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2014-086	Request for certification of the popular name and ballot title of an <u>initiated act</u> proposed to legalize the medical use of cannabis (marijuana) in Arkansas, and other purposes. RESPONSE: Popular name certified as submitted; ballot title substituted and certified. Hide	08/14/2014	Fults, Melissa Cmpgn Dir, Ark for Cmpsnt Care 2014	HTML http://ag.arkansas.gov/opinions/docs/2014-086.html PDF http://ag.arkansas.gov/opinions/docs/2014-086.pdf

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STATE OF ARKANSAS
THE ATTORNEY GENERAL
DUSTIN McDANIEL

Opinion No. 2014-086

August 14, 2014

Melissa Fults, Campaign Director
Arkansans for Compassionate Care 2016
Post Office Box 420
Hensley, Arkansas 72065

Dear Mrs. Fults:

This is in response to your submission, on behalf of Arkansans for Compassionate Care, for certification of the popular name and ballot title for a proposed initiated act pursuant to A.C.A. § 7-9-107 (Repl. 2013). Several similar measures were rejected due to ambiguities in the text of the proposed acts. *See* Op. Att'y Gen. 2014-072, 2013-099, 2013-079, 2013-046, 2013-033, 2013-015, 2011-038 and 2011-023. This office certified two of your proposed measures in Op. Att'y Gen. 2013-118 and 2011-049. You have made changes to the text of the measure and resubmitted your previously proposed popular name and ballot title, as follows:

Popular Name

THE ARKANSAS MEDICAL CANNABIS ACT

Ballot Title

An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through nonprofit cannabis care centers and for the testing for quality, safety and potency of cannabis through cannabis testing labs and granting those nonprofit cannabis care centers and cannabis testing labs limited

immunity; allowing localities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operations; providing that qualifying patients, their designated caregivers, cannabis testing lab agents and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with the qualifying patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient and his or her designated caregiver lacks access to a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards, hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of cannabis; setting maximum registration fees for nonprofit cannabis care centers; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative reports about the Medical Cannabis Program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center

may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to qualifying patient; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs or cannabis testing lab agents; allowing visiting qualifying patients suffering from qualifying medical conditions to utilize the Arkansas Medical Cannabis Program; and directing the sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the Medical Cannabis Program and the remainder to aid low income qualifying patients through the affordability clause.

The Attorney General is required, pursuant to A.C.A. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General may substitute and certify a more suitable and correct popular name and ballot title, if he can do so, or if the proposed popular name and ballot title are sufficiently misleading, may reject the entire petition. **Neither certification nor rejection of a popular name and ballot title reflects my view of the merits of the proposal. This Office has been given no authority to consider the merits of any measure.**

In this regard, A.C.A. § 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is “clearly contrary to law,”¹ this office will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities. As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

¹ See *Kurru v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposed amendment.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.²

The popular name is primarily a useful legislative device.³ It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal.⁴ The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.⁵

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.⁶ According to the court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be disclosed."⁷ At the same time, however, a ballot title must be brief and concise (*see* A.C.A. § 7-9-107(b)); otherwise voters could run afoul of A.C.A. § 7-5-522's five minute limit in voting booths when other voters are waiting in line.⁸ The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate

² *See Arkansas Women's Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 846 (1984).

³ *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

⁴ *E.g., Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958).

⁵ *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

⁶ *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980).

⁷ *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

⁸ *Id.* at 288, 884 S.W.2d at 944.

every possible legal argument the proposed measure might evoke.⁹ The title, however, must be free from any misleading tendency, whether by amplification, omission, or fallacy; it must not be tinged with partisan coloring.¹⁰ The ballot title must be honest and impartial,¹¹ and it must convey an intelligible idea of the scope and significance of a proposed change in the law.¹²

Furthermore, the Court has confirmed that a proposed amendment cannot be approved if “[t]he text of the proposed amendment itself contribute[s] to the confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.”¹³ The Court concluded that “internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.”¹⁴ Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without clarification of the ambiguities.

Applying the above precepts, it is my conclusion that the popular name of your proposal is adequate but that a more suitable, complete, and correct ballot title should be substituted for that proposed. The following ballot title is hereby certified in order to ensure that, when construed together, the popular name and ballot title accurately set forth the purpose of the proposed amendment:

Ballot Title

An act making the medical use of cannabis, commonly called marijuana, legal under Arkansas state law, but acknowledging that

⁹ *Id.* 293, 884 S.W.2d at 946–47.

¹⁰ *Id.* at 284, 884 S.W.2d at 942.

¹¹ *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

¹² *Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 245, 884 S.W.2d 605, 607 (1994) (internal quotations omitted).

¹³ *Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 383 (2000).

¹⁴ *Id.*

cannabis use, possession, and distribution for any purpose remain illegal under federal law; establishing a system for the cultivation and distribution of cannabis for qualifying patients through nonprofit cannabis care centers and for the testing for quality, safety, and potency of cannabis through cannabis testing labs; granting nonprofit cannabis care centers and cannabis testing labs limited immunity; allowing localities to limit the number of nonprofit cannabis care centers and to enact zoning regulations governing their operations; providing that qualifying patients, their designated caregivers, cannabis testing lab agents, and nonprofit cannabis care center agents shall not be subject to criminal or civil penalties or other forms of discrimination for engaging in or assisting with qualifying patients' medical use of cannabis or for testing and labeling cannabis; allowing limited cultivation of cannabis by qualifying patients and designated caregivers if the qualifying patient lives more than twenty (20) miles from a nonprofit cannabis care center and obtains a hardship cultivation certificate from the Department of Health; allowing compensation for designated caregivers; requiring that in order to become a qualifying patient, a person submit to the state a written certification from a physician that he or she is suffering from a qualifying medical condition; establishing an initial list of qualifying medical conditions; directing the Department of Health to establish rules related to the processing of applications for registry identification cards and hardship cultivation certificates, the operations of nonprofit cannabis care centers and cannabis testing labs, and the addition of qualifying medical conditions if such additions will enable patients to derive therapeutic benefit from the medical use of cannabis; setting maximum application and renewal fees for nonprofit cannabis care centers and cannabis testing labs; directing the Department of Health to establish a system to provide affordable cannabis from nonprofit cannabis care centers to low income patients; establishing qualifications for registry identification cards; establishing qualifications for hardship cultivation certificates; establishing standards to ensure that qualifying patient and designated caregiver registration information is treated as confidential; directing the Department of Health to provide the legislature annual quantitative

