

1 HB25
2 127758-1
3 By Representative Todd
4 RFD: Health
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6 PFD: 12/01/2011

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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.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. This act may be known and cited as the
24 "Michael Phillips Compassionate Care Act."

25 Section 2. (a) Modern medical research has
26 discovered beneficial uses for marijuana in treating or
27 alleviating the pain, nausea, and other symptoms associated

1 with a variety of debilitating medical conditions, as found by
2 the National Academy of Sciences' Institute of Medicine in
3 March 1999.

4 (b) Subsequent studies since the 1999 National
5 Academy of Sciences' Institute of Medicine's report continue
6 to show the therapeutic value of marijuana in treating a wide
7 array of debilitating medical conditions.

8 (c) Data from the Federal Bureau of Investigation's
9 Uniform Crime Reports and the Compendium of Federal Justice
10 Statistics show that approximately 99 out of every 100
11 marijuana arrests in the United States are made under state
12 law rather than federal law.

13 (d) Although federal law currently prohibits any use
14 of marijuana except under very limited circumstances, Alaska,
15 California, Colorado, Hawaii, Maine, Michigan, Montana,
16 Nevada, New Jersey, New Mexico, Oregon, Vermont, Rhode island,
17 and Washington have removed state level criminal penalties
18 from the medical use and cultivation of marijuana. Alabama
19 joins in this effort for the health and welfare of its
20 citizens.

21 (e) States are not required to enforce federal law
22 or prosecute people for engaging in activities prohibited by
23 federal law. Therefore, compliance with this act does not put
24 the State of Alabama in violation of federal law.

25 (f) State law should make a distinction between the
26 medical and nonmedical uses of marijuana. Hence, the purpose
27 of this act is to protect patients with debilitating medical

1 conditions, as well as their practitioners, caregivers, and
2 providers, from arrest and prosecution, criminal and other
3 penalties, and property forfeiture if such patients engage in
4 the medical use of marijuana.

5 (g) The Legislature declares that this act is
6 enacted pursuant to police power to protect the health of the
7 state's citizens that is reserved to the State of Alabama and
8 its people under the 10th Amendment to the United States
9 Constitution.

10 Section 3. As used in this act, the following terms
11 shall have the following meanings:

12 (1) CARDHOLDER. A qualifying patient, designated
13 caregiver, or principal officer, board member, employee,
14 volunteer, or agent of a nonprofit compassion center who has
15 been issued and possesses a valid registry identification
16 card.

17 (2) DEBILITATING MEDICAL CONDITION. One or more of
18 the following:

19 a. Cancer, glaucoma, positive status for human
20 immunodeficiency virus, acquired immune deficiency syndrome,
21 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
22 agitation of Alzheimer's disease, nail patella, or the
23 treatment of these conditions.

24 b. A chronic or debilitating disease or medical
25 condition or its treatment that produces one or more of the
26 following: Cachexia or wasting syndrome; severe pain; severe
27 nausea; seizures, including, but not limited to, those

1 characteristic of epilepsy; or severe and persistent muscle
2 spasms, including, but not limited to, those characteristic of
3 multiple sclerosis.

4 c. Any other medical condition or its treatment
5 approved by the department, as provided for in subsection (b)
6 of Section 5.

7 (3) DEPARTMENT. The Department of Public Health or
8 its successor agency.

9 (4) ENCLOSED, LOCKED FACILITY. A closet, room,
10 greenhouse, or other enclosed indoor or outdoor area equipped
11 with the locks or other security devices that permit access
12 only by a cardholder.

13 (5) EXCLUDED FELONY OFFENSE. A violation of a state
14 or federal controlled substance law that was classified as a
15 felony in the jurisdiction where the person was convicted. It
16 does not include the following:

17 a. An offense for which the sentence, including any
18 term of probation, incarceration, or supervised release, was
19 completed 10 or more years earlier.

20 b. An offense that consisted of conduct for which
21 this act would likely have prevented a conviction, but the
22 conduct either occurred prior to the enactment of this act or
23 was prosecuted by an authority other than the State of
24 Alabama.

25 (6) MATURE MARIJUANA PLANT. A marijuana plant that
26 has flowers or buds that are readily observable by an unaided
27 visual examination.

1 (7) MEDICAL USE. The acquisition, possession,
2 cultivation, manufacture, use, delivery, sale, transfer, or
3 transportation of marijuana or paraphernalia relating to the
4 administration of marijuana to treat or alleviate a qualifying
5 patient's debilitating medical condition or symptoms
6 associated with the patient's debilitating medical condition.

