officers, and directors, and all aliases used, the capacity of all officers, and directors, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not the corporation is authorized to do business in the State of Florida.

d. The addresses required by this section shall be physical locations, and not post office boxes.

(3) A copy of the lease identifying the specific use, if the Medical Marijuana Dispensing Centers and the property are not owned by the same person or entity;

- (4) Include a full copy of the State of Florida Licensing Application and all related exhibits, appendices, and backup materials;
- (5) Copies of any and all state and other licenses issued to the Applicant to engage in the Marijuana business;
- (6) A statement as to whether the Applicant or any Owner or Employee has previously received a Medical Marijuana Conditional Use;
- (7) A statement as to whether the Applicant or any Owner holds other permits or license under this Chapter and, if so, the names and locations of such Medical Marijuana Dispensing Centers granted a conditional use by the City;
- (8) A statement as to whether the Applicant or any Owner has been a partner in a partnership or an officer/director of a corporation whose conditional use issued under this Chapter has previously been revoked, including the name and location of the establishment for which the conditional use was revoked as well as the date of revocation;
- (9) A statement as to whether or not the Applicant or any Owner has lost any privilege or had any permit or license to do business suspended or revoked by any local, state or federal government and, if so, the nature of such privilege, permit, license and the reason for such suspension or revocation;
- (10) A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this State or in any other State or Federal court regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;
- (11) A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of, or has pleaded guilty or nolo contendere to, a felony relating to a battery or physical violence on any person in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;
- (12) A statement as to whether or not the Applicant or any Owner has filed a petition to have his/her respective debts discharged by a bankruptcy court having jurisdiction of such cases;
- (13) Written documentation, acceptable to the Chief of Police or his/her designee, that the Applicant, every Owner, and each Employee has successfully completed level 2 background screening within the year;

(14) A passport style photograph of the Applicant and every Owner;

(15) A survey sealed by a Florida registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical Marijuana Dispensing Centers and any other protected use as set forth in Section 109A.02 above; and

(16) A notarized, signed, and sworn statement that the information provided within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued photo identification cards are currently valid and are true and correct copies of the originals

e. Inspection and search of licensed premises. Any Medical Marijuana Dispensing Center may be inspected and searched without search warrants by business licensing, code enforcement, police officers of the City during business hours.

f. Use of licensed premises for immoral or criminal purposes. Medical Marijuana Dispensing Center to be used for any immoral, improper or criminal purposes; neither shall they permit persons of known immoral, improper or criminal habits to frequent, loiter or assemble on the premises or in the entrance thereto.

g. Advertising. Medical Marijuana Dispensing Centers may not display any sign advertising any brand of Medical Marijuana on the outside of their licensed premises or on any lot or ground on which such premises are located or on any building of which such premises is a part.

h. Approval. If two special exception applications for Medical Marijuana Dispensing Centers propose locations within a distance of 5,280 feet (one mile) and are approved at the same Planning and Zoning Board hearing, then the first application that has been deemed complete pursuant to Article IV, Development Review, Section 1.3.2, Completeness of Application will be granted the Special Exception Use Permit as to meeting the distance separation requirements of Section 5.51.4. The applicant will have 18 months from the issuance of the Special Exception Use Permit to apply for any necessary permits and 24 months to obtain said permits, otherwise the Special Exception Use Permit shall be considered null and void.

5.51.3. Penalties. Any Medical Marijuana Dispensing Center, person, association, agent, servant or employee of any licensee violating any provision of this section shall, upon conviction, be punished by any of the following, or any combination of the following at the discretion of the court:

- a. A fine not exceeding five hundred dollars (\$500.00);
- b. Imprisonment of up to sixty (60) days;
- c. Revocation of the applicable development order, certificate of use, local business tax receipt or any combination of the above

5.51.4 Separation requirements. Medical Marijuana Dispensing Centers shall be subject to the following location limitations and requirements:

A. Distance between establishments. The following separation or distance standards shall apply:

1. One (1) mile from another Medical Marijuana Dispensing Center dispensing facility.
2. Five hundred feet (500') from a public school or charter school.
3. The location adjacent to residentially zoned property must either have a depth of property in excess of two hundred fifty feet (250') or have a separation between the location and residentially zoned property by a road, eight foot (8') wall, or other intervening property.
4. This separation will include those uses listed above in adjacent municipalities and unincorporated areas of the county.
5. Effect of future uses on spacing. Where a Medical Marijuana Dispensing Center is located in conformity with the provisions of this section, the subsequent locating of one of the uses listed above within the specified distance of an existing Medical Marijuana Dispensing center shall not cause a violation of this Section. Whenever a conditional use approval for a Medical Marijuana Dispensing Center has been lawfully procured and thereafter a public school or charter school is established within a distance otherwise prohibited, the establishment of such use shall not be cause for the revocation of the conditional use approval.

5.51.5. Revocation of license. Any establishment Medical Marijuana Dispensing Center, to the extent that on three (3) or more occasions within one (1) calendar year, any customer or customers shall cause a public disturbance or shall cause personal injury or property damage may have its development order, certificate of use, local business tax receipt or any combination of the above revoked under the following circumstances:

A. A public hearing shall be held before the City Commission after giving reasonable notice to the Medical Marijuana Dispensing Centers of the time, date and place of the hearing. The establishment shall be given an opportunity to be heard when the matter is considered by the City Commission.

B. All testimony and evidence shall be given under oath, and after considering all evidence, the City Commission may, by a majority vote, revoke the Medical Marijuana Dispensing Centers occupational

development order, certificate of use, local business tax receipt or any combination of the above.

C. After each violation by the establishment prior to the third violation, the Medical Marijuana Dispensing Centers shall be given written notice of the violation and shall further be advised that upon three (3) violations within a period of one (1) calendar year, the City Commission shall have the right to consider revocation of the Medical Marijuana Dispensing Centers development order, certificate of use, local business tax receipt or any combination of the above.

5.51.6. Hours of Operation

The hours of operation of the Medical Marijuana Dispensing Center shall be allowed between 8:00 am and 7:00 pm and 12:00 p.m. (noon) on Saturdays and Sundays..

5.51.7. Exception for Hospice.

1. Any location operating as a hospice, may operate a Medical Marijuana Dispensing Center for on premises consumption solely for the benefit of their terminal residents.
2. Physicians employed by a hospice may also prescribe, within the facility, medical marijuana solely for this on premise consumption for their terminal residents.
3. Irrespective of any provision to the contrary for operating, a hospice may be operated on a property where an Adult Congregate Living Facility is located, as long as it is placed within a separate free-standing building on the premises and no distance separate requirements or hours of operation are applicable.
4. Special exception approve is required for a hospice to operate both as a Medical Marijuana Health Care Establishment and Medical Marijuana Dispensing Center.

5.51.8. Zoning Requirements.

1. Separation measurement. The separation standard between and among Medical Marijuana Dispensing Centers shall be measured by the shortest airline distance between and among the nearest points on the property line.
2. This separation will include Medical Marijuana Dispensing Centers listed above in adjacent municipalities and unincorporated areas of the County.
3. No more than one Medical Marijuana Dispensing Center shall be permitted for every 25,000 residents as determined by population figures published by the United States Census Bureau or period demographic study conducted by the University of Florida.

4. Parking shall be parked at one (1) parking space for each one hundred fifty (150) square feet of gross floor area.
5. Drive-through Medical Marijuana Dispensing Centers associate with the use are prohibited.
6. Queuing of vehicles. Medical Marijuana Dispensing Centers shall ensure that there is no queuing of vehicles in the adjacent rights-of-way, the drive aisles of the Dispensing Center's parking lot, or on any adjacent properties.
7. Loitering. Medical Marijuana Dispensing Centers shall provide adequate seating for its patients and business invitees and shall not allow patients or business invitees to stand, sit (including in a parked car), or gather or loiter outside of the building where the Dispensing Center operates, including any parking areas, sidewalks, right of way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart.
8. Alcohol Prohibited. No sale or consumption of alcoholic beverages shall be allowed in or from the Dispensing Center, including the parking areas, sidewalks, or adjacent right of way.
9. Live plant materials. No living Cannabis plants are permitted on the site of a Medical Marijuana Dispensing Center.
10. Maintenance of Premises. A Medical Marijuana Dispensing Center shall actively remove litter from the property at least twice each day of operation, including the area in front of the property and from any parking lot used by its patrons.
11. Products, and paraphernalia (and depictions thereof) shall not be visible from a public sidewalk or public right-of-way.
12. Odor and Air Quality. The applicant shall ensure that there are adequate air filtration systems in place to ensure that dust, smoke, or odors will not go beyond the confines of the occupied space.
13. Nothing in this section shall prohibit a state-approved dispensing organization, or another entity licensed under state law to dispense cannabis, from making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility, as permitted by other relevant ordinances and state law.
14. All other uses related to medical marijuana not listed as permitted in this section, including but not limited to medical marijuana cultivation uses, shall be considered prohibited within the City.
15. The applicant shall furnish a certified survey from a registered engineer or surveyor, indicating the distance between the proposed Medical Marijuana Dispensing Centers and any existing medical cannabis dispensing facility, school, child day care facility, or library within the applicable radius to ensure the required separation distances have been met.
16. Maintenance of Premises. A Medical Marijuana Dispensing Centers shall actively remove litter from the property at least twice each day of operation, including the area in front of the property and from any parking lot used by its patrons.

17. Delivery Vehicle Identification. For security purposes, no vehicle used in the operation of or for the business purposes of a Medical Marijuana Dispensing Centers shall be marked in such a manner as to permit identification with the Medical Marijuana Dispensing Centers.
18. Parking. Any parking demand created shall not exceed the supply of parking spaces legally available within the parking areas allocated on the site plan as required by this Code. An applicant may be required to demonstrate that on-site traffic flow and parking will be sufficient to accommodate parking demands generated based on a current traffic and parking study prepared and certified by a licensed Traffic Engineer, if requested by the City.
19. Security Plan. As part of the special exception application, the applicant shall submit a security plan that, at a minimum, provides the following:
- a. Fully operational lightning and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both in the premises and in the surrounding rights-of-way including:
 - b. silent security alarm that notifies the Police Department that a crime is taking place;
 - c. A vault, drop safe or cash management device that provides a minimum access to the cash receipts; and,
 - d. On-site armed security personnel from one hour before the business the public until one hour after the business closes to the public.
 - e. Any instance of breaking and entering at a Medical Marijuana Dispensing Centers, regardless of whether Marijuana or Marijuana-based products are stolen, shall constitute a violation of this Chapter if the security alarm shall fail to activate simultaneously with the breaking and entering.
 - f. Signage. Medical Marijuana Dispensing Centers shall post, at each entrance to the Medical Marijuana Dispensing Center the following language with letters one-half inch in height:
ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR LEGAL REPRESENTATIVE IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA DISPENSING CENTERS
 - g. On-site community relations contact. The Medical Marijuana Dispensing Centers shall provide the City Manager or designee, and all property owners and tenants located within 100 feet of the entrance to its building, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours, and after business hours, to report operating problems. The Medical Marijuana Dispensing Centers shall make every good faith effort to encourage neighbors to call this person to try to solve

- operating problems, if any, before any calls or complaints are made to the Police Department or other City Officials.
- h. Employment restrictions. It shall be unlawful for a Medical Marijuana Dispensing Centers to employ any person who (a) is not at least 21 years of age; or (b) has not passed a level 2 background screening.
 - i. Persons allowed to enter the Premises.

 - (1) Underage entry. It shall be unlawful for any Medical Marijuana Dispensing Centers to allow any person who is not at least 18 years of age on the Premises during hours of operation, unless that person is authorized by State law to purchase Medical Marijuana, whether as a Qualified patient with a valid identification card or legal representative of a Qualified patient with a valid identification card.
 - (2) Entry by persons authorized by State law. It shall be unlawful for any Medical Marijuana Dispensing Centers to allow any person on the Premises during the hours of operation if that person is not authorized by State law to be there.
 - j. Prohibited activities. Other than dispensing of Cannabis as permitted herein no Medical Marijuana Dispensing Centers shall sell, market, dispense, provide, exchange other otherwise vend any other services, product, cannabis delivery device or drug paraphernalia as defined by federal or state law, or this Code. A Medical Marijuana Dispensing Centers shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of Cannabis or Cannabis product and on-site consumption of any Cannabis or Cannabis product is specifically prohibited. On-site storage of any form of Cannabis or Cannabis product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.
 - k. Compliance with federal and state regulations and licensure requirements. A Medical Marijuana Dispensing Centers must comply with all federal and state laws, licensing and regulatory requirements. A Medical Marijuana Dispensing Centers shall notify the City within five (5) business days of receipt of any notice of violation or warning from the State or of any changes to its State licensing approvals.
 - l. If a Medical Marijuana Dispensing Centers receives a notice of violation or warning from the State, it shall, no later than twenty (20) business days after receipt of the notice, provide the City with a copy of the corrective action plan and timeframes and completion date to address the identified issues.
 - m. A security camera system capable of recording and retrieving, for at least thirty (30) days, an image, which shall be operational at all

times during and after business hours. The security cameras shall be located:

1. At every ingress and egress to the Medical Marijuana Dispensing Center;
 2. On the interior where any monetary transaction shall occur; and,
 3. At the ingress and egress to any area where medical cannabis is stored.
- n. The Police Department shall review the applicant's operational and security plan and may impose site and operational revisions as are deemed reasonably necessary to ensure safety
- o. Sec. 5.51.85 – Medical Marijuana Dispensing Centers transferability.
- p. A conditional use approval for a Medical Marijuana Dispensing Centers is specific to the Applicant and the location and shall not be transferred.
- q. An attempted transfer of an approval for a Medical Marijuana Dispensing Centers either directly or indirectly in violation of this Section is hereby declared void, and in that event all the approval for the Medical Marijuana Dispensing Centers shall be deemed abandoned, and the Medical Marijuana conditional use shall be forfeited.

