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8 SYNOPSIS: Under existing law, the possession and use  
9 of marijuana is a criminal act.

10 This bill would authorize the medical use of  
11 marijuana only for certain qualifying patients who  
12 have been diagnosed by a physician as having a  
13 debilitating medical condition, and would require  
14 that marijuana for medical use would be regulated  
15 in the same manner as other controlled substances.  
16

17 A BILL

18 TO BE ENTITLED

19 AN ACT

20  
21 To authorize the medical use of marijuana only for  
22 certain qualifying patients who have been diagnosed by a  
23 physician as having a debilitating medical condition.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. The Legislature hereby finds that state  
26 law should make a distinction between the medical and  
27 non-medical use of marijuana, and that marijuana used for a

1 recognized medical condition shall be regulated the same as  
2 all other controlled substances. Hence, the purpose of this  
3 act is to ensure that physicians are not penalized for  
4 discussing marijuana as a treatment option with their  
5 patients, and seriously ill people who engage in the medical  
6 use of marijuana upon their physicians' advice are not  
7 arrested and incarcerated for using marijuana for medical  
8 purposes.

9 Section 2. As used in this act, the following terms  
10 shall have the following meanings:

11 (1) ADEQUATE SUPPLY. An amount of marijuana  
12 collectively possessed between the qualifying patient and the  
13 qualifying patient's primary caregivers that is not more than  
14 is reasonably necessary to ensure the uninterrupted  
15 availability of marijuana for the purpose of alleviating the  
16 symptoms or effects of a qualifying patient's debilitating  
17 medical condition.

18 (2) ATTENDING PHYSICIAN. An individual who possesses  
19 a certificate of qualification issued in his or her behalf by  
20 the State Board of Medical Examiners and a license and  
21 certificate of registration from the board and who has taken  
22 responsibility for an aspect of the medical care, treatment,  
23 diagnosis, counseling, or referral of a patient and who has  
24 conducted a medical examination of that patient before  
25 recording in the patient's medical record the physician's  
26 assessment of whether the patient has a serious medical

1 condition and whether the medical use of marijuana is  
2 appropriate.

3 (3) DEBILITATING MEDICAL CONDITION. Any of the  
4 following medical conditions:

- 5 a. Cancer.
- 6 b. Glaucoma.
- 7 c. Multiple sclerosis.
- 8 d. Chronic arthritis.
- 9 e. Cachexia.
- 10 f. Chronic pain.
- 11 g. Fibromyalgia.
- 12 h. Migraine.
- 13 i. Acquired Immune Deficiency Syndrome (AIDS) or  
14 Human Immunodeficiency Virus (HIV).
- 15 j. Anorexia.
- 16 k. Seizures, including, but not limited to, seizures  
17 associated with epilepsy.
- 18 l. Severe nausea.
- 19 m. Any other chronic or persistent medical symptom  
20 that either substantially limits the ability of the person to  
21 conduct one or more major life activities as defined in the  
22 Americans with Disabilities Act of 1990 (Public Law 101-336)  
23 or if not alleviated, may cause serious harm to the patient's  
24 safety or physical or mental health.

25 (4) DEPARTMENT. The Alabama Department of Public  
26 Health.

1           (5) MARIJUANA. The same definition as provided in  
2 Section 20-2-23, Code of Alabama 1975.

3           (6) MARIJUANA DISPENSING PHARMACY. A pharmacy issued  
4 registry identification card for the purpose of acquiring  
5 marijuana to be dispensed for medical use pursuant to this  
6 act.

7           (7) MEDICAL USE. The acquisition, possession, use,  
8 transfer, or transportation of marijuana or paraphernalia  
9 relating to the administration of marijuana to alleviate the  
10 symptoms or effects of a qualifying patient's debilitating  
11 medical condition. For the purposes of this act, the term  
12 transfer is limited to the transfer of marijuana and  
13 paraphernalia between primary caregivers and qualifying  
14 patients.

15           (8) PRIMARY CAREGIVER. An individual who is at least  
16 18 years of age, unless he or she is the parent of a minor  
17 child who is a qualified patient or a person with a registry  
18 identification card or is a person otherwise entitled to make  
19 medical decisions under state law.

20           (9) QUALIFIED PATIENT. A person who is entitled to  
21 the protections of this act, but who does not have a registry  
22 identification card issued pursuant to this act.

23           (10) QUALIFYING PATIENT. A person who has been  
24 diagnosed by a physician as having a debilitating medical  
25 condition.

26           (11) REGISTRY IDENTIFICATION CARD. A document issued  
27 by the department that identifies a person authorized to

1 engage in the medical use of marijuana and the person's  
2 designated primary caregiver, if any.

3 (12) SCHOOL OF PHARMACY. An accredited college or  
4 university school of pharmacy in this state that has been  
5 issued a registry identification card for the purpose of  
6 growing marijuana for medical use.