7 (8) PHYSICIAN. An individual who possesses a
8 certificate of qualification issued on his or her behalf by
9 the Board of Medical Examiners and a license and certificate
10 of registration from the board.

11 (9) PRIMARY CAREGIVER. A person who is at least 21
12 years of age, who has agreed to assist with a qualifying
13 patient's medical use of marijuana, and who has never been
14 convicted of an excluded felony offense. A primary caregiver,
15 other than a registered compassion center, may assist no more
16 than three qualifying patients with their medical use of
17 marijuana.

18 (10) QUALIFYING PATIENT. A person who has been
19 diagnosed by a physician as having a debilitating medical
20 condition.

21 (11) REGISTERED COMPASSION CENTER. A not-for-profit
22 entity registered pursuant to Section 9 that acquires,
23 possesses, cultivates, manufactures, delivers, transfers,
24 transports, supplies, or dispenses marijuana or related
25 supplies and educational materials to cardholders. A
26 registered compassion center may receive monetary compensation
27 for all expenses incurred in its operation.

1 (12) REGISTERED PRIMARY CAREGIVER. A primary
2 caregiver who is registered with the department pursuant to
3 Section 6.

4 (13) REGISTERED QUALIFYING PATIENT. A qualifying
5 patient who is registered with the department pursuant to
6 Section 6.

7 (14) REGISTRY IDENTIFICATION CARD. A document issued
8 by the department that identifies a person as a registered
9 qualifying patient, registered designated caregiver, or a
10 registered principal officer, board member, employee,
11 volunteer, or agent of a registered compassion center.

12 (15) USABLE MARIJUANA. The dried leaves and flowers
13 of the marijuana plant and any mixture or preparation thereof,
14 but does not include the seeds, stalks, and roots of the plant
15 and does not include the weight of any non-marijuana
16 ingredients combined with marijuana and prepared for
17 consumption as food.

18 (16) VISITING QUALIFYING PATIENT. A patient with a
19 debilitating medical condition who is not a resident of the
20 State of Alabama or who has been a resident of the State of
21 Alabama for less than 30 days.

22 (17) WRITTEN CERTIFICATION. A document signed by a
23 physician, stating that, in the physician's professional
24 opinion, the patient is likely to receive therapeutic or
25 palliative benefit from the medical use of marijuana to treat
26 or alleviate the patient's debilitating medical condition or
27 symptoms associated with the debilitating medical condition. A

1 written certification shall be made only in the course of a
2 bona fide physician-patient relationship after the physician
3 has completed a full assessment of the qualifying patient's
4 medical history. The written certification shall specify the
5 qualifying patient's debilitating medical condition.

6 Section 4. (a) A qualifying patient who has been
7 issued and possesses a registry identification card shall not
8 be subject to arrest, prosecution, or penalty in any manner,
9 or denied any right or privilege, including, but not limited
10 to, civil penalty or disciplinary action by a business or
11 occupational or professional licensing board or bureau, for
12 the medical use of marijuana in accordance with this act as
13 long as the qualifying patient possesses an amount of
14 marijuana that:

15 (1) Is not more than two and one-half ounces of
16 usable marijuana.

17 (2) Does not exceed six mature and six immature
18 marijuana plants, provided that the qualifying patient has not
19 specified that a primary caregiver is allowed under state law
20 to cultivate marijuana for the qualifying patient. The plants
21 shall be kept in an enclosed, locked facility, unless they are
22 being transported because the qualifying patient is moving or
23 they are being transported to the qualifying patient's or
24 designated primary caregiver's property.

25 (b) A primary caregiver other than a nonprofit
26 compassion center, who has been issued and possesses a
27 registry identification card shall not be subject to arrest,

1 prosecution, or penalty in any manner, or denied any right or
2 privilege, including, but not limited to, civil penalty or
3 disciplinary action by a business or occupational or
4 professional licensing board or bureau, for assisting a
5 qualifying patient to whom the primary caregiver is connected
6 through the department's registration process with the medical
7 use of marijuana in accordance with this act as long as the
8 primary caregiver possesses an amount of marijuana that:

9 (1) Is not more than two and one-half ounces of
10 usable marijuana for each qualifying patient to whom the
11 primary caregiver is connected through the department's
12 registration process.