Sec. 5.51.9.- Medical Marijuana Dispensing Centers conditional use revocation.

(a) Any Medical Marijuana Dispensing Centers Conditional use issued under this Division shall be revoked if any one or more of the following occurs:

- (1) The Applicant provides false or misleading information to the City;
- (2) Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any Cannabis or Cannabis product to an individual or entity not authorized by state law to receive such substance or product;
- (3) The Applicant, an Owner, Co-owners or a manager is convicted of a felony offense;
- (4) Any Applicant, Owner, Co-owner, manager or Employee is convicted of any drug-related crime under Florida Statutes;
- (5) The Applicant fails to correct any City violation or to otherwise provide an action plan to remedy the violation acceptable to the City Manager within 30 days of citation;
- (6) The Applicant fails to correct any state violation or address any warning in accordance with any corrective action plan required by the State within the timeframes and completion date the Applicant provided to the City;
- (7) The Applicant's State license or approval authorizing the dispensing of Cannabis for Medical Use expires or is revoked;

(b) *Violation of regulations.* In the event of a Code violation, violation of the conditions of the Medical Marijuana Dispensing Centers conditional use approval, or other violation of the laws applicable to the Medical Marijuana Dispensing Centers, the City shall issue a warning notice and

the Applicant shall, no later than twenty (20) business days after receipt of the notice, provide a copy of a corrective action plan and timeframes and completion date to address the identified issues to the City.

(c) *Revocation.* In the event the City determines there are grounds for revocation as provided in this Division, the City shall notify the permittee of the intent to revoke the Medical Marijuana Dispensing Centers conditional use approval and the grounds upon which such revocation is proposed. The permittee shall have ten business days in which to provide evidence of compliance with this Article. If the permittee fails to show compliance with this Article within ten business days, the City shall schedule a hearing before the Special Master. If the Special Master determines that a permitted Medical Marijuana Dispensing Center is not in compliance with this Article, Code or the conditions of the relevant approvals, the City shall revoke the Medical Marijuana Dispensing Center conditional use approval and shall notify the permittee of the revocation. Nothing in this Article shall take away other enforcement powers of the Special Master or any other agency provided by the Code or statute.

(d) *Effect of revocation.* If a Medical Marijuana Dispensing Center conditional use approval is revoked, the permittee shall not be allowed to obtain another Medical Marijuana Dispensing Center conditional use approval for a period of two years.

(e) *Effective date.* The revocation shall take effect 15 days, including Saturdays, Sundays, and holidays, after the date the City mails the notice of revocation to the permittee or on the date the permittee ceases operation and removes its sign, whichever occurs first.

SECTION 5. Article III, Zoning Districts, Section 5.28, Offices Amended.
Land Development Regulations, Article III, Zoning Districts, Section 5.28, Offices, 5.28.1, Medical, is hereby amended, as set forth below:

Sec. 5.28. - Offices.

5.28.1. *Medical.*

A. *Administering/~~dispensing~~ controlled substances.* A medical office with a controlled substance practitioner may administer a controlled substance including medical marijuana directly to the patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.

B. *Prescribing controlled substances.* At the time the controlled substance practitioner is administering a controlled substance as identified above, a one-time one-day prescription of the controlled substance may be issued.

- 1. *Factors.*** When a special exception use application for a medical office with a controlled substance practitioner is filed, the City Commission shall consider: Whether the practitioner has been disciplined within the last ten (10) years; and

2. Whether the practitioner has owned, operated or been employed in a pain management clinic within the last ten (10) years.

C. A Medical office with a controlled substance practitioner with a current Special Exception Use Permit may prescribe medical marijuana without the need for a new Special Exception Use Permit. However, the medical practitioner must renew their business license to include medical marijuana as a separate business tax item.

SECTION 6. Article III, Section 6.5. Off-street parking standards and requirements amended. Land Development Regulations, Article III, Zoning Districts, is hereby amended to amend Section 6.5, as set forth below:

Sec. 6.5. - Off-street parking standards and requirements.

KK. Medical Marijuana Dispensing Center: one (1) parking space for each one hundred fifty (150) square feet of gross floor area

SECTION 7. Article IV., Development Review Requirements, Section 4.10. Conveyance of uses that are subject to special exception approval amended. Land Development Regulations, Article IV is hereby amended to create subsection 4.10.9, as set forth below:

Sec. 4.10. - Conveyance of uses that are subject to special exception approval.

Any use within a zoning district that is classified or categorized in these Land Development Regulations as a special exception use may be conveyed without further special exception use approval, except for the following:

4.10.1. [Repealed];

4.10.2. Day care centers, nursery schools, primary and secondary schools, and similar uses involving the care or education of minors, the elderly and the disabled;

4.10.3. Special Residential Facility Use, Category 3;

4.10.4. Pawn shops;

4.10.5. Service stations and convenience stores;

4.10.6. Vehicular sales, display, storage, or repair, including repair garages, new and used car agencies or lots, and car washes;

4.10.7. Any use subject to Section 4.8 of this part; and

4.10.8. Bars, lounges, pubs and taverns, and package stores but excluding restaurant bars.

4.10.9. Medical Marijuana Dispensing Centers.

SECTION 8. Findings and Conclusions. The Development Review Report prepared by the Planning and Zoning Department is attached hereto, is incorporated herein, and are hereby adopted as the findings of fact and conclusions of law to support the Ordinance amending Land Development Regulations.

SECTION 9. Conflict. All ordinances or parts of ordinances, all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed as to the extent of such conflict.

SECTION 10. Codification. The provisions of this Ordinance shall become and be made a part of the City of Lauderhill, Florida Land Development Regulations; sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; and the word "ordinance" may be changed to "article," "part," "section," or other appropriate word.

SECTION 11. Effective Date. This Ordinance shall take effect immediately upon its adoption.

DATE this 14 day of May, 2018.

PASSED on first reading this 30 day of April, 2018.

PASSED AND ADOPTED on second reading this 14 day of May, 2018.


PRESIDING OFFICER

ATTEST:


CITY CLERK

	FIRST READING	SECOND READING
MOTION	<u>Bates</u>	<u>Benson</u>
SECOND	<u>Thurston</u>	<u>Thurston</u>
M. BATES	<u>Yes</u>	<u>Excused</u>
H. BENSON	<u>Yes</u>	<u>Yes</u>
H. BERGER	<u>Yes</u>	<u>Yes</u>
K. THURSTON	<u>Yes</u>	<u>Yes</u>
R. KAPLAN	<u>Yes</u>	<u>Yes</u>



Agenda Item No.

DEVELOPMENT REVIEW REPORT

(Amended)

The matter before the Planning and Zoning Board (Board), sitting as the Local Planning Agency (LPA), is a proposed Ordinance amending the Land Development Regulations (LDR) and pertaining to medical marijuana. The proposed Ordinance is before the Board/LPA because LDR Article IV., Part 2.0., and Article VI., Section 4 requires the Board/LPA to make a recommendation to the City Commission on LDR amendments. *The Planning and Zoning Division recommends the Board forward the record to the City Commission with a recommendation the proposed Ordinance be adopted.*

I. BACKGROUND

On June 6, 2014, Governor Rick Scott signed the "Compassionate Medical Cannabis Act of 2014" (See Attachment E). The act:

- Allows a licensed physician to treat a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms to treat such condition with low-THC cannabis provided certain conditions are met;
- Makes it a misdemeanor of the first degree if the licensed physician does not have a reasonable belief that the patient is suffering as described above;
- Requires physician education, including successful completion of an 8 hour course and passing a subsequent examination;
- Prescribes duties for the Department of Health, including creation of a registry of physicians, and the establishment of five dispensing organizations;

- Allows for refractory and intractable epilepsy treatment and research at recognized medical center.

The Florida Medical Marijuana Legislative Initiative, also known as Amendment 2, was approved by Florida voters on November 8, 2016 in the Florida General Election. Amendment 2, and the expanded qualifying medical conditions, became effective on January 3, 2017.

The 2017 Special Legislative Session, the Florida Legislature passed Senate Bill 8-A, relating to the Medical Use of Marijuana ("SB-8A"), which implements the provisions of Art. X, § 29, Fla. Constitution

Ballot Summary:

Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not immunize violations of federal law or any non-medical use, possession or production of marijuana.

Florida law permits qualified physicians to order low-THC cannabis or medical cannabis for patients diagnosed with certain conditions. There are two types of cannabis products that may be ordered by qualified physicians:

1. Low-THC Cannabis: Patients with cancer or a condition that causes chronic seizures or muscle spasms may qualify to receive low-THC cannabis. Low-THC cannabis has very low amounts of the psychoactive ingredient THC and does not usually produce the "high" commonly associated with cannabis.
2. Medical Cannabis: If a patient is suffering from a condition determined to be terminal by two physicians, he or she may qualify for medical cannabis. This product can contain significant levels of the psychoactive ingredient THC and may produce the "high" commonly associated with cannabis.

II. PROPOSED ORDINANCE

Attachment F is an Ordinance of the City Commission of Lauderhill, Florida amending the Land Development Regulations and pertaining to medical marijuana;

1. Amending Schedule A., Land Use Classifications, adding definitions for: Medical Marijuana Establishments, Medical Marijuana Treatment Center ("MMTC"),

- Medical Marijuana Health Care Establishment, And Medical Marijuana Dispensing Center;
2. providing exceptions for a personal caregiver and qualifying patient for Medical Marijuana Health Care Establishments;
 3. providing distance requirements;
 4. amending Schedule B, Allowable Uses,
 5. providing for uses allowable by Special Exception approval in certain zoning districts;
 6. amending Article III, Zoning Districts, creating Section 5.50, Medical Marijuana Health Care Establishment;
 7. creating Section 5.51, Medical Marijuana Dispensing Centers;
 8. amending Section 5.28, Offices, Section 5.28.1 Medical Offices;
 9. amending Section 6.5 Parking Standards;
 10. amending Article IV, Development Review Requirements, Section 4.10, Conveyance Of Uses That Are Subject To Special Exception to create Subsection 4.10.9 prohibiting the conveyance regarding a Medical Marijuana Dispensing Centers

Schedule A amended. Land Development Regulations Schedule A, Land Use Classifications, is amended as set forth below:

MEDICAL MARIJUANA ESTABLISHMENTS: Medical marijuana establishments are regulated under state law (F.S. Ch. 381.986). Medical marijuana related businesses that involve growing, processing or dispensing medical marijuana must be associated with a state licensed medical marijuana treatment center (MMTC). The state licensed MMTC will not be allowed to operate in the City of Lauderhill excluding the operation of Medical Marijuana Health Care Establishments and Medical Marijuana Dispensing Centers.

MEDICAL MARIJUANA TREATMENT CENTER: (MMTC) per F.S. Ch. 381.986. An establishment licensed by the State of Florida Department of Health to engage in the cultivation, preparation, wholesale storage, distribution, transfer, processing and dispensing of medical marijuana and medical marijuana products and related supplies and which does not allow on-site consumption of marijuana or marijuana products. The state licensed MMTC will not be allowed to operate in the City of Lauderhill.

MEDICAL MARIJUANA HEALTH CARE ESTABLISHMENT: A physician's office where the primary medical services offered is the processing of physician

certifications to qualify patients for the use of medical marijuana, patient care, and ordering of medical marijuana for qualified patients. Exterior advertising or signage or documentation from the Florida Department of Health may be used in determining if a physician's office will be classified as a Medical Marijuana Health Care Establishment. The State of Florida defines qualified physicians as those that hold an active, unrestricted license as an allopathic physician under Chapter 458 or as an osteopathic physician under Chapter 459 and is in compliance with the physician's education requirements of SB 8-A (2017) and is not employed by or associated with a licensed MMTC.