reports about the medical cannabis program; setting certain limitations on the use of medical cannabis by qualifying patients; establishing an affirmative defense for the medical use of cannabis; establishing registration and operation requirements for nonprofit cannabis care centers and cannabis testing labs; setting limits on the number of nonprofit cannabis care centers; setting limits on the amount of cannabis a nonprofit cannabis care center may cultivate and the amount of usable cannabis a nonprofit cannabis care center may dispense to a qualifying patient; prohibiting certain conduct by and imposing certain conditions and requirements on physicians, nonprofit cannabis care centers, nonprofit cannabis care center agents, cannabis testing labs, cannabis testing lab agents, qualifying patients, and designated caregivers; prohibiting felons from serving as designated caregivers, owners, board members, or officers of nonprofit cannabis care centers or cannabis testing labs, nonprofit cannabis care center agents, or cannabis testing lab agents; allowing visiting qualifying patients suffering from qualifying medical conditions to utilize the medical cannabis program; and prohibiting special taxes on the sale of medical cannabis and directing the state sales tax revenues received from the sale of cannabis to cover the costs to the Department of Health for administering the medical cannabis program and the remainder to aid low income qualifying patients through the affordability clause.

In my view, the purpose of your proposed measure is sufficiently stated in the above revised ballot title to satisfy this office's mandate under A.C.A. § 7-9-107. I believe a cautionary note is warranted, however, due to the significance of the subject matter undertaken and the complexity and far-reaching effects of the proposal. You should be aware that according to my experience there is a direct correlation between the length and complexity of initiated acts and their susceptibility to a successful ballot title challenge. Any ambiguity in the text of a measure could lead to a successful challenge. That is why I urge you, if you have not already done so, to consult private counsel in order to be assured that the stated purpose is accomplished by the text of your proposal.

Pursuant to A.C.A. § 7-9-108, instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Constitution and of

Melissa Fults, Campaign Director
Arkansans for Compassionate Care 2016
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the penalties imposed for violations of this act. Enclosed herewith, over the signature of the Attorney General, are instructions that should be incorporated in your petition prior to circulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Dustin McDaniel", written in a cursive style.

DUSTIN MCDANIEL
Attorney General

DM/cyh

Enclosures

INSTRUCTIONS TO CANVASSERS AND SIGNERS

1. Amendment No. 7 to the Arkansas Constitution gives to the people of the State of Arkansas the power to propose legislation or constitutional amendments by initiative petition, and to order the referendum against any general act or any item of an appropriation bill, or measure passed by the General Assembly. The petition must be signed by eight percent (8%) of the legal voters in the case of proposed legislation, ten percent (10%) in the case of proposed constitutional amendments, and six percent (6%) in the case of a referendum. The proposed legislation or constitutional amendment must be submitted to the registered voters of the State at a regular election; referendum petitions may be referred to the people at special elections when fifteen percent (15%) of the registered voters petition for such special election. Any measure submitted to the people shall take effect and become a law when approved by a majority of the votes cast upon such measure.

2. Only registered voters may sign. Printed names, dates of birth, residences, cities or towns of residences, and date of signing must be given as an aid to verification. The petition should contain only the signatures of voters residing in a single county.

3. All signatures must be in the signers' own handwriting in the presence of the persons circulating the petition. If a petition signer requires assistance due to disability, another person may provide the signer's information and that person shall sign and print their name in the margin of the petition.

4. Do not attach additional sheets to this petition unless such sheets contain the full language of the petition. Place as many names as possible on each petition. No additional signatures may be obtained after a petition has been filed until the Secretary of State determines the sufficiency of the petition.

5. TO KNOWINGLY SIGN ANY NAME OTHER THAN YOUR OWN, TO KNOWINGLY SIGN YOUR NAME MORE THAN ONCE TO ANY PETITION, TO KNOWINGLY SIGN YOUR NAME WHEN YOU ARE NOT LEGALLY ENTITLED TO SIGN IT, TO KNOWINGLY PAY A PERSON ANY FORM OF COMPENSATION IN EXCHANGE FOR SIGNING A PETITION AS A PETITIONER, TO ACCEPT MONEY FOR OBTAINING SIGNATURES KNOWING THAT YOU ARE NOT INCLUDED ON THE SPONSOR'S LIST OF PAID CANVASSERS ON FILE WITH THE SECRETARY OF STATE, TO KNOWINGLY AND FALSELY MISREPRESENT THE PURPOSE AND EFFECT OF THIS PETITION FOR THE PURPOSE OF CAUSING ANYONE TO SIGN IT, OR TO KNOWINGLY MAKE A FALSE STATEMENT ON A PETITION VERIFICATION FORM SHALL CONSTITUTE A CLASS "A" MISDEMEANOR AND SUBJECT THE OFFENDER TO A FINE OF UP TO \$1,000.00 AND IMPRISONMENT FOR UP TO ONE (1) YEAR.

The Attorney General is by law required to certify the sufficiency of the popular name and ballot title of all initiative or referendum petitions. This certification does not necessarily indicate the approval or disapproval of the contents thereof.



DUSTIN McDANIEL
Attorney General of the State of Arkansas

(POPULAR NAME)

THE ARKANSAS MEDICAL CANNABIS ACT

(BALLOT TITLE)