13 (2) For each qualifying patient who has specified
14 that the primary caregiver is allowed under state law to
15 cultivate for the qualifying patient, does not exceed six
16 mature and six immature marijuana plants, which shall be kept
17 in an enclosed, locked facility, unless they are being
18 transported because the designated caregiver is moving or they
19 are being transported to a designated caregiver's or a
20 qualifying patient's property.

21 (c) Any incidental amount of marijuana seeds,
22 stalks, and unusable roots may not be included in the amounts
23 specified in this section.

24 (d) (1) There is a presumption that a qualifying
25 patient or primary caregiver is engaged in the medical use of
26 marijuana in accordance with this act if the qualifying
27 patient or primary caregiver:

1 A. Is in possession of a registry identification
2 card.

3 B. Is in possession of an amount of marijuana that
4 does not exceed the amount allowed under this act.

5 (2) The presumption under subdivision (1) may be
6 rebutted by evidence that conduct related to marijuana was not
7 for the purpose of treating or alleviating the qualifying
8 patient's debilitating medical condition or symptoms
9 associated with the debilitating medical condition in
10 accordance with this act.

11 (e) A school, employer, or landlord may not refuse
12 to enroll or employ or lease to or otherwise penalize a person
13 solely for that person's status as a registered qualifying
14 patient or registered primary caregiver unless failing to do
15 so would put the school, employer, or landlord in violation of
16 federal law or cause it to lose a federal contract of funding.

17 (f) For the purposes of medical care, including
18 organ transplants, a registered qualifying patient's
19 authorized use of marijuana shall be considered the equivalent
20 of the authorized use of any other medication used at the
21 direction of a physician, and shall not constitute the use of
22 an illicit substance for purposes of qualification for an
23 organ transplant.

24 (g) A person shall not be denied custody or
25 visitation of a minor for acting in accordance with this act
26 unless the person's behavior is such that it creates an

1 unreasonable danger to the minor that can be clearly
2 articulated and substantiated.

3 (h) A registered primary caregiver may receive
4 monetary or other compensation for costs associated with
5 assisting a registered qualifying patient's medical use of
6 marijuana as long as the registered primary caregiver is
7 connected to the registered qualifying patient through the
8 department's registration process. Any such compensation shall
9 not constitute the sale of controlled substances.

10 (i) A physician shall not be subject to arrest,
11 prosecution, or penalty in any manner, or denied any right or
12 privilege, including, but not limited to, civil penalty or
13 disciplinary action by the Board of Medical Examiners or by
14 any other business or occupational or professional licensing
15 board or bureau, solely for providing written certifications
16 or for otherwise stating that, in the physician's professional
17 opinion, a patient is likely to receive therapeutic benefit
18 from the medical use of marijuana to treat or alleviate the
19 patient's serious or debilitating medical condition or
20 symptoms associated with the serious or debilitating medical
21 condition, except that nothing prevents a professional
22 licensing board from sanctioning a physician for failing to
23 properly evaluate a patient's medical condition or otherwise
24 violating the standard of care for evaluating medical
25 condition.

26 (j) A person shall not be subject to arrest,
27 prosecution, or penalty in any manner, or denied any right or

1 privilege, including, but not limited to, civil penalty or
2 disciplinary action by a business or occupational or
3 professional licensing board or bureau, for providing a
4 registered qualifying patient or a registered primary
5 caregiver with marijuana paraphernalia for a qualifying
6 patient's medical use of marijuana.

7 (k) Any marijuana, marijuana paraphernalia, licit
8 property, or interest in licit property that is possessed,
9 owned, or used in connection with the medical use of marijuana
10 as allowed under this act, or property incidental to such use,
11 may not be seized or forfeited.

12 (l) A person shall not be subject to arrest,
13 prosecution, or penalty in any manner, or denied any right or
14 privilege, including, but not limited to, civil penalty or
15 disciplinary action by a business or occupational or
16 professional licensing board or bureau, simply for being in
17 the presence or vicinity of the medical use of marijuana as
18 allowed under this act, or for assisting a registered
19 qualifying patient with using or administering marijuana.

20 (m) A registry identification card or its equivalent
21 issued under the laws of another state, district, territory,
22 commonwealth, or insular possession of the United States that
23 allows the medical use of marijuana by a visiting qualifying
24 patient has the same force and effect as a registry
25 identification card issued by the department.

1 Section 5. (a) The department may adopt rules in
2 accordance with the Administrative Procedure Act to carry out
3 the purposes of this act.