A Medical Marijuana Health Care Establishment is a physician's office where the primary medical services offered is diagnosis of a qualifying medical condition and the processing of physician certifications, (which means a qualified physician's authorization for a qualified patient to receive marijuana and related devices); patient care; and ordering of medical marijuana for qualified patients. Medical Marijuana Health Care Establishment, as defined herein, are only permitted by Special Exception as an accessory use for a hospital licensed by the Agency for Health Care Administration (ACHA) and licensed medical offices that provides care and treatment for debilitating medical conditions as determined by a licensed Florida physician as defined in the Florida Constitution, for the treatment of a debilitating medical condition such as cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient. A personal caregiver may acquire, transport, and administer marijuana to a qualified patient, and a qualified patient as defined in the Florida Constitution may possess and consume medical marijuana. Retail sales of medical marijuana are prohibited;

MEDICIAL MARIJUANA DISPENSING CENTER:

A use involving acquiring, possessing, transferring, transporting, selling, distributing, delivering, or dispensing of marijuana, products containing marijuana, related supplies, or educational materials.

MEDICAL MARIJUANA DISPENSING CENTERS, as defined herein, is the building or structure where medical cannabis, as well as cannabis delivery devices is dispensed are only permitted by Special Exception Use in the General Commercial (CG) zoning district, Light Industrial (IL) zoning district and the Commercial Warehouse (CW) zoning district

Schedule B, Allowable Uses, Providing For Accessory Uses Allowable By Special Exception Approval In Certain Zoning Districts as proposed to be amended:

Schedule B amended. Land Development Regulations Schedule B, Allowable Uses, is amended as set forth below:

SCHEDULE B. - ALLOWABLE USES

B-1. Uses Allowed in Residential Districts.

Land Use Category	RS-4	RS-4A	RS-5	RS-5A	RM-5	RM-8	RM-10	RT-15	RM-18	RM-22	RM-40	RM-45	RMH-50	RO
<u>Medical Marijuana Treatment Center</u>														
<u>Medical Marijuana Dispensing Center</u>														
<u>Medical Marijuana Health Care Establishment</u>														

B-2. Uses Allowed in Non-residential Districts.

Land Use Category	CO	CN	CG	CC	CW	CE	IL	PO	PL	PR	CR	S-1	CF	UT
<u>Medical Marijuana Treatment Center</u>														
<u>Medical Marijuana Health Care Establishment</u>	<u>SE</u>		<u>SE</u>	<u>SE</u>	<u>SE</u>		<u>SE</u>							
<u>Medical Marijuana Dispensing Center</u>			<u>SE</u>		<u>SE</u>		<u>SE</u>							

Article III, Section 5.50. Medical Marijuana Health Care Establishment Created. Land Development Regulations, Article III, Zoning Districts, is hereby amended to create Section 5.50, as set forth below:

Sec. 5.50. Medical Marijuana Health Care Establishment. A medical marijuana health care establishment shall comply with the following standards:

- a. Medical marijuana health care establishment shall comply with all of the use specific standards for a medical office listed in § 5.28.1. Offices, Medical.
- b. On-site dispensing of medical marijuana is prohibited.

Article III, Section 5.51. Medication Marijuana Dispensing Centers Created. Land Development Regulations, Article III, Zoning Districts, is hereby amended to create Section 5.51, as set forth below:

Sec. 5.51 – Medical Marijuana Dispensing Centers.

The following regulations shall apply to the location, operation of Medical Marijuana Dispensing Centers, and shall be in addition to other requirements or limitations of these Land Development Regulations.

5.51.1. Definitions.

Cannabis Delivery Device - a device utilized for the consumption of prescribed medical marijuana. Such devices can only be sold to a qualified patient that has been prescribed medical marijuana or low-THC cannabis or someone authorized by the qualified patient or the qualified patient's legal representative authorized to receive the device on the qualified patient's behalf.

Medical Marijuana Dispensing Center - the building or structure where medical cannabis, as well as cannabis delivery devices, is dispensed.

Hospice – a free-standing separate building or stand-alone facility that operates a program designed to provide care and emotional support to the terminally ill patient residing on premise only in their final phase of life to enable them to be comfortable and pain free in a homelike setting, allowing for a quality of life to be maintained and family members to be active participants in their care. This specifically excludes any residential in-home hospice.

5.51.2. In general. All Medical Marijuana Dispensing Centers shall be subject to the following general standards and requirements.

(a) If the sale of medical marijuana/cannabis is subsequently permitted under Federal law and/or State law, it shall be unlawful for any person to operate a Medical Marijuana Dispensing Centers within the corporate limits of the city without the approval as set forth within this Article.

(b) It is hereby specifically and expressly provided that an application for a Medical Marijuana Dispensing Center is presumed to be incompatible with adjacent zoning, land uses and development unless an applicant can clearly establish otherwise to the satisfaction of the city commission, and further provide that the applicant can demonstrate a need or community benefit which need is not adequately met by another similar facility within a one (1) mile radius, unless otherwise provided.

(c) Conditional use approval required. No Medical Marijuana Dispensing Center shall be permitted to operate in the (IL) Light Industrial zoning districts, the (CW) Commercial Warehouse zoning districts, or the (CG) General Commercial zoning districts unless such facility has been approved as a conditional use pursuant to the criteria set forth in Schedule B of this Code and the requirements set forth below.

(d) Application. In addition to meeting the general and conditional use application requirements, an application for conditional use for a Medical Marijuana Dispensing Centers shall:

(1) Be a joint application by the property owner and the tenant, if the Medical Marijuana Dispensing Centers and the property are not owned by the same person or entity;

(2) The business operating name and all Applicant and Owner information. If the Applicant or Owner is:

a. An individual, his/her legal name, aliases, home address and business address, date of birth, copy of driver's license or state or federally issued identification card;

b. A partnership, the full and complete name of all general and limited partners, dates of birth, copy of driver's license or state or federally issued identification card of all general and limited partners, and all aliases used by all of

the partners, whether the partnership is general or limited, a statement as to whether or not the partnership is authorized to do business in the State of Florida and, if in existence, a copy of the partnership agreement (if the general partner is a corporation, then the Applicant shall submit the required information for corporate Applicant in addition to the information concerning the partnership); or

c. A corporation, the exact and complete corporate name, the date of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth, copy of the driver's licenses or state or federally issued identification cards of all officers, and directors, and all aliases used, the capacity of all officers, and directors, if applicable, the name of the registered corporate agent, and the address of the registered office for service of process, and a statement as to whether or not the corporation is authorized to do business in the State of Florida.

d. The addresses required by this section shall be physical locations, and not post office boxes.

(3) A copy of the lease identifying the specific use, if the Medical Marijuana Dispensing Centers and the property are not owned by the same person or entity;

(4) Include a full copy of the State of Florida Licensing Application and all related exhibits, appendices, and backup materials;

(5) Copies of any and all state and other licenses issued to the Applicant to engage in the Marijuana business;

(6) A statement as to whether the Applicant or any Owner or Employee has previously received a Medical Marijuana Conditional Use;

(7) A statement as to whether the Applicant or any Owner holds other permits or license under this Chapter and, if so, the names and locations of such Medical Marijuana Dispensing Centers granted a conditional use by the City;

(8) A statement as to whether the Applicant or any Owner has been a partner in a partnership or an officer/director of a corporation whose conditional use issued under this Chapter has previously been revoked, including the name and location of the establishment for which the conditional use was revoked as well as the date of revocation;

(9) A statement as to whether or not the Applicant or any Owner has lost any privilege or had any permit or license to do business suspended or revoked by any local, state or federal government and, if so, the nature of such privilege, permit, license and the reason for such suspension or revocation;

(10) A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of or has pleaded guilty or nolo contendere to a felony relating to any business in this State or in any other State or Federal court regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;

(11) A statement as to whether or not the Applicant or any Owner or Employee has been found guilty of, or has pleaded guilty or nolo contendere to, a felony relating to a battery or physical violence on any person in this State or in any other State or Federal court, regardless of whether a judgment of conviction has been entered by the court having jurisdiction of such cases;

(12) A statement as to whether or not the Applicant or any Owner has filed a petition to have his/her respective debts discharged by a bankruptcy court having jurisdiction of such cases;

(13) Written documentation, acceptable to the Chief of Police or his/her designee, that the Applicant, every Owner, and each Employee has successfully completed level 2 background screening within the year;

(14) A passport style photograph of the Applicant and every Owner;

(15) A survey sealed by a Florida registered land surveyor who is licensed by the State of Florida. The survey shall indicate the distance between the proposed Medical Marijuana Dispensing Centers and any other protected use as set forth in Section 109A.02 above; and

(16) A notarized, signed, and sworn statement that the information provided within the application is truthful, independently verifiable, and complete and that the photocopies of the attached driver's licenses or state or federally issued photo identification cards are currently valid and are true and correct copies of the originals

e. Inspection and search of licensed premises. Any Medical Marijuana Dispensing Center may be inspected and searched without search warrants by business licensing, code enforcement, police officers of the City during business hours.

f. Use of licensed premises for immoral or criminal purposes. Medical Marijuana Dispensing Center to be used for any immoral, improper or criminal purposes; neither shall they permit persons of known immoral, improper or criminal habits to frequent, loiter or assemble on the premises or in the entrance thereto.

g. Advertising. Medical Marijuana Dispensing Centers may not display any sign advertising any brand of Medical Marijuana on the outside of their licensed premises or on any lot or ground on which such premises are located or on any building of which such premises is a part.

h. Approval. If two special exception applications for Medical Marijuana Dispensing Centers propose locations within a distance of 5,280 feet (one mile) and are approved at the same Planning and Zoning Board hearing, then the first application that has been deemed complete pursuant to Article IV, Development Review, Section 1.3.2, Completeness of Application will be granted the Special Exception Use Permit as to meeting the distance separation requirements of Section 5.51.4. The applicant will have 18 months from the issuance of the Special Exception Use Permit to apply for any

necessary permits and 24 months to obtain said permits, otherwise the Special Exception Use Permit shall be considered null and void.

5.51.3. Penalties. Any Medical Marijuana Dispensing Center, person, association, agent, servant or employee of any licensee violating any provision of this section shall, upon conviction, be punished by any of the following, or any combination of the following at the discretion of the court:

- a. A fine not exceeding five hundred dollars (\$500.00);
- b. Imprisonment of up to sixty (60) days;
- c. Revocation of the applicable development order, certificate of use, local business tax receipt or any combination of the above

5.51.4 Separation requirements. Medical Marijuana Dispensing Centers shall be subject to the following location limitations and requirements:

A. Distance between establishments. The following separation or distance standards shall apply:

1. One (1) mile from another Medical Marijuana Dispensing Center dispensing facility.
2. Five hundred feet (500') from a public school or charter school.
3. The location adjacent to residentially zoned property must either have a depth of property in excess of two hundred fifty feet (250') or have a separation between the location and residentially zoned property by a road, eight foot (8') wall, or other intervening property.
4. This separation will include those uses listed above in adjacent municipalities and unincorporated areas of the county.
5. Effect of future uses on spacing. Where a Medical Marijuana Dispensing Center is located in conformity with the provisions of this section, the subsequent locating of one of the uses listed above within the specified distance of an existing Medical Marijuana Dispensing center shall not cause a violation of this Section. Whenever a conditional use approval for a Medical Marijuana Dispensing Center has been lawfully procured and thereafter a public school or charter school is established within a distance otherwise prohibited, the establishment of such use shall not be cause for the revocation of the conditional use approval.

5.51.5. Revocation of license. Any establishment Medical Marijuana Dispensing Center, to the extent that on three (3) or more occasions within one (1) calendar year, any customer or customers shall cause a public disturbance or shall cause personal injury or property damage may have its development order, certificate of use, local business tax receipt or any combination of the above revoked under the following circumstances:

A. A public hearing shall be held before the City Commission after giving reasonable notice to the Medical Marijuana Dispensing Centers of the time, date and place of the hearing. The establishment shall be given an opportunity to be heard when the matter is considered by the City Commission.

B. All testimony and evidence shall be given under oath, and after considering all evidence, the City Commission may, by a majority vote, revoke the Medical Marijuana Dispensing Centers occupational development order, certificate of use, local business tax receipt or any combination of the above.

C. After each violation by the establishment prior to the third violation, the Medical Marijuana Dispensing Centers shall be given written notice of the violation and shall further be advised that upon three (3) violations within a period of one (1) calendar year, the City Commission shall have the right to consider revocation of the Medical Marijuana Dispensing Centers development order, certificate of use, local business tax receipt or any combination of the above.

5.51.6. Hours of Operation

The hours of operation of the Medical Marijuana Dispensing Center shall be allowed weekdays between 8:00 am and 7:00 pm and 12:00 p.m. (noon) until 7:00 pm on Saturdays and Sundays..

5.51.7. Exception for Hospice.

1. Any location operating as a hospice, may operate a Medical Marijuana Dispensing Center for on premises consumption solely for the benefit of their terminal residents.
2. Physicians employed by a hospice may also prescribe, within the facility, medical marijuana solely for this on premise consumption for their terminal residents.
3. Irrespective of any provision to the contrary for operating, a hospice may be operated on a property where an Adult Congregate Living Facility is located, as long as it is placed within a separate free-standing building on the premises and no distance separate requirements of hours of operation are applicable.
4. Special exception approve is required for a hospice to operate both as a Medical Marijuana Health Care Establishment and Medical Marijuana Dispensing Center.