AN ACT MAKING THE MEDICAL USE OF CANNABIS, COMMONLY CALLED MARIJUANA, LEGAL UNDER ARKANSAS STATE LAW, BUT ACKNOWLEDGING THAT CANNABIS USE, POSSESSION, AND DISTRIBUTION FOR ANY PURPOSE REMAIN ILLEGAL UNDER FEDERAL LAW; ESTABLISHING A SYSTEM FOR THE CULTIVATION AND DISTRIBUTION OF CANNABIS FOR QUALIFYING PATIENTS THROUGH NONPROFIT CANNABIS CARE CENTERS AND FOR THE TESTING FOR QUALITY, SAFETY AND POTENCY OF CANNABIS THROUGH CANNABIS TESTING LABS AND GRANTING THOSE NONPROFIT CANNABIS CARE CENTERS AND CANNABIS TESTING LABS LIMITED IMMUNITY; ALLOWING LOCALITIES TO LIMIT THE NUMBER OF NONPROFIT CANNABIS CARE CENTERS AND TO ENACT ZONING REGULATIONS GOVERNING THEIR OPERATIONS; PROVIDING THAT QUALIFYING PATIENTS, THEIR DESIGNATED CAREGIVERS, CANNABIS TESTING LAB AGENTS AND NONPROFIT CANNABIS CARE CENTER AGENTS SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL PENALTIES OR OTHER FORMS OF DISCRIMINATION FOR ENGAGING IN OR ASSISTING WITH THE QUALIFYING PATIENTS' MEDICAL USE OF CANNABIS OR FOR TESTING AND LABELING CANNABIS; ALLOWING LIMITED CULTIVATION OF CANNABIS BY QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS IF THE QUALIFYING PATIENT AND HIS OR HER DESIGNATED CAREGIVER LACKS ACCESS TO A NONPROFIT CANNABIS CARE CENTER AND OBTAINS A HARDSHIP CULTIVATION CERTIFICATE FROM THE DEPARTMENT OF HEALTH; ALLOWING COMPENSATION FOR DESIGNATED CAREGIVERS; REQUIRING THAT IN ORDER TO BECOME A QUALIFYING PATIENT, A PERSON SUBMIT TO THE STATE A WRITTEN CERTIFICATION FROM A PHYSICIAN THAT HE OR SHE IS SUFFERING FROM A QUALIFYING MEDICAL CONDITION; ESTABLISHING AN INITIAL LIST OF QUALIFYING MEDICAL CONDITIONS; DIRECTING THE DEPARTMENT OF HEALTH TO ESTABLISH RULES RELATED TO THE PROCESSING OF APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS, HARDSHIP CULTIVATION CERTIFICATES, THE OPERATIONS OF NONPROFIT CANNABIS CARE CENTERS AND CANNABIS TESTING LABS, AND THE ADDITION OF QUALIFYING MEDICAL CONDITIONS IF SUCH ADDITIONS WILL ENABLE PATIENTS TO DERIVE THERAPEUTIC BENEFIT FROM THE MEDICAL USE OF CANNABIS; SETTING MAXIMUM REGISTRATION FEES FOR NONPROFIT CANNABIS CARE CENTERS; DIRECTING THE DEPARTMENT OF HEALTH TO ESTABLISH A SYSTEM TO PROVIDE AFFORDABLE CANNABIS FROM NONPROFIT CANNABIS CARE CENTERS TO LOW INCOME PATIENTS; ESTABLISHING QUALIFICATIONS FOR REGISTRY IDENTIFICATION CARDS; ESTABLISHING QUALIFICATIONS FOR HARDSHIP CULTIVATION CERTIFICATES; ESTABLISHING STANDARDS TO ENSURE THAT QUALIFYING PATIENT AND DESIGNATED CAREGIVER REGISTRATION INFORMATION IS TREATED AS CONFIDENTIAL; DIRECTING THE DEPARTMENT OF HEALTH TO PROVIDE THE LEGISLATURE ANNUAL QUANTITATIVE REPORTS ABOUT THE MEDICAL CANNABIS PROGRAM; SETTING CERTAIN LIMITATIONS ON THE USE OF MEDICAL CANNABIS BY QUALIFYING PATIENTS; ESTABLISHING AN AFFIRMATIVE DEFENSE FOR THE MEDICAL USE OF CANNABIS; ESTABLISHING REGISTRATION AND OPERATION REQUIREMENTS FOR NONPROFIT CANNABIS CARE CENTERS; SETTING LIMITS ON THE NUMBER OF NONPROFIT CANNABIS CARE CENTERS; SETTING LIMITS ON THE AMOUNT OF CANNABIS A NONPROFIT CANNABIS CARE CENTER MAY CULTIVATE AND THE AMOUNT OF USABLE CANNABIS A NONPROFIT CANNABIS CARE CENTER MAY DISPENSE TO A QUALIFYING PATIENT; PROHIBITING CERTAIN CONDUCT BY AND IMPOSING CERTAIN CONDITIONS AND REQUIREMENTS ON PHYSICIANS, NONPROFIT CANNABIS CARE CENTERS, NONPROFIT CANNABIS CARE CENTER AGENTS, CANNABIS TESTING LABS, CANNABIS TESTING LAB AGENTS, QUALIFYING PATIENTS, AND DESIGNATED CAREGIVERS; PROHIBITING FELONS FROM SERVING AS DESIGNATED CAREGIVERS, OWNERS, BOARD MEMBERS, OR OFFICERS OF

NONPROFIT CANNABIS CARE CENTERS, NONPROFIT CANNABIS CARE CENTER AGENTS, CANNABIS TESTING LABS OR CANNABIS TESTING LAB AGENTS; ALLOWING VISITING QUALIFYING PATIENTS SUFFERING FROM QUALIFYING MEDICAL CONDITIONS TO UTILIZE THE ARKANSAS MEDICAL CANNABIS PROGRAM; AND DIRECTING THE SALES TAX REVENUES RECEIVED FROM THE SALE OF CANNABIS TO COVER THE COSTS TO THE DEPARTMENT OF HEALTH FOR ADMINISTERING THE MEDICAL CANNABIS PROGRAM AND THE REMAINDER TO AID LOW INCOME QUALIFYING PATIENTS THROUGH THE AFFORDABILITY CLAUSE.

"An Act to Establish the Arkansas Medical Cannabis Act."

Be it enacted by the People of the State of Arkansas as follows:

Amending Arkansas Code Title 20 to add an additional chapter to read: Chapter 65 - Medical Cannabis

Subchapter 1 – Arkansas Medical Cannabis Act

SECTION 101. Short title.

This chapter shall be known and cited as "The Arkansas Medical Cannabis Act" (hereinafter "Act").

SECTION 102. Definitions. As used in this chapter, unless the context otherwise requires:

(a) "Assist" or "Assisting" means helping a Qualifying Patient make such Medical Use of Cannabis by enabling such medical use by any means herein authorized.