4 (b) Not later than 120 days after the effective date
5 of this act, the department shall adopt rules that govern the
6 manner in which the department shall consider petitions from
7 the public to add medical conditions or treatments to the list
8 of debilitating medical conditions set forth in subsection (b)
9 of Section 3. In considering such petitions, the department
10 shall include public notice of, and an opportunity to comment
11 in a public hearing upon such petitions. The department, after
12 hearing, shall approve or deny such petitions within 180 days
13 of their submission. The approval or denial of such a petition
14 constitutes final agency action subject to judicial review.
15 Jurisdiction and venue for judicial review are vested in the
16 circuit court.

17 (c) Not later than 120 days after the effective date
18 of this act, the department shall adopt rules governing the
19 manner in which it considers applications for and renewals of
20 registry identification cards. The department's rules must
21 establish application and renewal fees that generate revenues
22 sufficient to offset all expenses of implementing and
23 administering this act. The department may establish a sliding
24 scale of application and renewal fees based upon a qualifying
25 patient's family income. The department may accept donations
26 from private sources in order to reduce the application and
27 renewal fees.

1 Section 6. (a) The department shall issue registry
2 identification cards to qualifying patients who submit the
3 documents and information described in this subsection, in
4 accordance with the department's rules:

5 (1) Written certification.

6 (2) Application or renewal fee.

7 (3) Name, address, and date of birth of the
8 qualifying patient.

9 (4) Name, address, and telephone number of the
10 qualifying patient's physician.

11 (5) Name, address, and date of birth of each primary
12 caregiver, if any, of the qualifying patient.

13 (6) If the qualifying patient designates one or two
14 primary caregivers, a designation as to who will be allowed
15 under state law to cultivate marijuana plants for the
16 qualifying patient's medical use. Only one person may be
17 allowed to cultivate marijuana plants for a qualifying
18 patient.

19 (b) The department may not issue a registry
20 identification card to a qualifying patient who is under 18
21 years of age unless:

22 (1) The qualifying patient's physician has explained
23 the potential risks and benefits of the medical use of
24 marijuana to the qualifying patient.

25 (2) The parent, guardian, or person having legal
26 custody consents in writing to:

1 a. Allow the qualifying patient's medical use of
2 marijuana.

3 b. Serve as one of the qualifying patient's primary
4 caregivers.

5 c. Control the acquisition of the marijuana and the
6 dosage and the frequency of the medical use of marijuana by
7 the qualifying patient.

8 (c) The department shall verify the information
9 contained in an application or renewal submitted pursuant to
10 this section and shall approve or deny an application or
11 renewal within 30 days of receiving it. The department may
12 deny an application or renewal only if the applicant did not
13 provide the information required pursuant to this section or
14 the department determines that the information provided was
15 falsified. Rejection of an application or renewal is
16 considered a final agency action, subject to judicial review.
17 Jurisdiction and venue for judicial review are vested in the
18 circuit court.

19 (d) The department shall issue a registry
20 identification card to each primary caregiver, if any, who is
21 named in a qualifying patient's approved application pursuant
22 to subdivision (5) of subsection (a). Only one person may
23 cultivate marijuana for the qualifying patient's medical use.
24 The person may either be the qualifying patient or one of the
25 two primary caregivers as determined by the qualifying
26 patient.

1 (e) The department shall issue registry
2 identification cards to qualifying patients and to primary
3 caregivers within five days of approving an application or
4 renewal under this section. Registry identification cards
5 expire one year after the date of issuance. Registry
6 identification cards must contain the following:

7 (1) The name, address, and date of birth of the
8 qualifying patient.

9 (2) The name, address, and date of birth of each
10 primary caregiver, if any, of the qualifying patient.

11 (3) The date of issuance and expiration date of the
12 registry identification card.

13 (4) A random identification number that is unique to
14 the cardholder.

15 (5) A photograph, if the department decides to
16 require one.

17 (6) A clear designation showing whether the
18 cardholder is allowed under state law to cultivate marijuana
19 plants for the qualifying patient's medical use, which must be
20 determined based solely on the qualifying patient's
21 preference.

22 (f) (1) A registered qualifying patient shall notify
23 the department within 10 days of any change in the registered
24 qualifying patient or preference regarding who may cultivate
25 marijuana for the registered qualifying patient or if the
26 registered qualifying patient ceases to have a debilitating
27 medical condition.