5.51.8. Zoning Requirements.

1. Separation measurement. The separation standard between and among Medical Marijuana Dispensing Centers shall be measured by the shortest airline distance between and among the nearest points on the property line.
2. This separation will include Medical Marijuana Dispensing Centers listed above in adjacent municipalities and unincorporated areas of the County.

3. No more than one Medical Marijuana Dispensing Center shall be permitted for every 25,000 residents as determined by population figures published by the United States Census Bureau or period demographic study conducted by the University of Florida.
4. Parking shall be parked at one (1) parking space for each one hundred fifty (150) square feet of gross floor area.
5. Drive-through Medical Marijuana Dispensing Centers associate with the use are prohibited.
6. Queuing of vehicles. Medical Marijuana Dispensing Centers shall ensure that there is no queuing of vehicles in the adjacent rights-of-way, the drive aisles of the Dispensing Centers parking lot, or on any adjacent properties.
7. Loitering. Medical Marijuana Dispensing Centers shall provide adequate seating for its patients and business invitees and shall not allow patients or business invitees to stand, sit (including in a parked car), or gather or loiter outside of the building where the Dispensing Center operates, including any parking areas, sidewalks, right of way, or neighboring properties for any period of time longer than that reasonably required to arrive and depart.
8. Alcohol Prohibited. No sale or consumption of alcoholic beverages shall be allowed in or from the Dispensing Center, including the parking areas, sidewalks, or adjacent right of way.
9. Live plant materials. No living Cannabis plants are permitted on the site of a Medical Marijuana Dispensing Center.
10. Maintenance of Premises. A Medical Marijuana Dispensing Centers shall actively remove litter from the property at least twice each day of operation, including the area in front of the property and from any parking lot used by its patrons.
11. Products, and paraphernalia (and depictions thereof) shall not be visible from a public sidewalk or public right-of-way.
12. Odor and Air Quality. The applicant shall ensure that there are adequate air filtration systems in place to ensure that dust, smoke, or odors will not go beyond the confines of the occupied space.
13. Nothing in this section shall prohibit a state-approved dispensing organization, or another entity licensed under state law to dispense cannabis, from making deliveries of cannabis or derivative products to the residence or business of an authorized individual, or to a health care facility, as permitted by other relevant ordinances and state law.
14. All other uses related to medical marijuana not listed as permitted in this section, including but not limited to medical marijuana cultivation uses, shall be considered prohibited within the City.
15. The applicant shall furnish a certified survey from a registered engineer or surveyor, indicating the distance between the proposed Medical Marijuana Dispensing Centers and any existing medical cannabis dispensing facility, school, child day care facility, or library within the applicable radius to ensure the required separation distances have been met.

16. Maintenance of Premises. A Medical Marijuana Dispensing Centers shall actively remove litter from the property at least twice each day of operation, including the area in front of the property and from any parking lot used by its patrons.
17. Delivery Vehicle Identification. For security purposes, no vehicle used in the operation of or for the business purposes of a Medical Marijuana Dispensing Centers shall be marked in such a manner as to permit identification with the Medical Marijuana Dispensing Centers.
18. Parking. Any parking demand created shall not exceed the supply of parking spaces legally available within the parking areas allocated on the site plan as required by this Code. An applicant may be required to demonstrate that on-site traffic flow and parking will be sufficient to accommodate parking demands generated based on a current traffic and parking study prepared and certified by a licensed Traffic Engineer, if requested by the City.
19. Security Plan. As part of the special exception application, the applicant shall submit a security plan that, at a minimum, provides the following:
 - a. Fully operational lightning and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both in the premises and in the surrounding rights-of-way including:
 - b. silent security alarm that notifies the Police Department that a crime is taking place;
 - c. A vault, drop safe or cash management device that provides a minimum access to the cash receipts; and,
 - d. On-site armed security personnel from one hour before the business the public until one hour after the business closes to the public.
 - e. Any instance of breaking and entering at a Medical Marijuana Dispensing Centers, regardless of whether Marijuana or Marijuana-based products are stolen, shall constitute a violation of this Chapter if the security alarm shall fail to activate simultaneously with the breaking and entering.
 - f. Signage. Medical Marijuana Dispensing Centers shall post, at each entrance to the Medical Marijuana Dispensing Centers the following language with letters one-half inch in height:
ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS QUALIFYING PATIENT OR LEGAL REPRESENTATIVE IDENTIFICATION CARDS OR A QUALIFYING PATIENT'S LEGAL GUARDIAN MAY OBTAIN MARIJUANA FROM A MEDICAL MARIJUANA DISPENSING CENTERS
 - g. On-site community relations contact. The Medical Marijuana Dispensing Centers shall provide the City Manager or designee, and all property owners and tenants located within 100 feet of the entrance to its building, with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom they can provide notice during business hours, and after business hours, to report operating problems. The Medical Marijuana Dispensing Centers shall make every good faith effort to encourage neighbors to call this person to try

- to solve operating problems, if any, before any calls or complaints are made to the Police Department or other City Officials.
- h. Employment restrictions. It shall be unlawful for a Medical Marijuana Dispensing Centers to employ any person who (a) is not at least 21 years of age; or (b) has not passed a level 2 background screening.
 - i. Persons allowed to enter the Premises.
 - (1) Underage entry. It shall be unlawful for any Medical Marijuana Dispensing Centers to allow any person who is not at least 18 years of age on the Premises during hours of operation, unless that person is authorized by State law to purchase Medical Marijuana, whether as a Qualified patient with a valid identification card or legal representative of a Qualified patient with a valid identification card.
 - (2) Entry by persons authorized by State law. It shall be unlawful for any Medical Marijuana Dispensing Centers to allow any person on the Premises during the hours of operation if that person is not authorized by State law to be there.
 - j. Prohibited activities. Other than dispensing of Cannabis as permitted herein no Medical Marijuana Dispensing Centers shall sell, market, dispense, provide, exchange other otherwise vend any other services, product, cannabis delivery device or drug paraphernalia as defined by federal or state law, or this Code. A Medical Marijuana Dispensing Centers shall not engage in any activity other than those activities specifically defined herein as an authorized part of the use. The preparation, wholesale storage, cultivation, or processing of any form of Cannabis or Cannabis product and on-site consumption of any Cannabis or Cannabis product is specifically prohibited. On-site storage of any form of Cannabis or Cannabis product is prohibited, except to the extent reasonably necessary for the conduct of the on-site retail business.
 - k. Compliance with federal and state regulations and licensure requirements. A Medical Marijuana Dispensing Centers must comply with all federal and state laws, licensing and regulatory requirements. A Medical Marijuana Dispensing Centers shall notify the City within five (5) business days of receipt of any notice of violation or warning from the State or of any changes to its State licensing approvals.
 - l. If a Medical Marijuana Dispensing Centers receives a notice of violation or warning from the State, it shall, no later than twenty (20) business days after receipt of the notice, provide the City with a copy of the corrective action plan and timeframes and completion date to address the identified issues.
 - m. A security camera system capable of recording and retrieving, for at least thirty (30) days, an image, which shall be operational at all times during and after business hours. The security cameras shall be located:
 - 1. At every ingress and egress to the Medical Marijuana Dispensing Center;
 - 2. On the interior where any monetary transaction shall occur; and,
 - 3. At the ingress and egress to any area where medical cannabis is stored.

- n. The Police Department shall review the applicant's operational and security plan and may impose site and operational revisions as are deemed reasonably necessary to ensure safety

Sec. 5.51.85 – Medical Marijuana Dispensing Centers transferability.

- a. A conditional use approval for a Medical Marijuana Dispensing Centers is specific to the Applicant and the location and shall not be transferred.
- b. An attempted transfer of an approval for a Medical Marijuana Dispensing Centers either directly or indirectly in violation of this Section is hereby declared void, and in that event all the approval for the Medical Marijuana Dispensing Centers shall be deemed abandoned, and the Medical Marijuana conditional use shall be forfeited.

Sec. 5.51.9.- Medical Marijuana Dispensing Centers conditional use revocation.

(a) Any Medical Marijuana Dispensing Centers Conditional use issued under this Division shall be revoked if any one or more of the following occurs:

- (1) The Applicant provides false or misleading information to the City;
- (2) Anyone on the premises knowingly dispenses, delivers, or otherwise transfers any Cannabis or Cannabis product to an individual or entity not authorized by state law to receive such substance or product;
- (3) The Applicant, an Owner, Co-owners or a manager is convicted of a felony offense;
- (4) Any Applicant, Owner, Co-owner, manager or Employee is convicted of any drug- related crime under Florida Statutes;
- (5) The Applicant fails to correct any City violation or to otherwise provide an action plan to remedy the violation acceptable to the City Manager within 30 days of citation;
- (6) The Applicant fails to correct any state violation or address any warning in accordance with any corrective action plan required by the State within the timeframes and completion date the Applicant provided to the City;
- (7) The Applicant's State license or approval authorizing the dispensing of Cannabis for Medical Use expires or is revoked;

(b) Violation of regulations. In the event of a Code violation, violation of the conditions of the Medical Marijuana Dispensing Centers conditional use approval, or other violation of the laws applicable to the Medical Marijuana Dispensing Centers, the City shall issue a warning notice and the Applicant shall, no later than twenty (20) business days after receipt of the notice, provide a copy of a corrective action plan and timeframes and completion date to address the identified issues to the City.

(c) Revocation. In the event the City determines there are grounds for revocation as provided in this Division, the City shall notify the permittee of the intent to revoke the Medical Marijuana Dispensing Centers conditional use approval and the grounds upon which such revocation is proposed. The permittee shall have ten business days in which to provide evidence of compliance with this Article. If the permittee fails to show compliance with this Article within ten business days, the City shall schedule a hearing

before the Special Master. If the Special Master determines that a permitted Medical Marijuana Dispensing Centers is not in compliance with this Article, Code or the conditions of the relevant approvals, the City shall revoke the Medical Marijuana Dispensing Center conditional use approval and shall notify the permittee of the revocation. Nothing in this Article shall take away other enforcement powers of the Special Master or any other agency provided by the Code or statute.

(d) Effect of revocation. If a Medical Marijuana Dispensing Center conditional use approval is revoked, the permittee shall not be allowed to obtain another Medical Marijuana Dispensing Center conditional use approval for a period of two years.

(e) Effective date. The revocation shall take effect 15 days, including Saturdays, Sundays, and holidays, after the date the City mails the notice of revocation to the permittee or on the date the permittee ceases operation and removes its sign, whichever occurs first.

Article III, Zoning Districts, Section 5.28, Offices Amended. Land Development Regulations, Article III, Zoning Districts, Section 5.28, Offices, 5.28.1, Medical, is hereby amended, as set forth below:

Sec. 5.28. - Offices.

5.28.1. Medical.

A. ~~Administering/dispensing~~ *controlled substances.* A medical office with a controlled substance practitioner may administer a controlled substance including medical marijuana directly to the patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment ~~session~~.

B. *Prescribing controlled substances.* At the time the controlled substance practitioner is administering a controlled substance as identified above, a ~~one-time one-day~~ prescription of the controlled substance may be issued.

1. *Factors.* When a special exception use application for a medical office with a controlled substance practitioner is filed, the City Commission shall consider:
Whether the practitioner has been disciplined within the last ten (10) years; and
2. Whether the practitioner has owned, operated or been employed in a pain management clinic within the last ten (10) years.

C. A Medical office with a controlled substance practitioner with a current Special Exception Use Permit may prescribe medical marijuana without the need for a new Special Exception Use Permit. However, the medical practitioner must renew their business license to include medical marijuana as a separate business tax item.

. Article III, Section 6.5. Off-street parking standards and requirements amended. Land Development Regulations, Article III, Zoning Districts, is hereby amended to amend Section 6.5, as set forth below:

Sec. 6.5. - Off-street parking standards and requirements.

KK. Medical Marijuana Dispensing Center: one (1) parking space for each one hundred fifty (150) square feet of gross floor area

Article IV., Development Review Requirements, Section 4.10. Conveyance of uses that are subject to special exception approval amended. Land Development Regulations, Article IV is hereby amended to create subsection 4.10.9, as set forth below:

Sec. 4.10. - Conveyance of uses that are subject to special exception approval.

Any use within a zoning district that is classified or categorized in these Land Development Regulations as a special exception use may be conveyed without further special exception use approval, except for the following:

4.10.1. [Repealed];

4.10.2. Day care centers, nursery schools, primary and secondary schools, and similar uses involving the care or education of minors, the elderly and the disabled;

4.10.3. Special Residential Facility Use, Category 3;

4.10.4. Pawn shops;

4.10.5. Service stations and convenience stores;

4.10.6. Vehicular sales, display, storage, or repair, including repair garages, new and used car agencies or lots, and car washes;

4.10.7. Any use subject to Section 4.8 of this part; and

4.10.8. Bars, lounges, pubs and taverns, and package stores but excluding restaurant bars.

4.10.9. Medical Marijuana Dispensing Centers.

III. DATA & ANALYSIS

Florida statutes. Section 163.3202, Florida Statutes, requires a local government to adopt land development regulations that implement their adopted Comprehensive Plan. Paragraph 163.3202(2)(b), Florida Statutes, requires the land development regulations contain provisions addressing the use of land and water. Paragraph 163.3213(2)(b), Florida Statutes, defines a "Land development regulation" as an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction,

landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include a general zoning code, but shall not include a zoning map, an action which results in zoning or rezoning of land, or any building construction standard adopted pursuant to and in compliance with the provisions of chapter 553.