(b) "Cannabis" commonly known as marijuana, means any part and any variety or species, or both, of the cannabis plant that contains tetrahydrocannabinol (THC) whether growing or not, the seeds of the plant, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, fiber, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from the mature stalks), nor the sterilized seed of the plant that is incapable of germination.

(c) "Cannabis Testing Lab" means a facility where Cannabis is tested to insure safety, potency and quality of the product.

(d) "Cannabis Testing Lab Agent" means an employee, supervisor, owner, or agent of a Cannabis Testing Lab who:

- (1) Is twenty-one (21) years of age or older;
- (2) Works at the Cannabis Testing Lab; and
- (3) Has registered with The Department pursuant to section 111.

(e) "Cardholder" means a Qualifying Patient, a Designated Caregiver, Cannabis Testing Lab Agent or a Nonprofit Cannabis Care Center Agent.

(f) "Designated Caregiver" means a person who is at least twenty-one (21) years of age who has agreed to Assist with a Qualifying Patient's Medical Use of Cannabis, including acquiring Usable Cannabis from a Nonprofit Cannabis Care Center and delivering it to the Qualifying Patient, and who has registered with The Department pursuant to subsection

105(d). A Designated Caregiver may serve as a Designated Caregiver for no more than five (5) Qualifying Patients at a time. A person who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony, shall not be a Designated Caregiver.

(g) "Enclosed, Locked Facility" means a closet, room, greenhouse or other enclosed area equipped with locks or other security devices that permit access only by a Cardholder.

(h) "Hardship Cultivation Certificate" means a document issued by The Department that identifies a location at the primary residence of a Qualifying Patient or Designated Caregiver that is approved for the Qualifying Patient or Designated Caregiver to cultivate Cannabis for the Qualifying Patient's Medical Use based on documentation of the Qualifying Patient's lack of access to a Nonprofit Cannabis Care Center. A person who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony, shall not be permitted to obtain a Hardship Cultivation Certificate.

(i) "Medical Use" means the acquisition, possession, preparation, use, delivery, transfer or transportation of Cannabis or paraphernalia relating to the administration of Cannabis to treat or alleviate a Qualifying Patient's Qualifying Medical Condition or symptoms associated with the Qualifying Patient's Qualifying Medical Condition.

(j) "Nonprofit Cannabis Care Center" means a not-for-profit entity that has registered with The Department pursuant to section 109, and performs any combination of the activities therein described.

(k) "Nonprofit Cannabis Care Center Agent" means an employee, supervisor, volunteer, owner, or agent of a Nonprofit Cannabis Care Center who:

- (1) Is twenty-one (21) years of age or older;
- (2) Works at the Nonprofit Cannabis Care Center; and
- (3) Has registered with The Department pursuant to section 109.

(l) "Physician" means a doctor of medicine who holds a valid and existing license to practice medicine pursuant to Arkansas Code Title 17, Chapter 95 or its successor; or a doctor of osteopathic medicine who holds a valid and existing license pursuant to Arkansas Code Title 17, Chapter 91 or its successor, and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances.

(m) "Qualifying Medical Condition" means one (1) or more of the following:

(1) Adiposis Dolorosa (Dercum's Disease); Alzheimer's Disease or the agitation thereof; Amyotrophic Lateral Sclerosis (ALS); Anorexia; Arnold-Chiari Malformation; Arthritis; Asthma; Attention Deficit Disorder/Attention Deficit Hyperactivity Disorder (ADD/ADHD); Autism; Bipolar Disorder; Bulimia; Cancer; Causalgia; Chronic Inflammatory Demyelinating Polyneuropathy (CIDP); Chronic Insomnia; Chronic Obstructive Pulmonary Disease (COPD); Complex regional pain syndrome (CRPS)—Types I and II; Crohn's Disease; Dystonia; Emphysema; Fibrous Dysplasia; Fibromyalgia; General Anxiety Disorder; Glaucoma; Hepatitis C; Positive Status for Human Immunodeficiency Virus and/or Acquired Immune Deficiency Syndrome (HIV/AIDS); Hydrocephalus; Hydromyelia; Interstitial Cystitis; Lupus; Migraines; Myasthenia Gravis; Myoclonus; Nail-Patella Syndrome; Neurofibromatosis; Parkinson's Disease; Posterior Lateral Sclerosis(PLS); Post-Concussion Syndrome; Post Traumatic Stress Disorder (PTSD); Reflex Sympathetic Dystrophy (RSD); Residual Limb and Phantom Pain; Restless Leg Syndrome (RLS); Sjogren's Syndrome;

Spinocerebellar Ataxia (SCA); Spinal Cord Injury and/or disease (including but not limited to Arachnoiditis); Syringomyelia; Tarlov Cysts; Tourette's Syndrome; Traumatic Brain Injury; Ulcerative Colitis; or the treatment of any of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or Wasting Syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than three (3) months; severe nausea; seizures, including those characteristic of Epilepsy; or severe and persistent muscle spasms, including those characteristic of Multiple Sclerosis; or

(3) Any other medical condition or its treatment approved by The Department as provided for in subsection 104(i).

(n) "Qualifying Patient" means a person who has been diagnosed by a Physician as having a Qualifying Medical Condition, and who has registered with The Department pursuant to subsection 105(a).

(o) "Registry Identification Card" means a document issued by The Department that identifies a person as a Qualifying Patient, Designated Caregiver, Cannabis Testing Lab Agent, or a Nonprofit Cannabis Care Center Agent.

(p) "The Department" means The Arkansas Department of Health or its successor.

(q) "Usable Cannabis," means all Cannabis except seeds and growing plants, but does not include the weight of any ingredients other than Cannabis that are combined with Cannabis and prepared for consumption as food or drink, oils, tinctures, lotions or salves.

(r) "Visiting Qualifying Patient" means a patient with a Qualifying Medical Condition who is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days, and who is in actual possession of a Registry Identification Card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States, and pertains to a Qualifying Medical Condition under this section.

(s) "Written Certification" means a document signed by a Physician stating that in the Physician's professional opinion, after having completed a full assessment of the Qualifying Patient's medical history and current medical condition made in the course of a bona fide Physician-patient relationship, the Qualifying Patient has a Qualifying Medical Condition and the potential benefits of the Medical Use of Cannabis would likely outweigh the health risks for the Qualifying Patient. A Written Certification shall specify the Qualifying Patient's Qualifying Medical Condition, which also shall be noted in the Qualifying Patient's medical records.