1 (2) Except for good cause, a registered qualifying
2 patient who fails to notify the department as required under
3 subdivision (1) commits a civil violation for which a fine of
4 not more than one hundred fifty dollars (\$150) may be imposed.
5 If the registered qualifying patient's certifying physician
6 notifies the department in writing that the registered
7 qualifying patient has ceased to suffer from a debilitating
8 medical condition, the registered qualifying patient's
9 registry identification card becomes void upon notification by
10 the department to the qualifying patient.

11 (3) A registered primary caregiver shall notify the
12 department of any change in the caregiver's name or address
13 within 10 days of the change. A registered primary caregiver
14 who fails to notify the department of any of these changes
15 commits a civil violation for which a fine of not more than
16 one hundred fifty dollars (\$150) may be imposed.

17 (4) When a registered qualifying patient or
18 registered primary caregiver notifies the department of any
19 changes listed in this subsection, the department shall issue
20 the registered qualifying patient and each registered primary
21 caregiver a new registry identification card within 10 days of
22 receiving the updated information and a ten dollar (\$10) fee.

23 (5) When a registered qualifying patient changes the
24 patient's registered primary caregiver, the department shall
25 notify the previous primary caregiver within 10 days. The
26 previous primary caregiver's protections as provided in this
27 act expire 10 days after notification by the department.

1 (6) If a cardholder loses the cardholder's registry
2 identification card, the cardholder shall notify the
3 department and submit a ten dollar (\$10) fee within 10 days of
4 losing the card. Within five days after the notification, the
5 department shall issue a new registry identification card with
6 a new random identification number.

7 (g) Possession of, or application for, a registry
8 identification card does not constitute probable cause or
9 reasonable suspicion, nor may it be used to support the search
10 of the person or property of the person possessing or applying
11 for the registry identification card. The possession of, or
12 application for, a registry identification card does not
13 prevent the issuance of a warrant if probable cause exists on
14 other grounds.

15 (h) (1) Applications and supporting information
16 submitted by qualifying patients under this act, including
17 information regarding their primary caregivers and physicians,
18 are confidential.

19 (2) Applications and supporting information
20 submitted by primary caregivers operating in compliance with
21 this act, including the physical address of a compassion
22 center, are confidential.

23 (3) The department shall maintain a confidential
24 list of the persons to whom the department has issued registry
25 identification cards. Individual names and other identifying
26 information on the list are confidential and not subject to

1 disclosure except to authorized employees of the department as
2 necessary to perform official duties of the department.

3 (4) The department shall verify to law enforcement
4 personnel whether a registry identification card is valid
5 without disclosing more information than is reasonably
6 necessary to verify the authenticity of the registry
7 identification card.

8 (5) Notwithstanding this subsection, department
9 employees may notify law enforcement about falsified or
10 fraudulent information submitted to the department as long as
11 the employee who suspects that falsified or fraudulent
12 information has been submitted confers with the employee's
13 supervisor and both agree that circumstances exist that
14 warrant reporting.

15 (i) Any cardholder who sells marijuana to a person
16 who is not allowed to possess marijuana for medical purposes
17 under this act shall have the cardholder's registry
18 identification card revoked and is liable for any other
19 penalties for the sale of marijuana as provided by law. The
20 department may revoke the registry identification card of any
21 cardholder who violates this act.

22 (j) The department shall submit to the Legislature
23 an annual report that does not disclose any identifying
24 information about cardholders or physicians, but does contain,
25 at a minimum:

26 (1) The number of applications and renewals filed
27 for registry identification cards.

1 (2) The number of qualifying patients and primary
2 caregivers approved in each county.

3 (3) The nature of the debilitating medical
4 conditions of the qualifying patients.

5 (4) The number of registry identification cards
6 revoked.

7 (5) The number of physicians providing written
8 certifications for qualifying patients.

9 (6) The number of registered compassion centers.

10 (7) The number of principal officers, board members,
11 employees, and agents of compassion centers.

12 Section 7. (a) This act does not permit any person
13 to:

14 (1) Undertake any task under the influence of
15 marijuana when doing so would constitute negligence or
16 professional malpractice.

17 (2) Possess marijuana or otherwise engage in the
18 medical use of marijuana:

19 a. On a school bus.

20 b. On the grounds of any preschool or primary or
21 secondary school.

22 c. In any correctional facility.

23 (3) Smoke marijuana in any public place.

24 (4) Operate, navigate, or be in actual physical
25 control of any motor vehicle, aircraft, or motorboat while
26 under the influence of marijuana.

1 (5) Use marijuana if that person does not have a
2 debilitating medical condition.