Staff concludes the proposed Ordinance is a land development regulation because it regulates the development or use of land for medical marijuana treatment centers.

B. Article IV, Part 2.0. standards. Article IV., Part 2.0., Section 2.4 addresses those factors to be considered when reviewing a zoning district amendments, and Sections 2.9 and 2.10 focus respectively on procedural and notice requirements.

1. **Amendment factors.** LDR Article IV., Part 2.0., Section 2.4., requires the Board and City Commission to consider and evaluate zoning changes in relation to all pertinent factors but with reference to six (6) specific factors. The proposed Ordinance is evaluated below against the six (6) identified factors.

a. *The character of the district and its peculiar suitability for particular uses.*

The Ordinance proposes that a Medical Marijuana Health Care Establishment is a physician's office where the primary medical services offered is diagnosis of a qualifying medical condition and the processing of physician certifications. (which means a qualified physician's authorization for a qualified patient to receive marijuana and related devices); patient care; and ordering of medical marijuana for qualified patients. A Medical Marijuana Health Care Establishment, as defined herein, are only permitted by Special Exception as an accessory use for a hospital licensed by the Agency for Health Care Administration (ACHA) and licensed medical offices that provides care and treatment for debilitating medical conditions as determined by a licensed Florida physician as defined in the Florida Constitution. for the treatment of a debilitating medical condition such as cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient. A personal caregiver may acquire, transport, and administer marijuana to a qualified patient, and a qualified patient as defined in the Florida Constitution may

possess and consume medical marijuana. Retail sales of medical marijuana are prohibited. A Medical office with a controlled substance practitioner with a current Special Exception Use Permit may prescribe medical marijuana without the need for a new Special Exception Use Permit. However, the medical practitioner must renew their business license to include medical marijuana as a separate business tax item. The use is only allowed by Special Exception Use in the following non-residential zoning districts: Commercial Office (CO), General Commercial (CG), Community Commercial (CC), Commercial Warehouse (CW), and Light Industrial (IL).

A Medical Marijuana Dispensing Center is a use involving acquiring, possessing, transferring, transporting, selling, distributing, delivering, or dispensing of marijuana products containing marijuana, related supplies, or educational materials.

Medical Marijuana Dispensing Centers, as defined herein, is the building or structure where medical cannabis, as well as cannabis delivery devices is dispensed are only permitted by Special Exception Use in the General Commercial (CG) zoning district, Light Industrial (IL) zoning district and the Commercial Warehouse (CW) zoning district. The use is subject to the general standards identified in Section 5.51 of the proposed ordinance.

Conservation of the value of buildings and encouraging the most appropriate use of land and water throughout the City.

The proposed Ordinance neither conserves nor wastes the value of buildings because it addresses land uses. The proposed Ordinance encourages the most appropriate use of land and water because it prohibits the land use.

- b. *The applicable portions of the adopted City Comprehensive Plan and programs such as land use, trafficways, recreation, schools, neighborhoods, drainage and housing and so forth.*

The PZD finds the proposed Ordinance is generally consistent with Future Land Use Element (FLUE), Objective 2.20., Land Development Regulations, which provides in part "Maintain Land Development Regulations ... promoting well-planned, orderly, compatible, and attractive development."

- c. *The need of the City for land areas for specific purposes to serve population and economic activities.*

Whether there is a future need for land areas for the specific purpose of allowing MMTC is a public policy issue that needs to be determined by the City Commission.

- d. *Whether there have been substantial changes in the character of development in or near an area under consideration for rezoning.*

This factor applies to Zoning District Map amendments and not LDR text amendments. Since this is essentially a LDR text amendment, this factor does not apply.

- e. *The facts and opinions presented to the Planning and Zoning Board through hearings.*

This Development Review Report includes data and analysis and written findings of fact and conclusions to support staff's recommendation on the proposed Ordinance.

2. **Procedure.** LDR Article IV., Part 2.0., Section 2.9., addresses the procedure for zoning district map or zoning regulation amendments. It requires the Board to make a recommendation to the City Commission at a duly noticed public hearing on changes to the zoning district map and zoning regulations and for the Board to forward its recommendation to the City Commission.

The PZD has placed the proposed Ordinance on the Planning and Zoning Board regular February 2018 public hearing agenda, being held on February 27, 2018. At that duly noticed public hearing, the Board will consider the proposed Ordinance, this Development Review Report, all other relevant and substantial competent evidence presented at the hearing, make a recommendation, and forward to the City Commission their recommendation on the proposed Ordinance and all supporting evidence.

3. **Amendment notice.** LDR Article IV., Part 2.0., Section 2.10., addresses public notice. Subsection 2.10.1., requires a change in zoning be published in a newspaper of general circulation in Broward County at least 10 days prior to the date of the hearing.

The PZD has caused a legal notice of the Planning and Zoning Board public hearing to be published in the Sun-Sentinel, a newspaper of general circulation within the City and Broward County, on or before February 17, 2018, or at least 10 days before the public hearing date. The

proposed Ordinance is identified within the published legal notice. Proof of publication is on file with the PZD and is included herein by reference. Thus, the PZD concludes the proposed Ordinance has been duly noticed consistent with the standards and requirements of LDR Article IV., Part 2.0., Section 2.10.

IV. ATTACHMENTS

Attachment A:	Ord. No. 10O-03-113
Attachment B:	Ord. No. 10O-12-173
Attachment C:	Ord. No. 12O-06-127
Attachment D:	Florida Amendment 2 (2016), Full Text of Constitutional Changes
Attachment E:	CS for CS for SB 1030, "Compassionate Medical Cannabis Act of 2014"
Attachment F:	Proposed Ordinance

V. FINDINGS AND CONCLUSIONS

Based upon the information contained in this Development Review Report, the following findings of fact and conclusions of law are offered:

- A. Presently, federal and state law prohibits any person from acquiring, cultivating, possessing, processing (including the development of related products such as food, tinctures, aerosols, oils, or ointments), transferring, transporting, selling, distributing, dispensing, or administering marijuana or products containing marijuana.
- B. Florida amendment 2 is a constitutional amendment approved by the voters on November 8, 2016 that will allow medical marijuana treatment centers.
- C. The LDR already contains provisions prohibiting pain management clinics and making it illegal for a pharmacy to compound, cultivate, dispense, distribute, fill, possess, store sell or use medical marijuana but does not address medical marijuana treatment centers. The proposed Ordinance defines the term and then makes the use prohibited.

- D. Staff finds that LDR Article IV., Part 2.0., Section 2.4., requires a proposed LDR amendment be evaluated against six (6) specific factors. Staff finds the proposed Ordinance has been evaluated against the six (6) identified factors and concludes the proposed Ordinance generally is in conformance and furthers those factors.
- E. Staff finds the proposed Ordinance amending the LDR is scheduled for a duly noticed Board public hearing on February 27, 2018. At that public hearing, the Board will review and make a recommendation to the City Commission on the proposed Ordinance.
- F. Staff finds the proposed Ordinance has been published in the legal notice section of the Sun-Sentinel, a newspaper of general circulation within the County, at least 10 days before the Board public hearing.

VI. ALTERNATIVE ACTIONS

The Board/LPA has one of the following alternative actions at its disposal:

- A. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted.
- B. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support the Board's recommendation, and forward the record to the City Commission with the recommendation that the proposed Ordinance not be adopted.
- C. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, amend the findings and conclusions contained herein to support any necessary conditions, and forward the record to the City Commission with the recommendation that the proposed Ordinance be adopted with conditions.
- D. Enter into the record the Development Review Report and all other substantial competent evidence presented at the hearing, identify any additional data and analysis needed to support the proposed Ordinance, and forward the record to the City Commission with the recommendation that the proposed Ordinance be tabled for up to six months in order to allow staff time to provide the identified data and analysis needed to make an informed recommendation on the

proposed Ordinance.

VII. RECOMMENDED ACTION

- A. PZD recommendation. Staff recommends the Planning and Zoning Board enter into the record this Development Review Report and all other substantial competent evidence presented at the hearing, adopt the findings and conclusions contained herein, and forward the record to the City Commission with a recommendation that the proposed Ordinance be adopted.
- B. Planning and Zoning Board recommendation. The proposed Ordinance is scheduled on the agenda for the regular February, 2018 Board hearing, being held on February 27, 2018.
- C. City Commission action. First reading of the proposed Ordinance is tentatively scheduled on the agenda for the March 5, 2018 City Commission public hearing. If approved or approved with conditions on first reading, the adoption hearing on the proposed Ordinance is tentatively scheduled on the agenda for the March 26, 2018 City Commission public hearing.

CONSTITUTIONAL AMENDMENT PETITION FORM

Note:

- All information on this form, including your signature, becomes a public record upon receipt by the Supervisor of Elections.
- Under Florida law, it is a first degree misdemeanor, punishable as provided in s. 775.082 or s. 775.08, Florida Statutes, to knowingly sign more than one petition for an issue. [Section 104.185, Florida Statutes]
- If all requested information on this form is not completed, the form will not be valid.

Your name _____

Please Print Name as it appears on your Voter Information Card

Your address _____

City _____ Zip _____ County _____

☐ Please change my legal residence address on my voter registration record to the above residence address (check box, if applicable).

Voter Registration Number _____ or Date of Birth _____

I am a registered voter of Florida and hereby petition the Secretary of State to place the following proposed amendment to the Florida Constitution on the ballot in the general election:

BALLOT TITLE: Use of Marijuana for Debilitating Medical Conditions

BALLOT SUMMARY: Allows medical use of marijuana for individuals with debilitating medical conditions as determined by a licensed Florida physician. Allows caregivers to assist patients' medical use of marijuana. The Department of Health shall register and regulate centers that produce and distribute marijuana for medical purposes and shall issue identification cards to patients and caregivers. Applies only to Florida law. Does not immunize violations of federal law or any non-medical use, possession or production of marijuana.

ARTICLE AND SECTION BEING CREATED OR AMENDED: Article X, Section 29

FULL TEXT OF THE PROPOSED CONSTITUTIONAL AMENDMENT:

ARTICLE X, SECTION 29.— Medical marijuana production, possession and use.

(a) PUBLIC POLICY.

(1) The medical use of marijuana by a qualifying patient or caregiver in compliance with this section is not subject to criminal or civil liability or sanctions under Florida law.

(2) A physician shall not be subject to criminal or civil liability or sanctions under Florida law solely for issuing a physician certification with reasonable care to a person diagnosed with a debilitating medical condition in compliance with this section.

(3) Actions and conduct by a Medical Marijuana Treatment Center registered with the Department, or its agents or employees, and in compliance with this section and Department regulations, shall not be subject to criminal or civil liability or sanctions under Florida law.

(b) DEFINITIONS. For purposes of this section, the following words and terms shall have the following meanings:

(1) "Debilitating Medical Condition" means cancer, epilepsy, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), post-traumatic stress disorder (PTSD), amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis, or other debilitating medical conditions of the same kind or class as or comparable to those enumerated, and for which a physician believes that the medical use of marijuana would likely outweigh the potential health risks for a patient.

(2) "Department" means the Department of Health or its successor agency.

(3) "Identification card" means a document issued by the Department that identifies a qualifying patient or a caregiver.

(4) "Marijuana" has the meaning given cannabis in Section 893.02(3), Florida Statutes (2014), and, in addition, "Low-THC cannabis" as defined in Section 381.986(1)(b), Florida Statutes (2014), shall also be included in the meaning of the term "marijuana."

(5) "Medical Marijuana Treatment Center" (MMTC) means an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department.

(6) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of an amount of marijuana not in conflict with Department rules, or of related supplies by a qualifying patient or caregiver for use by the caregiver's designated qualifying patient for the treatment of a debilitating medical condition.

(7) "Caregiver" means a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana and has qualified for and obtained a caregiver identification card issued by the Department. The Department may limit the number of qualifying patients a caregiver may assist at one time and the number of caregivers that a qualifying patient may have at one time. Caregivers are prohibited from consuming marijuana obtained for medical use by the qualifying patient.

(8) "Physician" means a person who is licensed to practice medicine in Florida.

(Continues on next page)

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(9) "Physician certification" means a written document signed by a physician, stating that in the physician's professional opinion, the patient suffers from a debilitating medical condition, that the medical use of marijuana would likely outweigh the potential health risks for the patient, and for how long the physician recommends the medical use of marijuana for the patient. A physician certification may only be provided after the physician has conducted a physical examination and a full assessment of the medical history of the patient. In order for a physician certification to be issued to a minor, a parent or legal guardian of the minor must consent in writing.

(10) "Qualifying patient" means a person who has been diagnosed to have a debilitating medical condition, who has a physician certification and a valid qualifying patient identification card. If the Department does not begin issuing identification cards within nine (9) months after the effective date of this section, then a valid physician certification will serve as a patient identification card in order to allow a person to become a "qualifying patient" until the Department begins issuing identification cards.