SECTION 103. Protections for the Medical Use of Cannabis

(a) Qualifying Patient. A Qualifying Patient in actual possession of a Registry Identification Card shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for Medical Use of Cannabis in accordance with this chapter as long as the Qualifying Patient possesses an amount of Cannabis that:

(1) Is not more than two and one-half (2 ½) ounces of Usable Cannabis; and

(2) If the Qualifying Patient has a Hardship Cultivation Certificate, does not exceed ten (10) Cannabis plants, only of which five (5) may be greater than twelve (12) inches in height or diameter. The Cannabis plants must be kept in an Enclosed, Locked Facility unless they are being transported because the Qualifying Patient is moving, or they

are being transported to the Qualifying Patient's property. In addition to the Cannabis plants, the Qualifying Patient may possess harvested Cannabis in varying stages of processing in excess of the amount allowed under subdivision (a)(1) of this subsection in order to ensure the Qualifying Patient is able to maintain a sufficient supply to meet his or her personal medical needs. The harvested Cannabis must be kept in the Enclosed, Locked Facility where the Cannabis plants were grown.

(b) Designated Caregiver. A Designated Caregiver in actual possession of a Registry Identification Card shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for Assisting a Qualifying Patient to whom the Designated Caregiver is connected through The Department's registration process with the Medical Use of Cannabis in accordance with this chapter, as long as the Designated Caregiver possesses an amount of Cannabis that:

(1) Is not more than two and one-half (2½) ounces of Usable Cannabis for each Qualifying Patient to whom the Designated Caregiver is connected through The Department's registration process; and

(2) For each Qualifying Patient who has a Hardship Cultivation Certification and who has specified that the Designated Caregiver is allowed under state law to cultivate Cannabis for the Qualifying Patient, does not exceed ten (10) Cannabis plants, only of which five (5) may be greater than twelve (12) inches in height or diameter, provided in no circumstance shall the total number of plants exceed fifty (50). The Cannabis plants must be kept in an Enclosed, Locked Facility unless they are being transported because the Designated Caregiver is moving or they are being transported to a Qualifying Patient's property. In addition to the Cannabis plants, the Designated Caregiver may possess harvested Cannabis in varying stages of processing in excess of the amount allowed under subdivision (b)(1) of this subsection in order to ensure that each Qualifying Patient is able to maintain a sufficient supply to meet his or her personal medical needs. The harvested Cannabis must be kept in the Enclosed, Locked Facility where the Cannabis plants were grown.

(c) Presumption.

(1) A Qualifying Patient is presumed to be lawfully engaged in the Medical Use of Cannabis in accordance with this chapter if the Qualifying Patient is in actual possession of a Registry Identification Card and possesses an amount of Cannabis that does not exceed the amount allowed under this chapter.

(2) A Designated Caregiver is presumed to be lawfully engaged in Assisting with the Medical Use of Cannabis in accordance with this chapter if the Designated Caregiver is in actual possession of a Registry Identification Card and possesses an amount of Cannabis that does not exceed the amount allowed under this chapter.

(3) The presumption made in subdivisions 103(c)(1) and 103(c)(2) shall be rebutted by evidence that conduct related to Cannabis was not for the purpose of treating or alleviating the Qualifying Patient's Qualifying Medical Condition or symptoms associated with the Qualifying Medical Condition, in accordance with this chapter.

(d) Cardholder not subject to arrest. A Cardholder shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for giving an amount of Usable Cannabis the person is allowed to possess under subsections 103(a) or 103(b) to a Qualifying Patient or Designated Caregiver for the Qualifying Patient's Medical Use, when nothing of value is transferred in return or for offering to do the same.

(e) Transfer of Cannabis

(1) A Nonprofit Cannabis Care Center may accept Cannabis from other Nonprofit Cannabis Care Centers in Arkansas.

(2) A Nonprofit Cannabis Care Center may transfer or sell Cannabis, to other Nonprofit Cannabis Care Centers, or Qualifying Patients with a Hardship Cultivation Certificate in Arkansas, or a Designated Caregiver for a Qualifying Patient with a Hardship Cultivation Certificate in Arkansas.

(3) A Nonprofit Cannabis Care Center may transfer or sell Usable Cannabis to a Qualifying Patient without a Hardship Cultivation Certificate in Arkansas, or to a Designated Caregiver for a Qualifying Patient without a Hardship Cultivation Certificate in Arkansas.

(4) A Nonprofit Cannabis Care Center may transfer Cannabis to and from a Cannabis Testing Lab.

(5) A Nonprofit Cannabis Care Center may accept a donation of Cannabis without compensation from individuals and entities from jurisdictions outside of Arkansas who are allowed to cultivate Cannabis under the laws of their state of legal residency.

(6) Individuals and entities from jurisdictions outside of Arkansas who are allowed to cultivate Cannabis under the laws of their state of legal residency shall not be subject to arrest, prosecution, or penalty, or denied any right or privilege for donating Cannabis to Nonprofit Cannabis Care Centers.

(f) Discrimination

(1) No school or landlord may refuse to enroll or lease to, or otherwise penalize, an individual solely for his or her status as a Qualifying Patient or a Designated Caregiver, unless failing to do so would put the school or landlord in violation of federal law or regulations.

(2) For the purposes of medical care, including organ transplants, a Qualifying Patient's use of Cannabis in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a Physician, and shall not constitute the use of an illicit substance.

(3) An employer shall not discriminate against an individual in hiring, termination, or any term or condition of employment, or otherwise penalize an individual, based upon the individual's past or present status as a Qualifying Patient or Designated Caregiver.

(g) Person shall not be denied custody of or visitation with minor. A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied custody, visitation or parenting time and there shall be no finding of abuse solely for conduct allowed under this chapter and there shall be no presumption of neglect or child endangerment for conduct allowed under this chapter, unless the individual's behavior is such that it creates an unreasonable danger to the safety or welfare of the minor that can be established by clear and convincing evidence.

(h) A Designated Caregiver may receive reimbursement of costs or expenses, and reasonable compensation for time or services, associated with Assisting a Qualifying Patient's Medical Use of Cannabis as long as the Designated Caregiver is connected to the Qualifying Patient through The Department's registration process. Any such compensation does not constitute the sale of controlled substances.