3 (b) This act may not be construed to require:

4 (1) A government medical assistance program or
5 private health insurer to reimburse a person for costs
6 associated with the medical use of marijuana.

7 (2) An employer to accommodate the ingestion of
8 marijuana in any workplace or any employee working while under
9 the influence of marijuana.

10 (c) Fraudulent representation to a law enforcement
11 official of any fact or circumstance relating to the medical
12 use of marijuana to avoid arrest or prosecution is a civil
13 violation punishable by a fine of five hundred dollars (\$500)
14 which must be in addition to any other penalties that may
15 apply for making a false statement or for the use of marijuana
16 other than use undertaken pursuant to this act.

17 Section 8. (a) Except as provided in Section 7, a
18 qualifying patient and a qualifying patient's primary
19 caregiver, other than a compassion center, may assert the
20 medical use of marijuana as a defense to any prosecution
21 involving marijuana, and this defense must be presumed valid
22 when the evidence shows that:

23 (1) A physician has stated that, in the physician's
24 professional opinion, after having completed a full assessment
25 of the qualifying patient's medical history and current
26 medical condition made in the course of a bona fide
27 physician-patient relationship, the qualifying patient is

1 likely to receive therapeutic or palliative benefit from the
2 medical use of marijuana to treat or alleviate the qualifying
3 patient's debilitating medical condition or symptoms
4 associated with the qualifying patient's debilitating medical
5 condition or symptoms associated with the qualifying patient's
6 debilitating medical condition.

7 (2) The qualifying patient and the qualifying
8 patient's primary caregiver, if any, were collectively in
9 possession of a quantity of marijuana that was not more than
10 was reasonably necessary to ensure the uninterrupted
11 availability of marijuana for the purpose of treating or
12 alleviating the qualifying patient's debilitating medical
13 condition.

14 (3) The qualifying patient and the qualifying
15 patient's primary caregiver, if any, were engaged in the
16 acquisition, possession, cultivation, manufacture, use,
17 delivery, transfer, or transportation of marijuana or
18 paraphernalia relating to the administration of marijuana
19 solely to treat or alleviate the qualifying patient's
20 debilitating medical condition or symptoms associated with the
21 qualifying patient's debilitating medical condition.

22 (b) A person may assert the medical use of marijuana
23 in a motion to dismiss, and the charges must be dismissed
24 following an evidentiary hearing where the person proves the
25 elements listed in subsection (a).

26 (c) If a qualifying patient or a qualifying
27 patient's primary caregiver demonstrates the qualifying

1 patient's medical use of marijuana pursuant to this section,
2 the qualifying patient and the qualifying patient's primary
3 caregiver may not be subject to any state sanction, including:

4 (1) Disciplinary action by a business or
5 occupational or professional licensing board or bureau.

6 (2) Forfeiture of any interest in or right to
7 property.

8 Section 9. (a) Provisions pertaining to primary
9 caregiver apply to nonprofit compassion centers. All
10 provisions of this act pertaining to a primary caregiver apply
11 to a nonprofit compassion center unless the provision
12 conflicts with a provision contained in this section.

13 (b) (1) The department shall register a nonprofit
14 compassion center and issue within 30 days a registration
15 certificate to up to three persons or entities that provide:

16 a. A reasonable fee paid to the department in the
17 amount established by the department.

18 b. The legal name of the nonprofit compassion
19 center.

20 c. The physical address of the nonprofit compassion
21 center and the physical address of one additional location, if
22 any, where marijuana will be cultivated.

23 d. The name, address, and date of birth of each
24 principal officer and board member of the nonprofit compassion
25 center.

1 e. The name, address, and date of birth of any
2 person who is an agent of or employed by the nonprofit
3 compassion center.

4 (2) The department shall track the number of
5 registered qualifying patients who designate a nonprofit
6 compassion center as a primary caregiver and issue to each
7 nonprofit compassion center a written statement of the number
8 of qualifying patients who have designated the nonprofit
9 compassion center to cultivate marijuana for them. This
10 statement must be updated each time a new registered
11 qualifying patient designates the nonprofit compassion center
12 or ceases to designate the nonprofit compassion center and may
13 be transmitted electronically if the department's rules so
14 provide. The department may provide by rule that the updated
15 written statements may not be issued more frequently than once
16 each week.