(c) **LIMITATIONS.**

- (1) Nothing in this section allows for a violation of any law other than for conduct in compliance with the provisions of this section.
- (2) Nothing in this section shall affect or repeal laws relating to non-medical use, possession, production, or sale of marijuana.
- (3) Nothing in this section authorizes the use of medical marijuana by anyone other than a qualifying patient.
- (4) Nothing in this section shall permit the operation of any vehicle, aircraft, train or boat while under the influence of marijuana.
- (5) Nothing in this section requires the violation of federal law or purports to give immunity under federal law.
- (6) Nothing in this section shall require any accommodation of any on-site medical use of marijuana in any correctional institution or detention facility or place of education or employment, or of smoking medical marijuana in any public place.
- (7) Nothing in this section shall require any health insurance provider or any government agency or authority to reimburse any person for expenses related to the medical use of marijuana.

(8) Nothing in this section shall affect or repeal laws relating to negligence or professional malpractice on the part of a qualified patient, caregiver, physician, MMTC, or its agents or employees.

(d) **DUTIES OF THE DEPARTMENT.** The Department shall issue reasonable regulations necessary for the implementation and enforcement of this section. The purpose of the regulations is to ensure the availability and safe use of medical marijuana by qualifying patients. It is the duty of the Department to promulgate regulations in a timely fashion.

(1) Implementing Regulations. In order to allow the Department sufficient time after passage of this section, the following regulations shall be promulgated no later than six (6) months after the effective date of this section:

- a. Procedures for the issuance and annual renewal of qualifying patient identification cards to people with physician certifications and standards for renewal of such identification cards. Before issuing an identification card to a minor, the Department must receive written consent from the minor's parent or legal guardian, in addition to the physician certification.
- b. Procedures establishing qualifications and standards for caregivers, including conducting appropriate background checks, and procedures for the issuance and annual renewal of caregiver identification cards.
- c. Procedures for the registration of MMTCs that include procedures for the issuance, renewal, suspension and revocation of registration, and standards to ensure proper security, record keeping, testing, labeling, inspection, and safety.
- d. A regulation that defines the amount of marijuana that could reasonably be presumed to be an adequate supply for qualifying patients' medical use, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

(2) Identification cards and registrations. The Department shall begin issuing qualifying patient and caregiver identification cards, and registering MMTCs no later than nine (9) months after the effective date of this section.

(3) If the Department does not issue regulations, or if the Department does not begin issuing identification cards and registering MMTCs within the time limits set in this section, any Florida citizen shall have standing to seek judicial relief to compel compliance with the Department's constitutional duties.

(4) The Department shall protect the confidentiality of all qualifying patients. All records containing the identity of qualifying patients shall be confidential and kept from public disclosure other than for valid medical or law enforcement purposes.

(e) **LEGISLATION.** Nothing in this section shall limit the legislature from enacting laws consistent with this section.

(f) **SEVERABILITY.** The provisions of this section are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, is adjudged invalid by a court of competent jurisdiction other provisions shall continue to be in effect to the fullest extent possible.

DATE OF SIGNATURE

X

SIGNATURE OF REGISTERED VOTER

Initiative petition sponsored by People United for Medical Marijuana, 20 North Orange Avenue, Suite 1600, Orlando, FL 32801.

If paid petitioner circulator is used:

Circulator's name: _____

Circulator's address: _____

RETURN TO:

**People United for Medical Marijuana
Post Office Box 402527
Miami Beach, FL 33140**

For Official Use Only: Serial Number: 15-01
Date Approved: 1/9/2015

The Florida Senate

2021 Florida Statutes (Including 2021B Session)

Title XXIX PUBLIC HEALTH	Chapter 381 PUBLIC HEALTH: GENERAL PROVISIONS <u>Entire Chapter</u>	SECTION 986 Medical use of marijuana.
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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 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, except that delivery devices intended for the medical use of marijuana by smoking need not be dispensed from a medical marijuana treatment center in order to qualify as marijuana delivery devices.
- (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 compliance with the requirements of paragraph (3) (c).
- (j) "Medical use" means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. The term does not include:
1. Possession, use, or administration of marijuana that was not purchased or acquired from a medical marijuana treatment center.
 2. Possession, use, or administration of marijuana in the form of commercially produced food items other than edibles or of marijuana seeds.
 3. Use or administration of any form or amount of marijuana in a manner that is inconsistent with the qualified physician's directions or physician certification.
 4. Transfer of marijuana to a person other than the qualified patient for whom it was authorized or the qualified patient's caregiver on behalf of the qualified patient.
 5. Use or administration of marijuana in the following locations:
 - a. On any form of public transportation, except for low-THC cannabis not in a form for smoking.

- b. In any public place, except for low-THC cannabis not in a form for smoking.
- c. In a qualified patient's place of employment, except when permitted by his or her employer.
- d. In a state correctional institution, as defined in s. [944.02](#), or a correctional institution, as defined in s. [944.241](#).
- e. On the grounds of a preschool, primary school, or secondary school, except as provided in s. [1006.062](#).
- f. In a school bus, a vehicle, an aircraft, or a motorboat, except for low-THC cannabis not in a form for smoking.
- 6. The smoking of marijuana in an enclosed indoor workplace as defined in s. [386.203](#)(5).

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

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

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

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

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

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

- (a) Cancer.
- (b) Epilepsy.
- (c) Glaucoma.
- (d) Positive status for human immunodeficiency virus.
- (e) Acquired immune deficiency syndrome.
- (f) Posttraumatic 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 June 23, 2017, shall be deemed to be in compliance with this paragraph from June 23, 2017, 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.
4. Determined whether the patient is pregnant and documented such determination in the patient's medical record. A physician may not issue a physician certification, except for low-THC cannabis, to a patient who is pregnant.
5. Reviewed the patient's controlled drug prescription history in the prescription drug monitoring program database established pursuant to s. [893.055](#).
6. Reviews the medical marijuana use registry and confirmed that the patient does not have an active physician certification from another qualified physician.
7. Registers as the issuer of the physician certification for the named qualified patient on the medical marijuana use registry in an electronic manner determined by the department, and:
 - a. Enters into the registry the contents of the physician certification, including the patient's qualifying condition and the dosage not to exceed the daily dose amount determined by the department, the amount and forms of marijuana authorized for the patient, and any types of marijuana delivery devices needed by the patient for the medical use of marijuana.
 - b. Updates the registry within 7 days after any change is made to the original physician certification to reflect such change.
 - c. Deactivates the registration of the qualified patient and the patient's caregiver when the physician no longer recommends the medical use of marijuana for the patient.
8. Obtains the voluntary and informed written consent of the patient for medical use of marijuana each time the qualified physician issues a physician certification for the patient, which shall be maintained in the patient's medical record. The patient, or the patient's parent or legal guardian if the patient is a minor, must sign the informed consent acknowledging that the qualified physician has sufficiently explained its content. The qualified physician must use a standardized informed consent form adopted in rule by the Board of Medicine and the Board of Osteopathic Medicine, which must include, at a minimum, information related to:
 - a. The Federal Government's classification of marijuana as a Schedule I controlled substance.
 - b. The approval and oversight status of marijuana by the Food and Drug Administration.
 - c. The current state of research on the efficacy of marijuana to treat the qualifying conditions set forth in this section.
 - d. The potential for addiction.
 - e. The potential effect that marijuana may have on a patient's coordination, motor skills, and cognition, including a warning against operating heavy machinery, operating a motor vehicle, or engaging in activities that require a person to be alert or respond quickly.
 - f. The potential side effects of marijuana use, including the negative health risks associated with smoking marijuana.
 - g. The risks, benefits, and drug interactions of marijuana.
 - h. That the patient's de-identified health information contained in the physician certification and medical marijuana use registry may be used for research purposes.

(b) If a qualified physician issues a physician certification for a qualified patient diagnosed with a qualifying medical condition pursuant to paragraph (2)(k), the 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 Consortium for Medical Marijuana Clinical Outcomes Research established pursuant to s. [1004.4351](#).

(c) If a qualified physician determines that smoking is an appropriate route of administration for a qualified patient, other than a patient diagnosed with a terminal condition, the qualified physician must submit the following documentation to the applicable board:

1. A list of other routes of administration, if any, certified by a qualified physician that the patient has tried, the length of time the patient used such routes of administration, and an assessment of the effectiveness of those routes of administration in treating the qualified patient's qualifying condition.
2. Research documenting the effectiveness of smoking as a route of administration to treat similarly situated patients with the same qualifying condition as the qualified patient.
3. A statement signed by the qualified physician documenting the qualified physician's opinion that the benefits of smoking marijuana for medical use outweigh the risks for the qualified patient.

(d) A qualified physician may not issue a physician certification for marijuana in a form for smoking to a patient under 18 years of age unless the patient is diagnosed with a terminal condition, the qualified physician determines that smoking is the most effective route of administration for the patient, and a second physician who is a board-certified pediatrician concurs with such determination. Such determination and concurrence must be documented in the patient's medical record and in the medical marijuana use registry. The certifying physician must obtain the written informed consent of such patient's parent or legal guardian before issuing a physician certification to the patient for marijuana in a form for smoking. The qualified physician must use a standardized informed consent form adopted in rule by the Board of Medicine and the Board of Osteopathic Medicine which must include information concerning the negative health effects of smoking marijuana on persons under 18 years of age and an acknowledgment that the qualified physician has sufficiently explained the contents of the form.

(e) The Board of Medicine and the Board of Osteopathic Medicine shall review the documentation submitted pursuant to paragraph (c) and shall each, by July 1, 2021, adopt by rule practice standards for the certification of smoking as a route of administration.

(f) A qualified physician may not issue a physician certification for more than three 70-day supply limits of marijuana or more than six 35-day supply limits of marijuana in a form for smoking. 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 35-day supply limit of marijuana in a form for smoking, and the 4-ounce possession limit of marijuana in a form for smoking established in paragraph (14)(a). 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.
- 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.

(g) 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 Consortium for Medical Marijuana Clinical Outcomes Research established pursuant to s. [1004.4351](#).

(h) An active order for low-THC cannabis or medical cannabis issued pursuant to former s. [381.986](#), Florida Statutes 2016, and registered with the compassionate use registry before June 23, 2017, 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.

(i) 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.

(j) 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.

(k) 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 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 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;
- 2. Obtains a supply of marijuana in an amount greater than the amount authorized by the physician certification;
- 3. Falsifies, alters, or otherwise modifies an identification card;
- 4. Fails to timely notify the department of any changes to his or her qualified patient status; or
- 5. Violates the requirements of this section or any rule adopted under this section.

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

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

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

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

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

(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;

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;

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

4. The qualified patient is participating in a research program in a teaching nursing home pursuant to s. [1004.4351](#).

(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;

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; or

4. All qualified patients the caregiver has agreed to assist are participating in a research program in a teaching nursing home pursuant to s. [1004.4351](#).

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

b. As soon as practicable, the department shall license one applicant that is a recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011). An applicant licensed under this sub-subparagraph is exempt from the requirement of subparagraph (b)2.

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

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

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

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

(d) The department shall establish, maintain, and control a computer software tracking system that traces marijuana from seed to sale and allows real-time, 24-hour access by the department to data from all medical marijuana treatment centers and marijuana testing laboratories. The tracking system must allow for integration of other seed-to-sale systems and, at a minimum, include notification of when marijuana seeds are planted, when marijuana plants are harvested and destroyed, and when marijuana is transported, sold, stolen, diverted, or lost. Each medical marijuana treatment center shall use the seed-to-sale tracking system established by the department or integrate its own seed-to-

sale tracking system with the seed-to-sale tracking system established by the department. Each medical marijuana treatment center may use its own seed-to-sale system until the department establishes a seed-to-sale tracking system. The department may contract with a vendor to establish the seed-to-sale tracking system. The vendor selected by the department may not have a contractual relationship with the department to perform any services pursuant to this section other than the seed-to-sale tracking system. The vendor may not have a direct or indirect financial interest in a medical marijuana treatment center or a marijuana testing laboratory.

(e) A licensed medical marijuana treatment center shall cultivate, process, transport, and dispense marijuana for medical use. A licensed medical marijuana treatment center may not contract for services directly related to the cultivation, processing, and dispensing of marijuana or marijuana delivery devices, except that a medical marijuana treatment center licensed pursuant to subparagraph (a)1. may contract with a single entity for the cultivation, processing, transporting, and dispensing of marijuana and marijuana delivery devices. A licensed medical marijuana treatment center must, at all times, maintain compliance with the criteria demonstrated and representations made in the initial application and the criteria established in this subsection. Upon request, the department may grant a medical marijuana treatment center a variance from the representations made in the initial application. Consideration of such a request shall be based upon the individual facts and circumstances surrounding the request. A variance may not be granted unless the requesting medical marijuana treatment center can demonstrate to the department that it has a proposed alternative to the specific representation made in its application which fulfills the same or a similar purpose as the specific representation in a way that the department can reasonably determine will not be a lower standard than the specific representation in the application. A variance may not be granted from the requirements in subparagraph 2. and subparagraphs (b)1. and 2.