(i) Physician not subject to penalty. A Physician shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the Arkansas State

Medical Board or by any other business, occupational or professional licensing board or bureau, solely for providing Written Certifications.

(j) Person not subject to penalty for providing Qualifying Patient or Designated Caregiver Cannabis paraphernalia. A person shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a Qualifying Patient or a Designated Caregiver with Cannabis paraphernalia for purposes of facilitating a Qualifying Patient's Medical Use of Cannabis.

(k) Any Cannabis, Cannabis paraphernalia, licit property or interest in licit property that is possessed, owned, or used in connection with the Medical Use of Cannabis, as allowed under this chapter, or property incidental to such use, shall not be seized or forfeited.

(l) Person not subject to penalty for being in presence of Medical Use of Cannabis. A person shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the Medical Use of Cannabis as allowed under this chapter or for directly Assisting a physically disabled Qualifying Patient with using or administering Cannabis.

(m) Effect of Registry Identification Card issued by another jurisdiction. A Registry Identification Card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that allows, in the jurisdiction of issuance a Visiting Qualifying Patient to possess Usable Cannabis for Medical Use, shall have the same force and effect as a Registry Identification Card issued by The Department, provided that the same Qualifying Medical Condition as defined in subsection 102(m) exists. In order to purchase Usable Cannabis from a Nonprofit Cannabis Care Center, a Visiting Qualifying Patient must be issued a thirty (30) day temporary Registry Identification Card from The Department.

SECTION 104. Rules

(a) Rule making power. The Department shall adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this Act are rules as defined in Arkansas Code § 25-15-201 et seq., the Arkansas Administrative Procedure Act.

(b) Registry Identification Cards. Not later than one hundred twenty (120) days after the effective date of this chapter, The Department shall adopt rules governing the manner in which it considers applications for and renewals of Registry Identification Cards. The Department's rules must establish application and renewal fees not to exceed fifty dollars (\$50.00) per year. Temporary Registry Identification Cards must not exceed ten dollars (\$10). The Department shall establish a sliding scale of application and renewal fees based upon a Qualifying Patient's family income. The Department may accept donations from private sources in order to reduce the application and renewal fees.

(c) Hardship Cultivation Certificates. Not later than one (1) year after the effective date of this chapter, The Department shall adopt rules governing the manner in which it considers applications for and renewals of Hardship Cultivation Certificates. The Department's rules must establish application and renewal fees not to exceed one hundred dollars (\$100) per year. The Department shall establish a sliding scale of application and renewal fees based upon a Qualifying Patient's family income. The Department may accept donations from private sources in order to reduce the application and renewal fees.

(d) Nonprofit Cannabis Care Centers. Not later than one hundred twenty (120) days after the effective date of this chapter, The Department shall adopt rules with the goal of protecting against diversion and theft, without imposing an undue burden on the registered Nonprofit Cannabis Care Centers or compromising the confidentiality of Qualifying Patients or their Designated Caregivers, including rules governing:

(1) The manner in which it considers applications for and renewals of registration certificates for Nonprofit Cannabis Care Centers;

(2) The form and content of registration and renewal applications;

(3) Oversight requirements for Nonprofit Cannabis Care Centers;

(4) Record-keeping requirements for Nonprofit Cannabis Care Centers;

(5) Security requirements for Nonprofit Cannabis Care Centers which shall include lighting, physical security, alarm requirements, and measures to prevent loitering;

(6) Sanitary requirements for Nonprofit Cannabis Care Centers;

(7) Electrical safety requirements for Nonprofit Cannabis Care Centers;

(8) The specification of acceptable forms of picture identification that a Nonprofit Cannabis Care Center may accept;

(9) Personnel requirements including how many volunteers a Nonprofit Cannabis Care Center is permitted to have and requirements for supervision;

(10) Labeling standards for Usable Cannabis distributed to Qualifying Patients;

(11) Procedures for suspending or terminating the registration of Nonprofit Cannabis Care Centers that violate the provisions of this section or the rules adopted pursuant to this section, procedures for appealing penalties, and a schedule of penalties;

(12) Procedures for inspections and investigations of Nonprofit Cannabis Care Centers;

(13) Advertising restrictions for Nonprofit Cannabis Care Centers;

(14) Permissible hours of operation for Nonprofit Cannabis Care Center sales; and

(15) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this chapter.

(e) Application and renewal fees for Nonprofit Cannabis Care Centers. Not later than one hundred twenty (120) days after the effective date of this chapter, The Department shall adopt rules establishing application and renewal fees for Nonprofit Cannabis Care Center registration certificates, according to the following:

(1) Nonprofit Cannabis Care Center application fees shall not exceed five thousand dollars (\$5,000);

(2) Nonprofit Cannabis Care Center renewal fees shall not exceed one thousand dollars (\$1,000).

(f) Cannabis Testing Labs. Not later than one hundred twenty (120) days after the effective date of this chapter, The Department shall adopt rules with the goal of protecting against diversion and theft, without imposing an undue burden on the registered Cannabis Testing Lab or compromising the confidentiality of Cannabis Testing Lab Records, including rules governing:

(1) The manner in which it considers applications for and renewals of registration certificates for Cannabis Testing Labs;

(2) The form and content of registration and renewal applications;

(3) Oversight requirements for Cannabis Testing Labs;

(4) Record-keeping requirements for Cannabis Testing Labs;

(5) Security requirements for Cannabis Testing Labs which shall include lighting, physical security, alarm requirements, and measures to prevent loitering;

(6) Sanitary requirements for Cannabis Testing Labs;

(7) Electrical safety requirements for Cannabis Testing Labs;

(8) Labeling standards for Usable Cannabis distributed to Qualifying Patients;

(9) Procedures for suspending or terminating the registration of Cannabis Testing Labs that violate the provisions of this section or the rules adopted pursuant to this section, procedures for appealing penalties, and a schedule of penalties;

(10) Procedures for inspections and investigations of Cannabis Testing Labs;

(11) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this chapter.

(g) Application and renewal fees for Cannabis Testing Labs. Not later than one hundred twenty (120) days after the effective date of this chapter, The Department shall adopt rules establishing application and renewal fees for Cannabis Testing Lab registration certificates, according to the following:

(1) Cannabis Testing Lab application fees shall not exceed one thousand dollars (\$1,000).