7 (13) WRITTEN RECOMMENDATION. The qualifying  
8 patient's medical records or a statement signed by a  
9 physician, stating that in the physician's professional  
10 opinion, after having completed a full assessment of the  
11 qualifying patient's medical history and current medical  
12 condition made in the course of a bona fide physician-patient  
13 relationship, the qualifying patient has a debilitating  
14 medical condition and the potential benefits of the medical  
15 use of marijuana would likely outweigh the health risks for  
16 the qualifying patient.

17 Section 3. (a) The authorization for the medical use  
18 of marijuana in this act shall not apply to any of the  
19 following:

20 (1) The medical use of marijuana that endangers the  
21 health or well-being of another person, such as driving or  
22 operating heavy machinery while under the influence of  
23 marijuana.

24 (2) The smoking of marijuana at or in any of the  
25 following:

26 a. In a school bus, public bus, or other public  
27 vehicle.

1           b. In the workplace of one's employment.

2           c. On any school grounds.

3           d. At any public park, public beach, public  
4 recreation center, or youth center.

5           e. The use of marijuana by a qualifying patient,  
6 primary caregiver, or any other person for purposes other than  
7 medical use permitted by this act.

8           (b) Notwithstanding any law to the contrary,  
9 fraudulent representation to a law enforcement official of any  
10 fact or circumstance relating to the medical use of marijuana  
11 to avoid arrest or prosecution shall be a Class C misdemeanor.  
12 This penalty shall be in addition to any other penalties that  
13 may apply for the non-medical use of marijuana.

14           Section 4. (a) A qualifying patient who has in his  
15 or her possession a written recommendation or his or her  
16 registry identification card shall not be subject to arrest,  
17 prosecution, or penalty in any manner for the medical use of  
18 marijuana, provided the quantity of marijuana does not exceed  
19 an adequate supply.

20           (b) Subsection (a) shall not apply to a qualifying  
21 patient under the age of 18 years, unless all of the following  
22 occur:

23           (1) The qualifying patient's physician has explained  
24 the potential risks and benefits of the medical use of  
25 marijuana to the qualifying patient and to a parent, guardian,  
26 or person having legal custody of the qualifying patient.

1           (2) A parent, guardian, or person having legal  
2 custody consents in writing to allow the qualifying patient's  
3 medical use of marijuana, serve as the qualifying patient's  
4 primary caregiver, and control the acquisition of the  
5 marijuana, the dosage, and the frequency of the medical use of  
6 marijuana by the qualifying patient.

7           (c) When the acquisition, possession,  
8 transportation, or administration of marijuana by a qualifying  
9 patient is not practicable, the legal protections established  
10 by this act for a qualifying patient shall extend to the  
11 qualifying patient's primary caregivers, provided that the  
12 primary caregivers' actions are necessary for the qualifying  
13 patient's medical use of marijuana.

14           (d) A physician shall not be subject to arrest or  
15 prosecution, penalized in any manner, or denied any right or  
16 privilege for providing a written recommendation for the  
17 medical use of marijuana to qualifying patients.

18           (e) Any property interest that is possessed, owned,  
19 or used in connection with the medical use of marijuana, or  
20 acts incidental to such use, shall not be harmed, neglected,  
21 injured, or destroyed while in the possession of state or  
22 local law enforcement officials. Any such property interest  
23 shall not be forfeited under any provision of state or local  
24 law providing for the forfeiture of property other than as a  
25 sentence imposed after conviction of a criminal offense or  
26 entry of a plea of guilty to a criminal offense.

1 (f) No person shall be subject to arrest or  
2 prosecution for constructive possession, conspiracy, or any  
3 other offense for simply being in the presence or vicinity of  
4 the medical use of marijuana as permitted under this act.

5 Section 5. A person and a person's primary  
6 caregivers may assert the medical use of marijuana as a  
7 defense to any prosecution involving marijuana, and such  
8 defense shall be presumed valid where the evidence shows that  
9 the following occur:

10 (1) The person's medical records indicate, or a  
11 physician has stated that, in the physician's professional  
12 opinion, after having completed a full assessment of the  
13 person's medical history and current medical condition made in  
14 the course of a bona fide physician-patient relationship, the  
15 potential benefits of the medical use of marijuana would  
16 likely outweigh the health risks for the person.

17 (2) The person and the person's primary caregivers  
18 were collectively in possession of a quantity of marijuana  
19 that was not more than was reasonably necessary to ensure the  
20 uninterrupted availability of marijuana for the purpose of  
21 alleviating the symptoms or effects of the person's medical  
22 condition.

23 Section 6. (a) As used in this section, registry  
24 identification card means a document issued by the department  
25 that identifies a person as a qualifying patient or a primary  
26 caregiver, or identifies a school of pharmacy growing  
27 marijuana for medical use, or a pharmacy dispensing marijuana

1 for medical use obtained from a school of pharmacy or other  
2 approved vendor.