17 (3) The department shall issue each principal
18 officer, board member, agent, and employee of a nonprofit
19 compassion center a registry identification card within 10
20 days of receipt of the person's name, address, and date of
21 birth under paragraph a. and a fee in an amount established by
22 the department. Each card must specify that the cardholder is
23 a principal officer, board member, agent, or employee of a
24 nonprofit compassion center and must contain the following:

25 a. The name, address, and date of birth of the
26 principal officer, board member, agent, or employee.

1 b. The legal name of the nonprofit compassion center
2 with which the principal officer, board member, agent, or
3 employee is affiliated.

4 c. A random identification number that is unique to
5 the cardholder.

6 d. The date of issuance and expiration date of the
7 registry identification card.

8 e. A photograph, if the department decides to
9 require one.

10 (4) The department may not issue a registry
11 identification card to any principal officer, board member,
12 agent, or employee of a nonprofit compassion center who has
13 been convicted of an excluded felony drug offense. The
14 department may conduct a background check of each principal
15 officer, board member, agent, or employee in order to carry
16 out this provision. The department shall notify the nonprofit
17 compassion center in writing of the purpose for denying the
18 registry identification card.

19 (5) Any time one or more compassion center
20 registration applications are being considered, the department
21 shall also allow for comment by the public and shall solicit
22 input from registered qualifying patients, registered primary
23 caregivers, and the town or city officials where the
24 applicants would be located.

25 (6) Each time a compassion center certificate is
26 granted, the decision shall be based upon the overall health

1 needs of qualified patients and the safety of the public,
2 including, but not limited to, the following factors:

3 a. Convenience to patients from throughout the State
4 of Alabama to the compassion centers if the applicant were
5 approved.

6 b. The applicant's ability to provide a steady
7 supply to the registered qualifying patients in the state.

8 c. The applicant's experience running a nonprofit or
9 business.

10 d. The interest of qualifying patients regarding
11 which applicant be granted a registration certificate.

12 e. The interest of the city or town where the
13 compassion center would be located.

14 f. The sufficiency of the applicant's plans for
15 record keeping and security which records shall be considered
16 confidential health care information under Alabama law and are
17 intended to be deemed protected health care information for
18 purposes of the Federal Health Insurance Portability and
19 Accountability Act of 1996, as amended.

20 g. The sufficiency of the applicant's plans for
21 safety and security, including proposed location, security
22 devices employed, and staffing.

23 (c) Not later than 120 days after the effective date
24 of this act, the department shall adopt rules governing the
25 manner in which it considers applications for and renewals of
26 registration certificates for nonprofit compassion centers,
27 including rules governing:

- 1 (1) The fee for registration.
- 2 (2) The form and content of registration and renewal
3 applications.
- 4 (3) Minimum oversight requirements for nonprofit
5 compassion centers.
- 6 (4) Minimum record keeping requirements for
7 nonprofit compassion centers.
- 8 (5) Minimum security requirements for nonprofit
9 compassion centers.
- 10 (6) Procedures for suspending or terminating the
11 registration of nonprofit compassion centers that violate the
12 provisions of this section or the rules adopted pursuant to
13 this subsection.
- 14 (d) A nonprofit compassion center registration
15 certificate and the registry identification card for each
16 principal officer, board member, agent, or employee expire one
17 year after the date of issuance. The department shall issue a
18 renewal nonprofit compassion center registration certificate
19 and renewal registry identification cards within 10 days to
20 any person who complies with the requirements contained in
21 subsection (b). A registry identification card of a principal
22 officer, board member, agent, or employee expires 10 days
23 after notification by a nonprofit compassion center that such
24 person ceases to work at the nonprofit compassion center.
- 25 (e) A nonprofit compassion center is subject to
26 reasonable inspection by the department. The department shall
27 give reasonable notice of an inspection under this subsection.

1 (f) (1) A nonprofit compassion center must be
2 operated on a not-for-profit basis for the mutual benefit of
3 its members and patrons. The bylaws of a nonprofit compassion
4 center and its contracts with patrons must contain such
5 provisions relative to the disposition of revenues and
6 receipts as may be necessary and appropriate to establish and
7 maintain its nonprofit character. A nonprofit compassion
8 center need not be recognized as a tax exempt organization
9 under 26 United States Code, Section 501(c)(3).

10 (2) A nonprofit compassion center shall notify the
11 department within 10 days of when a principal officer, board
12 member, agent, or employee ceases to work at the nonprofit
13 compassion center.

14 (3) A nonprofit compassion center shall notify the
15 department in writing of the name, address, and date of birth
16 of any new principal officer, board member, agent, or employee
17 and shall submit a fee in an amount established by the
18 department for a new registry identification card before the
19 new principal officer, board member, agent, or employee begins
20 working at the nonprofit compassion center.