(2) Cannabis Testing Lab renewal fees shall not exceed two hundred fifty dollars (\$250).

(h) Affordable dispensing. Not later than one hundred eighty (180) days after the effective date of this chapter, The Department shall adopt rules establishing a system to provide for the safe and affordable dispensing of Usable Cannabis to Qualifying Patients who are unable to afford a sufficient supply of Usable Cannabis based upon the Qualifying Patient's income and existing financial resources that:

(1) Allows Qualifying Patients to apply to The Department to be eligible to purchase Usable Cannabis on a sliding scale from Nonprofit Cannabis Care Centers;

(2) Requires any remaining sales tax revenue made pursuant to subdivision 117 (c) to be used to provide Usable Cannabis on the sliding scale to Qualifying Patients determined to be eligible pursuant to subdivision (h)(1) of this subsection; and

(3) Requires each Nonprofit Cannabis Care Center to devote a maximum of 1% percent of its gross revenue, as determined by The Department, to providing Usable Cannabis on the sliding scale to Qualifying Patients determined to be eligible pursuant to subdivision (h)(1) of this subsection.

(i) Adding Qualifying Medical Conditions. Not later than one hundred twenty (120) days after the effective date of this chapter, The Department shall adopt rules that govern the manner in which The Department shall consider petitions from the public to add medical conditions or treatments to the list of Qualifying Medical Conditions set forth in subsection 102(m).

(1) In considering such petitions, The Department shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions.

(2) In considering such petitions, The Department shall add medical conditions or treatments to the list of Qualifying Medical Conditions set forth in subsection 102(m) if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of Cannabis, taking into account the positive and negative health effects of such use. The Department shall consider published studies in peer-reviewed journals, Physician testimony, and public comments made pursuant to subdivision 104(i)(1) in making such determination.

(3) The Department shall approve or deny such petitions within sixty (60) days of their submission. The approval or denial of such a petition constitutes final agency action, subject to judicial review, and jurisdiction for judicial review is vested in the Circuit Court of Pulaski County.

SECTION 105. Registry Identification Cards

(a) Application for Registry Identification Card and qualifications. The Department shall issue Registry Identification Cards to Qualifying Patients who submit, in accordance with The Department's rules:

(1) Written Certification;

(2) Application or renewal fee;

(3) Name, address and date of birth of the Qualifying Patient, except that if the applicant is homeless, no address is required;

(4) Name, address and telephone number of the Qualifying Patient's Physician;

(5) Name, street address and date of birth of the Qualifying Patient's Designated Caregiver, if any;

(6) Name and address of the Nonprofit Cannabis Care Center that the Qualifying Patient designates, if any. A Qualifying Patient shall designate only one Nonprofit Cannabis Care Center at a time; or

(7) A Qualifying Patient that obtains a Hardship Cultivation Certificate shall designate that the Qualifying Patient or the Qualifying Patient's Designated Caregiver will grow Cannabis for the Qualifying Patient's Medical Use;

(8) A signed statement from the Qualifying Patient pledging not to divert Cannabis to anyone who is not allowed to possess Cannabis pursuant to this chapter; and

(9) A signed statement from the Designated Caregiver, if any, agreeing to be the Qualifying Patient's Designated Caregiver and pledging not to divert Cannabis to anyone who is not allowed to possess Cannabis pursuant to this chapter.

(b) Issuing Registry Identification Card to minor. The Department shall not issue a Registry Identification Card to a Qualifying Patient who is under eighteen (18) years of age unless:

(1) The Qualifying Patient's Physician has explained the potential risks and benefits of the Medical Use of Cannabis to the Qualifying Patient and to a parent, guardian or person having legal custody of the Qualifying Patient; and

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

(A) Allow the Qualifying Patient's Medical Use of Cannabis;

(B) Serve as the Qualifying Patient's Designated Caregivers; and

(C) Control the acquisition of the Cannabis and the dosage and frequency of the Medical Use of Cannabis by the Qualifying Patient.

(c) Department approval or denial. The Department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within fourteen (14) days of receiving it. The Department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the applicant previously had a Registry Identification Card revoked, The Department determines that the information provided was falsified, or The Department determines the Written Certification was not made in the context of a bona fide Physician-patient relationship. Rejection of an application or renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in the Circuit Court of Pulaski County.

(d) Designated Caregiver Registry Identification Card. The Department shall issue a Registry Identification Card to the Designated Caregiver, if any, who is named in a Qualifying Patient's approved application pursuant to subsection 105(a) of this section. A person who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony, shall not be a Designated Caregiver and shall not be issued a Designated Caregiver Registry Identification Card. The Department shall conduct a background check of each prospective Designated Caregiver in order to carry out this subsection.

(e) Registry Identification Card issuance. The Department shall issue Registry Identification Cards to Qualifying Patients and Designated Caregivers within five (5) days of approving an application or renewal under this section.

(1) Registry Identification Cards expire one (1) year after the date of issuance, unless the Physician states in the Written Certification that he believes the Qualifying Patient would benefit from the Medical Use of Cannabis only until a specified earlier date, then the Registry Identification Card shall expire on that date.

(2) In the case of Qualifying Patients and Designated Caregivers, Registry Identification Cards shall contain:

(A) The name, address and date of birth of the Qualifying Patient;

(B) The name, address and date of birth of the Qualifying Patient's Designated Caregiver, if any;

(C) The date of issuance and expiration date of the Registry Identification Card;

(D) A random, 10-digit alphanumeric identification number that is unique to the Qualifying Patient or Designated Caregiver;

(E) A photograph, if The Department decides to require one; and

(F) A clear designation showing whether the Qualifying Patient or Designated Caregiver will be allowed under state law to cultivate Cannabis plants for the Qualifying Patient's Medical Use.

(f) Notification of changes in status or loss of card. This subsection governs notification of changes in status or the loss of a Registry Identification Card.

(1) A Qualifying Patient shall notify The Department within fifteen (15) days of any change in the Qualifying Patient's name, address, Designated Caregiver or preference regarding who may cultivate Cannabis for the Qualifying Patient or if the Qualifying Patient ceases to have a Qualifying Medical Condition.