1. A licensed medical marijuana treatment center may transfer ownership to an individual or entity who meets the requirements of this section. A publicly traded corporation or publicly traded company that meets the requirements of this 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 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 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 until it demonstrates to the department that such facility has met this requirement.

10. A medical marijuana treatment center that produces prerolled marijuana cigarettes may not use wrapping paper made with tobacco or hemp.

11. 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 contaminants that are unsafe for human consumption. The department shall determine by rule which contaminants must be tested for and the maximum levels of each contaminant which are safe for human consumption. The Department of Agriculture and Consumer Services shall assist the department in developing the testing requirements for contaminants that are unsafe for human consumption in edibles. The department shall also determine by rule the procedures for the treatment of marijuana that fails to meet the testing requirements of this section, s. [381.988](#), or department rule. The department may select a random sample from edibles available for purchase in a dispensing facility which shall be tested by the department to determine that the edible meets the

potency requirements of this section, is safe for human consumption, and the labeling of the tetrahydrocannabinol and cannabidiol concentration is accurate. A medical marijuana treatment center may not require payment from the department for the sample. A medical marijuana treatment center must recall edibles, including all edibles made from the same batch of marijuana, which fail to meet the potency requirements of this section, which are unsafe for human consumption, or for which the labeling of the tetrahydrocannabinol and cannabidiol concentration is inaccurate. The medical marijuana treatment center must retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months. The medical marijuana treatment center must contract with a marijuana testing laboratory to perform audits on the medical marijuana treatment center's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the marijuana or low-THC cannabis meets the 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 marijuana to another person.
- (IX) A marijuana universal symbol developed by the department.

12. 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.

13. In addition to the packaging and labeling requirements specified in subparagraphs 11. and 12., marijuana in a form for smoking must be packaged in a sealed receptacle with a legible and prominent warning to keep away from children and a warning that states marijuana smoke contains carcinogens and may negatively affect health. Such receptacles for marijuana in a form for smoking 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.

14. The department shall adopt rules to regulate the types, appearance, and labeling of marijuana delivery devices dispensed from a medical marijuana treatment center. The rules must require marijuana delivery devices to have an appearance consistent with medical use.

15. 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 11. and 12., 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 of all 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.

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

a. May dispense any active, valid order for low-THC 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 within any 70-day period to a qualified patient or caregiver. May not dispense more than one 35-day supply of marijuana in a form for smoking within any 35-day period to a qualified patient or caregiver. A 35-day supply of marijuana in a form for smoking may not exceed 2.5 ounces unless an exception to this amount is approved by the department pursuant to paragraph (4)(f).

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 have 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 or wrapping papers made with tobacco or hemp, 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 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.

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

3. Ensure that the indoor premises where dispensing occurs includes a waiting area with sufficient space and seating to accommodate qualified patients and caregivers and at least one private consultation area that is isolated

from the waiting area and area where dispensing occurs. A medical marijuana treatment center may not display products or dispense marijuana or marijuana delivery devices in the waiting area.

4. Not dispense from its premises marijuana or a marijuana delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver marijuana to qualified patients 24 hours a day.
5. Store marijuana in a secured, locked room or a vault.
6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times where cultivation, processing, or storing of marijuana occurs.
7. Require each employee or contractor to wear a photo identification badge at all times while on the premises.
8. Require each visitor to wear a visitor pass at all times while on the premises.
9. Implement an alcohol and drug-free workplace policy.
10. Report to local law enforcement within 24 hours after the medical marijuana treatment center is notified or becomes aware of the theft, diversion, or loss of marijuana.

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

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

(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. [775.082](#) or s. [775.083](#), unless it can be determined through the medical marijuana use registry that the person is authorized to be in possession of that marijuana or marijuana delivery device.

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

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

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

(h) A person transporting marijuana or marijuana delivery devices on behalf of a medical marijuana treatment center or marijuana testing laboratory who fails or refuses to present a transportation manifest upon the request of a law enforcement 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, 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 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 this section, a qualified patient and the qualified patient's caregiver may purchase from a medical marijuana treatment center for the patient's medical use a marijuana delivery device and up to the amount of marijuana authorized in the physician certification, but may not possess more than a 70-day supply of marijuana, or the greater of 4 ounces of marijuana in a form for smoking or an amount of marijuana in a form for smoking approved by the department pursuant to paragraph (4)(f), at any given time and all marijuana purchased must remain in its original packaging.

(b) Notwithstanding paragraph (a), s. [893.13](#), s. [893.135](#), s. [893.147](#), or any other provision of law, a qualified patient and the qualified patient's caregiver may purchase and possess a marijuana delivery device intended for the medical use of marijuana by smoking from a vendor other than a medical marijuana treatment center.

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

(d) 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 certified marijuana testing laboratory, including an employee of a certified marijuana testing laboratory acting within the scope of his or her employment, may acquire, possess, test, transport, and lawfully dispose of marijuana as provided in this section, in s. [381.988](#), and by department rule.

(e) A licensed medical marijuana treatment center and its owners, managers, and employees are not subject to licensure or regulation under chapter 465 or chapter 499 for manufacturing, possessing, selling, delivering, distributing, dispensing, or lawfully disposing of marijuana or a marijuana delivery device, as provided in this section, in s. [381.988](#), and by department rule.

(f) 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.

(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 and pursuant to policies and procedures established pursuant to s. [1006.062](#)(8), school personnel may possess marijuana that is obtained for medical use pursuant to this section by a student who is a qualified patient.

(h) 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.—

(a) This section does not limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

(b) 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.

(c) This section does not create a cause of action against an employer for wrongful discharge or discrimination.

(d) This section does not impair the ability of any party to restrict or limit smoking or vaping marijuana on his or her private property.

(e) This section does not prohibit the medical use of marijuana or a caregiver assisting with the medical use of marijuana in a nursing home facility licensed under part II of chapter 400, a hospice facility licensed under part IV of chapter 400, or an assisted living facility licensed under part I of chapter 429, if the medical use of marijuana is not prohibited in the facility's policies.

(f) 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.

²(17) Rules adopted pursuant to this section before July 1, 2022, are not subject to ss. [120.54](#)(3)(b) and [120.541](#). This subsection expires July 1, 2022.

History.—s. 2, ch. 2014-157; s. 1, ch. 2016-123; s. 24, ch. 2016-145; ss. 1, 3, 18, ch. 2017-232; s. 29, ch. 2018-10; s. 43, ch. 2018-110; s. 1, ch. 2018-142; s. 1, ch. 2019-1; s. 39, ch. 2019-116; s. 85, ch. 2020-2; s. 31, ch. 2020-114; s. 13, ch. 2021-37; s. 7, ch. 2021-52.

¹Note.—

A. Section 1, ch. 2017-232, provides that "[i]t 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." If such amendment or adoption takes place, s. 381.986, as amended by s. 1, ch. 2017-232, will read:

381.986 Compassionate use of low-THC and medical cannabis.—

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

(a) "Cannabis delivery device" means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis or medical cannabis into the human body.

(b) "Dispensing organization" means an organization approved by the department to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to this section.

(c) "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.

(d) "Legal representative" means the qualified patient's parent, legal guardian acting pursuant to a court's authorization as required under s. 744.3215(4), health care surrogate acting pursuant to the qualified patient's written consent or a court's authorization as required under s. 765.113, or an individual who is authorized under a power of attorney to make health care decisions on behalf of the qualified patient.

(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 only from a dispensing organization.

(f) "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.

(g) "Medical use" means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

1. Possession, use, or administration of low-THC cannabis or medical cannabis by smoking.
2. Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative on behalf of the qualified patient.
3. Use or administration of low-THC cannabis or medical cannabis:
 - a. On any form of public transportation.
 - b. In any public place.
 - c. In a qualified patient's place of employment, if restricted by his or her employer.
 - d. In a state correctional institution as defined in s. 944.02 or a correctional institution as defined in s. 944.241.
 - e. On the grounds of a preschool, primary school, or secondary school.
 - f. On a school bus or in a vehicle, aircraft, or motorboat.

(h) "Qualified patient" means a resident of this state who has been added to the compassionate use registry by a physician licensed under chapter 458 or chapter 459 to receive low-THC cannabis or medical cannabis from a dispensing organization.

(i) "Smoking" means burning or igniting a substance and inhaling the smoke. Smoking does not include the use of a vaporizer.

(2) PHYSICIAN ORDERING.—A physician is authorized to order low-THC cannabis to treat a qualified patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms; order low-THC cannabis to alleviate symptoms of such disease, disorder, or condition, if no other satisfactory alternative treatment options exist for the qualified patient; order medical cannabis to treat an eligible patient as defined in s. 499.0295; or order a cannabis delivery device for the medical use of low-THC cannabis or medical cannabis, only if the physician:

- (a) Holds an active, unrestricted license as a physician under chapter 458 or an osteopathic physician under chapter 459;
- (b) Has treated the patient for at least 3 months immediately preceding the patient's registration in the compassionate use registry;
- (c) Has successfully completed the course and examination required under paragraph (4)(a);

(d) Has determined that the risks of treating the patient with low-THC cannabis or medical cannabis are reasonable in light of the potential benefit to the patient. If a patient is younger than 18 years of age, a second physician must concur with this determination, and such determination must be documented in the patient's medical record;

(e) Registers as the orderer of low-THC cannabis or medical cannabis for the named patient on the compassionate use registry maintained by the department and updates the registry to reflect the contents of the order, including the amount of low-THC cannabis or medical cannabis that will provide the patient with not more than a 45-day supply and a cannabis delivery device needed by the patient for the medical use of low-THC cannabis or medical cannabis. The physician must also update the registry within 7 days after any change is made to the original order to reflect the change. The physician shall deactivate the registration of the patient and the patient's legal representative when treatment is discontinued;

(f) Maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis or medical cannabis;

(g) Submits the patient treatment plan quarterly to the University of Florida College of Pharmacy for research on the safety and efficacy of low-THC cannabis and medical cannabis on patients;

(h) Obtains the voluntary written informed consent of the patient or the patient's legal representative to treatment with low-THC cannabis after sufficiently explaining the current state of knowledge in the medical community of the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects;

(i) Obtains written informed consent as defined in and required under s. 499.0295, if the physician is ordering medical cannabis for an eligible patient pursuant to that section; and

(j) Is not a medical director employed by a dispensing organization.

(3) PENALTIES.—

(a) A physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the physician orders low-THC cannabis for a patient without a reasonable belief that the patient is suffering from:

1. Cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be treated with low-THC cannabis; or

2. Symptoms of cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be alleviated with low-THC cannabis.

(b) A physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the physician orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition as defined in s. 499.0295.

(c) A person who fraudulently represents that he or she has cancer, a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms, or a terminal condition to a physician for the purpose of being ordered low-THC cannabis, medical cannabis, or a cannabis delivery device by such physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) An eligible patient as defined in s. 499.0295 who uses medical cannabis, and such patient's legal representative who administers medical cannabis, in plain view of or in a place open to the general public, on the grounds of a school, or in a school bus, vehicle, aircraft, or motorboat, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a dispensing organization related to the ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device is subject to disciplinary action under the applicable practice act and s. 456.072(1)(n).

(4) PHYSICIAN EDUCATION.—

(a) Before ordering low-THC cannabis, medical cannabis, or a cannabis delivery device for medical use by a patient in this state, the appropriate board shall require the ordering physician to successfully complete an 8-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses the clinical indications for the appropriate use of low-THC cannabis and medical cannabis, the appropriate cannabis delivery devices, the contraindications for such use, and the relevant state and federal laws governing the ordering, dispensing, and possessing of these substances and devices. The course and examination shall be administered at least annually. Successful completion of the course may be used by a physician to satisfy 8 hours of the continuing medical education requirements required by his or her respective board for licensure renewal. This course may be offered in a distance learning format.

(b) The appropriate board shall require the medical director of each dispensing organization to hold an active, unrestricted license as a physician under chapter 458 or as an osteopathic physician under chapter 459 and successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses appropriate safety procedures and knowledge of low-THC cannabis, medical cannabis, and cannabis delivery devices.

(c) Successful completion of the course and examination specified in paragraph (a) is required for every physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device each time such physician renews his or her license. In addition, successful completion of the course and examination specified in paragraph (b) is required for the medical director of each dispensing organization each time such physician renews his or her license.

(d) A physician who fails to comply with this subsection and who orders low-THC cannabis, medical cannabis, or a cannabis delivery device may be subject to disciplinary action under the applicable practice act and under s. 456.072(1)(k).

(5) DUTIES OF THE DEPARTMENT.—The department shall:

(a) Create and maintain a secure, electronic, and online compassionate use registry for the registration of physicians, patients, and the legal representatives of patients as provided under this section. The registry must be accessible to law enforcement agencies and to a dispensing organization to verify the authorization of a patient or a patient's legal representative to possess low-THC cannabis, medical cannabis, or a cannabis delivery device and record the low-THC cannabis, medical cannabis, or cannabis delivery device dispensed. The registry must prevent an active registration of a patient by multiple physicians.