3 (b) A qualifying patient, a primary caregiver, a  
4 school of pharmacy, and a dispensing pharmacy shall qualify  
5 for the legal protections of Section 4 only if the qualifying  
6 patient, primary caregiver, school of pharmacy, or dispensing  
7 pharmacy is in possession of a registry identification card.

8 (c) Not later than 90 days after the effective date  
9 of this act, the department shall promulgate administrative  
10 rules governing the manner in which it will consider  
11 applications for registry identification cards, and for  
12 renewing registry identification cards.

13 (d) The department shall issue registry  
14 identification cards to qualifying patients, and to qualifying  
15 patients' primary caregivers, if any, who submit all of the  
16 following, in accordance with the department's regulations:

17 (1) A written certification that the person is a  
18 qualifying patient.

19 (2) The written recommendation.

20 (3) A registration fee, not to exceed twenty-five  
21 dollars (\$25) per qualifying patient.

22 (4) The name, address, and date of birth of the  
23 qualifying patient.

24 (5) The name, address, and telephone number of the  
25 qualifying patient's physician.

26 (6) The name, address, and date of birth of the  
27 qualifying patient's primary caregivers, if the qualifying

1 patient has designated any primary caregivers at the time of  
2 application.

3 (e) The department shall issue registry  
4 identification cards to schools of pharmacy or dispensing  
5 pharmacies in accordance with validly promulgated  
6 administrative rules of the department.

7 (f) The department shall verify the information  
8 contained in an application submitted pursuant to this  
9 section, and shall approve or deny an application within 30  
10 days of receipt of the application. The department may deny an  
11 application only if the applicant did not provide the  
12 information required pursuant to this section, or if the  
13 department determines that the information provided was  
14 falsified. Any person whose application has been denied may  
15 not reapply for six months from the date of the denial, unless  
16 so authorized by the department or a court of competent  
17 jurisdiction.

18 (g) The department shall issue registry  
19 identification cards within 10 days of approving an  
20 application, which shall expire one year after the date of  
21 issuance. Registry identification cards shall contain all of  
22 the following information:

23 (1) The name, address, and date of birth of the  
24 qualifying patient and primary caregivers, if any.

25 (2) The date of issuance and expiration date of the  
26 registry identification card.

1           (3) Any other information that the department may  
2 specify in its regulations.

3           (h) A person who possesses a registry identification  
4 card shall notify the department of any change in the person's  
5 name, address, qualifying patient's physician, qualifying  
6 patient's primary caregiver, or change in status of the  
7 qualifying patient's debilitating medical condition within 10  
8 days of such change, or the registry identification card shall  
9 be deemed null and void.

10           (i) Possession of, or application for, a registry  
11 identification card shall not alone constitute probable cause  
12 to search the person or property of the person possessing or  
13 applying for the card, or otherwise subject the person or  
14 property of the person possessing the card to inspection by  
15 any governmental agency.

16           (j) The department shall maintain a confidential  
17 list of the persons to whom the department has issued registry  
18 identification cards. Individual names on the list shall be  
19 confidential and not subject to disclosure, except to  
20 authorized employees of the department as necessary to perform  
21 official duties of the department or authorized employees of  
22 state or local law enforcement agencies, only for the purpose  
23 of verifying that a person who is engaged in the suspected or  
24 alleged medical use of marijuana is lawfully in possession of  
25 a registry identification card.

26           Section 7. The provisions of this act shall not be  
27 construed or interpreted to allow a primary caregiver to use

1 marijuana for his or her personal use or to allow a qualifying  
2 patient, primary caregiver, or any other person to sell  
3 marijuana. Any such person convicted of selling marijuana  
4 shall not be permitted to be a qualifying patient or primary  
5 caregiver under the protection of the provisions of this act.

6 Section 8. (a) Marijuana used for medical purposes  
7 in compliance with this act shall be regulated in the same  
8 manner as other controlled substances are regulated by state  
9 law.

10 (b) Nothing contained in this act shall be construed  
11 as legalizing or reducing the criminality of the illegal use,  
12 sale, possession, or distribution of marijuana pursuant to the  
13 Alabama Controlled Substances Act.

14 Section 9. (a) Marijuana distributed under this act  
15 may be grown and cultivated at any school of pharmacy of any  
16 college or university located in this state for the medical  
17 uses recognized in this act and may be distributed to any  
18 licensed marijuana dispensing pharmacy for marijuana used for  
19 medical purposes.

20 (b) A dispensing pharmacy may obtain marijuana for  
21 medical use pursuant to this act from any vendor approved by  
22 the department pursuant to its administrative rules.

23 Section 10. The provisions of this act are  
24 severable. If any part of this act is declared invalid or  
25 unconstitutional, that declaration shall not affect the part  
26 which remains.

1                   Section 11. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.