21 (4) A nonprofit compassion center shall implement
22 appropriate security measures to deter and prevent
23 unauthorized entrance into areas containing marijuana and the
24 theft of marijuana.

25 (5) The operating documents of a nonprofit
26 compassion center must include procedures for the oversight of

1 the nonprofit compassion center and procedures to ensure
2 accurate record keeping.

3 (6) A nonprofit compassion center is prohibited from
4 acquiring, possessing, cultivating, manufacturing, delivering,
5 transferring, transporting, supplying, or dispensing marijuana
6 for any purpose except to assist registered qualifying
7 patients with the medical use of marijuana directly or through
8 the registered qualifying patient's other primary caregivers.

9 (7) All principal officers and board members of a
10 nonprofit compassion center must be residents of the State of
11 Alabama.

12 (8) All cultivation of marijuana must take place in
13 an enclosed, locked facility.

14 (g) A nonprofit compassion center or a principal
15 officer, board member, agent, or employee of a nonprofit
16 compassion center may not dispense more than two and one-half
17 ounces of usable marijuana to a qualifying patient or to a
18 primary caregiver on behalf of a qualifying patient at one
19 time.

20 (h) (1) A nonprofit compassion center may not be
21 subject to prosecution, search, seizure, or penalty in any
22 manner or denied any right or privilege, including, but not
23 limited to, a civil penalty or disciplinary action by a
24 business, occupational, or professional licensing board or
25 entity, solely for acting in accordance with this section to
26 provide usable marijuana to or to otherwise assist registered
27 qualifying patients with the medical use of marijuana.

1 (2) Principal officers, board members, agents, and
2 employees of a registered nonprofit compassion center are not
3 subject to arrest, prosecution, search, seizure, or penalty in
4 any manner and may not be deprived any right or privilege,
5 solely for working for or with a nonprofit compassion center
6 to provide usable marijuana to or to otherwise assist
7 registered qualifying patients with the medical use of
8 marijuana in accordance with this act.

9 (i)(1) A nonprofit compassion center may not possess
10 more than six mature marijuana plants and six immature
11 marijuana plants for each registered qualifying patient who
12 has designated the nonprofit compassion center as a primary
13 caregiver and designated that the compassion center will be
14 permitted to cultivate marijuana for the registered qualifying
15 patient's medical use.

16 (2) A nonprofit compassion center may not dispense,
17 deliver, or otherwise transfer marijuana to a person other
18 than a qualifying patient who has designated the nonprofit
19 compassion center as a primary caregiver or to the patient's
20 other registered primary caregiver.

21 (3) The department shall immediately revoke the
22 registry identification card of a principal officer, board
23 member, employee, or agent of a nonprofit compassion center
24 who is found to have violated subdivision (2), and such a
25 person is disqualified from serving as a principal officer,
26 board member, employee, or agent of a nonprofit compassion
27 center.

1 (4) A person who has been convicted of an excluded
2 felony drug offense as defined in Section 3 of this act may
3 not be a principal officer, board member, agent, or employee
4 of a nonprofit compassion center.

5 (5) A nonprofit compassion center may not acquire
6 usable marijuana or mature marijuana plants except through the
7 cultivation of marijuana by that nonprofit compassion center.

8 (j) This act does not prohibit a political
9 subdivision of the State of Alabama from limiting the number
10 of nonprofit compassion centers that may operate in the
11 political subdivision or from enacting reasonable zoning
12 regulations applicable to nonprofit compassion centers.

13 Section 10. (a) If the department fails to adopt
14 rules to implement this act within 120 days of the effective
15 date of this act, a qualifying patient may commence an action
16 in the circuit court to compel the department to perform the
17 actions mandated in this act.

18 (b) If the department fails to issue a valid
19 registry identification card or registration certificate in
20 response to a valid application or renewal submitted pursuant
21 to this act within 45 days of its submission, the registry
22 identification card or registration certificate is deemed
23 granted, and a copy of the registry identification application
24 or renewal is deemed a valid registry identification card.

25 (c) If at any time after the 140 days following the
26 effective date of this act the department is not accepting
27 applications or has not adopted rules allowing qualifying

1 patients to submit applications, a notarized statement by a
2 qualifying patient containing the information required in an
3 application, pursuant to Section 6, is deemed a valid registry
4 identification card.

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