(b) Authorize the establishment of five dispensing organizations to ensure reasonable statewide accessibility and availability as necessary for patients registered in the compassionate use registry and who are ordered low-THC cannabis, medical cannabis, or a cannabis delivery device under this section, one in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida. The department shall develop an application form and impose an initial application and biennial renewal fee that is sufficient to cover the costs of administering this section. An applicant for approval as a dispensing organization must be able to demonstrate:

1. The technical and technological ability to cultivate and produce low-THC cannabis. The applicant must possess a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131 that is issued for the cultivation of more than 400,000 plants, be operated by a nurseryman as defined in s. 581.011, and have been operated as a registered nursery in this state for at least 30 continuous years.

2. The ability to secure the premises, resources, and personnel necessary to operate as a dispensing organization.

3. 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.

4. An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department.

5. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department. Upon approval, the applicant must post a \$5 million performance bond. However, upon a dispensing organization's serving at least 1,000 qualified patients, the dispensing organization is only required to maintain a \$2 million performance bond.

6. That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. 435.04.

7. The employment of a medical director to supervise the activities of the dispensing organization.

(c) Upon the registration of 250,000 active qualified patients in the compassionate use registry, approve three dispensing organizations, including, but not limited to, an applicant that is a recognized class member of *Pigford v. Glickman*, 185 F.R.D. 82 (D.D.C. 1999), or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011), and a member of the Black Farmers and Agriculturalists Association, which must meet the requirements of subparagraphs (b)2.-7. and demonstrate the technical and technological ability to cultivate and produce low-THC cannabis.

(d) Allow a dispensing organization to make a wholesale purchase of low-THC cannabis or medical cannabis from, or a distribution of low-THC cannabis or medical cannabis to, another dispensing organization.

(e) Monitor physician registration and ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device for ordering practices that could facilitate unlawful diversion or misuse of low-THC cannabis, medical cannabis, or a cannabis delivery device and take disciplinary action as indicated.

(6) DISPENSING ORGANIZATION.—An approved dispensing organization must, at all times, maintain compliance with the criteria demonstrated for selection and approval as a dispensing organization under subsection (5) and the criteria required in this subsection.

(a) When growing low-THC cannabis or medical cannabis, a dispensing organization:

1. 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.
2. Must grow low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from any other plant.
3. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state, notify the Department of Agriculture and Consumer Services within 10 calendar days after a determination that a plant is infested or infected by such plant pest, and implement and maintain phytosanitary policies and procedures.
4. Must perform fumigation or treatment of plants, or the removal and destruction of infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

(b) When processing low-THC cannabis or medical cannabis, a dispensing organization must:

1. Process the low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from other plants or products.
2. Test the processed low-THC cannabis and medical cannabis before they are dispensed. Results must be verified and signed by two dispensing organization employees. Before dispensing low-THC cannabis, the dispensing organization must determine that the test results indicate that the low-THC cannabis meets the definition of low-THC cannabis and, for medical cannabis and low-THC cannabis, that all medical cannabis and low-THC cannabis is safe for human consumption and free from contaminants that are unsafe for human consumption. The dispensing organization must retain records of all testing and samples of each homogenous batch of cannabis and low-THC cannabis for at least 9 months. The dispensing organization must contract with an independent testing laboratory to perform audits on the dispensing organization's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the low-THC cannabis or medical cannabis meets the requirements of this section and that the medical cannabis and low-THC cannabis is safe for human consumption.
3. Package the low-THC cannabis or medical cannabis in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.
4. Package the low-THC cannabis or medical cannabis in a receptacle that has a firmly affixed and legible label stating the following information:
 - a. A statement that the low-THC cannabis or medical cannabis meets the requirements of subparagraph 2.;
 - b. The name of the dispensing organization from which the medical cannabis or low-THC cannabis originates; and
 - c. The batch number and harvest number from which the medical cannabis or low-THC cannabis originates.
5. Reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of testing pursuant to the audit required under subparagraph 2.

(c) When dispensing low-THC cannabis, medical cannabis, or a cannabis delivery device, a dispensing organization:

1. May not dispense more than a 45-day supply of low-THC cannabis or medical cannabis to a patient or the patient's legal representative.
2. Must have the dispensing organization's employee who dispenses the low-THC cannabis, medical cannabis, or a cannabis delivery device enter into the compassionate use registry his or her name or unique employee identifier.
3. Must verify in the compassionate use registry that a physician has ordered the low-THC cannabis, medical cannabis, or a specific type of a cannabis delivery device for the patient.
4. 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 physician-ordered cannabis delivery device required for the medical use of low-THC cannabis or medical cannabis, while dispensing low-THC cannabis or medical cannabis.
5. Must verify that the patient has an active registration in the compassionate use registry, the patient or patient's legal representative holds a valid and active registration card, the order presented matches the order contents as recorded in the registry, and the order has not already been filled.
6. Must, upon dispensing the low-THC cannabis, medical cannabis, or cannabis delivery device, record in the registry the date, time, quantity, and form of low-THC cannabis or medical cannabis dispensed and the type of cannabis delivery device dispensed.

(d) To ensure the safety and security of its premises and any off-site storage facilities, and to maintain adequate controls against the diversion, theft, and loss of low-THC cannabis, medical cannabis, or cannabis delivery devices, a dispensing organization 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; or

b. Maintain a video surveillance system that records continuously 24 hours each day and meets at least one of 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; or

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

2. Ensure that the organization's outdoor premises have sufficient lighting from dusk until dawn.

3. Establish and maintain a tracking system approved by the department that traces the low-THC cannabis or medical cannabis from seed to sale. The tracking system shall include notification of key events as determined by the department, including when cannabis seeds are planted, when cannabis plants are harvested and destroyed, and when low-THC cannabis or medical cannabis is transported, sold, stolen, diverted, or lost.

4. Not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.

5. Store low-THC cannabis or medical cannabis in a secured, locked room or a vault.

6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times.

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

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

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

10. Report to local law enforcement within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of low-THC cannabis or medical cannabis.

(e) To ensure the safe transport of low-THC cannabis or medical cannabis to dispensing organization facilities, independent testing laboratories, or patients, the dispensing organization must:

1. Maintain a transportation manifest, which must be retained for at least 1 year.

2. Ensure only vehicles in good working order are used to transport low-THC cannabis or medical cannabis.

3. Lock low-THC cannabis or medical cannabis in a separate compartment or container within the vehicle.

4. Require at least two persons to be in a vehicle transporting low-THC cannabis or medical cannabis, and require at least one person to remain in the vehicle while the low-THC cannabis or medical cannabis is being delivered.

5. Provide specific safety and security training to employees transporting or delivering low-THC cannabis or medical cannabis.

(7) DEPARTMENT AUTHORITY AND RESPONSIBILITIES.—

(a) The department may conduct announced or unannounced inspections of dispensing organizations to determine compliance with this section or rules adopted pursuant to this section.

(b) The department shall inspect a dispensing organization upon complaint or notice provided to the department that the dispensing organization has dispensed low-THC cannabis or medical cannabis containing any 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 dispensing organization to evaluate the dispensing organization's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The department may enter into interagency agreements with the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, and the Agency for Health Care Administration, and such agencies are authorized to enter into an interagency agreement with the department, to conduct inspections or perform other responsibilities assigned to the department under this section.

(e) The department must make a list of all approved dispensing organizations and qualified ordering physicians and medical directors publicly available on its website.

(f) The department may establish a system for issuing and renewing registration cards for patients and their legal representatives, establish the circumstances under which the cards may be revoked by or must be returned to the department, and establish fees to implement such system. The department must require, at a minimum, the registration cards to:

1. Provide the name, address, and date of birth of the patient or legal representative.
2. Have a full-face, passport-type, color photograph of the patient or legal representative taken within the 90 days immediately preceding registration.
3. Identify whether the cardholder is a patient or legal representative.
4. List a unique numeric identifier for the patient or legal representative that is matched to the identifier used for such person in the department's compassionate use registry.
5. Provide the expiration date, which shall be 1 year after the date of the physician's initial order of low-THC cannabis or medical cannabis.
6. For the legal representative, provide the name and unique numeric identifier of the patient that the legal representative is assisting.
7. Be resistant to counterfeiting or tampering.

(g) The department may impose reasonable fines not to exceed \$10,000 on a dispensing organization for any of the following violations:

1. Violating this section, s. 499.0295, or department rule.
2. Failing to maintain qualifications for approval.
3. Endangering the health, safety, or security of a qualified patient.
4. Improperly disclosing personal and confidential information of the qualified patient.
5. Attempting to procure dispensing organization approval by bribery, fraudulent misrepresentation, or extortion.
6. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the business of a dispensing organization.
7. Making or filing a report or record that the dispensing organization knows to be false.
8. Willfully failing to maintain a record required by this section or department rule.
9. Willfully impeding or obstructing an employee or agent of the department in the furtherance of his or her official duties.
10. Engaging in fraud or deceit, negligence, incompetence, or misconduct in the business practices of a dispensing organization.
11. Making misleading, deceptive, or fraudulent representations in or related to the business practices of a dispensing organization.
12. Having a license or the authority to engage in any regulated profession, occupation, or business that is related to the business practices of a dispensing organization suspended, revoked, or otherwise acted against by the licensing authority of any jurisdiction, including its agencies or 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.

(h) The department may suspend, revoke, or refuse to renew a dispensing organization's approval if a dispensing organization commits any of the violations in paragraph (g).

(i) The department shall renew the approval of a dispensing organization biennially if the dispensing organization meets the requirements of this section and pays the biennial renewal fee.

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

(8) PREEMPTION.—

(a) All matters regarding the regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations are preempted to the state.

(b) A municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries. A county may determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county.

(9) 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 this section, a qualified patient and the qualified patient's legal representative may purchase and possess for the patient's medical use up to the amount of low-THC cannabis or medical cannabis ordered for the patient, but not more than a 45-day supply, and a cannabis delivery device ordered for the patient.

(b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved dispensing organization and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device. For purposes of this subsection, the terms "manufacture," "possession," "deliver," "distribute," and "dispense" have the same meanings as provided in s. 893.02.

(c) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved independent testing laboratory may possess, test, transport, and lawfully dispose of low-THC cannabis or medical cannabis as provided by department rule.

(d) An approved dispensing organization and its owners, managers, and employees are not subject to licensure or regulation under chapter 465 or chapter 499 for manufacturing, possessing, selling, delivering, distributing, dispensing, or lawfully disposing of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device.

(e) An approved dispensing organization that continues to meet the requirements for approval is presumed to be registered with the department and to meet the regulations adopted by the department or its successor agency for the purpose of dispensing medical cannabis or low-THC cannabis under Florida law. Additionally, the authority provided to a dispensing organization in s. 499.0295 does not impair the approval of a dispensing organization.

(f) This subsection does not exempt a person from prosecution for a criminal offense related to impairment or intoxication resulting from the medical use of low-THC cannabis or medical cannabis 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.

B. Section 14(1), ch. 2017-232, as amended by s. 15, ch. 2021-37, "in order to implement Specific Appropriations 460 through 462, 466, 467, 469A, and 474 of the 2021-2022 General Appropriations Act," provides that:

"(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(4)(a), Florida Statutes, if the department or the applicable boards have, before July 1, 2019, held any public workshops or hearings on the subject matter of the emergency rules adopted under this subsection. Challenges to emergency rules adopted under this subsection are subject to the time schedules provided in s. 120.56(5), Florida Statutes.

"(c) Emergency rules adopted under this section are exempt from s. 120.54(4)(c), Florida Statutes, and shall remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures of the Administrative Procedures Act. Rules adopted under the nonemergency rulemaking procedures of the Administrative Procedures Act to replace emergency rules adopted under this section are exempt

from ss. 120.54(3)(b) and 120.541, Florida Statutes. By July 1, 2022, the department and the applicable boards shall initiate nonemergency rulemaking pursuant to the Administrative Procedures Act to replace all emergency rules adopted under this section by publishing a notice of rule development in the Florida Administrative Register. Except as provided in paragraph (a), after July 1, 2022, the department and applicable boards may not adopt rules pursuant to the emergency rulemaking procedures provided in this section."

C. Section 16, ch. 2021-37, provides that "[t]he amendments to s. 14(1) of chapter 2017-232, Laws of Florida, made by this act expire July 1, 2022, and the text of that subsection shall revert to that in existence on June 30, 2019, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section." Effective July 1, 2022, s. 14(1), ch. 2017-232, as amended by s. 16, ch. 2021-37, will read:

"(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 have, before [June 23, 2017], held any public workshops or hearings on the subject matter of the emergency rules adopted under this subsection. Challenges to emergency rules adopted under this subsection are subject to the time schedules provided in s. 120.56(5), Florida Statutes.

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

²**Note.**— Section 13, ch. 2021-37, amended subsection (17) "[i]n order to implement Specific Appropriations 460 through 462, 466, 467, 469A, and 474 of the 2021-2022 General Appropriations Act."

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