(2) A Nonprofit Cannabis Care Center shall notify The Department within fifteen (15) days of any change in the name or address of a Nonprofit Cannabis Care Center Agent issued a Registry Identification Card in accordance with subsection 109(g).

(3) A Qualifying Patient or a Nonprofit Cannabis Care Center who fails to notify The Department as required under subdivisions 105(f)(1) or 105(f)(2) commits a civil violation for which a penalty of not more than one hundred fifty dollars (\$150) may be adjudged and collected by The Department.

(4) If the Qualifying Patient's certifying Physician notifies The Department in writing that the Qualifying Patient has ceased to suffer from a Qualifying Medical Condition, the Qualifying Patient's Registry Identification Card becomes void upon notification by The Department to the Qualifying Patient.

(5) A Designated Caregiver, Cannabis Testing Lab, or Nonprofit Cannabis Care Center shall notify The Department of any change in the Designated Caregiver's, Cannabis Testing Lab's, or Nonprofit Cannabis Care Center's name or address within ten (10) days of such change. A Designated Caregiver, Cannabis Testing Lab, or Nonprofit Cannabis Care Center who fails to notify The Department of any of these changes commits a civil violation for which a penalty of not more than one hundred fifty dollars (\$150) may be adjudged and collected by The Department.

(6) When a Qualifying Patient or Designated Caregiver notifies The Department of any changes listed in this subsection, The Department shall issue the Qualifying Patient and the Designated Caregiver a new Registry Identification Card within ten (10) days of receiving the updated information and a ten dollar (\$10.00) fee.

(7) When a Qualifying Patient changes the Qualifying Patient's Designated Caregiver, The Department shall notify the previous Designated Caregiver within ten (10) days. The previous Designated Caregiver's protections as provided in this chapter expire ten (10) days after notification by The Department.

(8) If a Cardholder loses the Cardholder's Registry Identification Card, the Cardholder shall notify The Department and submit a ten dollar (\$10.00) fee within ten (10) days of losing the card. Within five (5) days after such notification, The Department shall issue a new Registry Identification Card with a new random identification number.

(g) Confidentiality.

(1) Applications and supporting information submitted by Qualifying Patients and Designated Caregivers under this chapter, including information regarding Designated Caregivers and Physicians, shall be treated as a confidential medical record.

(2) The Department shall maintain a confidential list of the persons to whom The Department has issued Registry Identification Cards and Hardship Cultivation Certificates. Individual names and other identifying information on the list are confidential, exempt from the Arkansas Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq., and not subject to disclosure except to authorized employees of The Department as necessary to perform official duties of The Department.

(3) The Department shall verify to law enforcement personnel whether a Registry Identification Card or Hardship Cultivation Certificate is valid without disclosing more information than is reasonably necessary to verify the authenticity of the Registry Identification Card or Hardship Cultivation Certificate.

(4) A person, including an employee or official of The Department or another state agency or local government, who breaches the confidentiality of information obtained pursuant to this chapter commits a Class A misdemeanor. However, employees of The Department shall notify law enforcement about falsified or fraudulent information submitted to The Department as long as the employee who suspects that falsified or fraudulent information has been submitted confers with the employee's supervisor and both agree that circumstances exist that warrant reporting.

(h) Cardholder who sells Cannabis to person not allowed to possess. Any Cardholder who transfers Cannabis to a person who is not a Cardholder under this chapter shall have his Registry Identification Card and Hardship Cultivation Certificate revoked and shall be subject to any other penalties established by law for unlawful transfer of a controlled substance. The Department shall revoke the Registry Identification Card or Hardship Cultivation Certificate of any Cardholder who violates any provision of this chapter, and the Cardholder is subject to any other penalties established in law for the violation.

(i) Annual report. The Department shall submit to the Legislature an annual report that does not disclose any identifying information about Cardholders or Physicians, but does contain, at a minimum:

- (1) The number of applications and renewals filed for Registry Identification Cards;
- (2) The number of Qualifying Patients and Designated Caregivers approved in each county;
- (3) The number of applications and renewals for Hardship Cultivation Certificates;
- (4) The number of Hardship Cultivation Certificates approved in each county;
- (5) The nature of the Qualifying Medical Conditions of the Qualifying Patients;
- (6) The number of Registry Identification Cards revoked;
- (7) The number of Physicians providing Written Certifications for Qualifying Patients;
- (8) The number of registered Nonprofit Cannabis Care Centers;
- (9) The number of Nonprofit Cannabis Care Center Agents;

- (10) The number of Cannabis Testing Labs; and
- (11) The number of Cannabis Testing Lab Agents.

SECTION 106. Hardship Cultivation Certificates

(a) Application for Hardship Cultivation Certificates and qualifications. The Department shall issue Hardship Cultivation Certificates to Qualifying Patients who, in accordance with rules issued by The Department, submit:

(1) A written explanation and supporting documentation of the Qualifying Patient's need for a Hardship Cultivation Certificate based on a lack of a Nonprofit Cannabis Care Center within twenty (20) miles of the Qualifying Patient's residence;

(2) An application or renewal fee;

(3) A copy of the Qualifying Patient's Registry Identification Card;

(4) The address and description of the single location that shall be used for the cultivation of Cannabis, which shall be either the primary residence of the Qualifying Patient or the Designated Caregiver; and

(5) Any other information required by The Department.

(b) Department approval or denial. The Department shall verify the information contained in an application or renewal submitted pursuant to this section and shall approve or deny an application or renewal within thirty (30) days of receiving it. The Department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, the applicant previously had a Hardship Cultivation Certificate revoked, The Department determines that the Qualifying Patient does not have a verified hardship and is within twenty (20) miles of a registered Nonprofit Cannabis Care Center, or The Department determines that the information provided was falsified. Rejection of an application or renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in the Circuit Court of Pulaski County.

(c) Hardship Cultivation Certificate issuance. The Department shall issue Hardship Cultivation Certificates to Qualifying Patients within five (5) days of approving an application or renewal under this section. Hardship Cultivation Certificates expire one (1) year after the date of issuance.

(d) Notification of changes in status. This subsection governs notification of changes in status.

(1) A Qualifying Patient shall notify The Department within fifteen (15) days if the Qualifying Patient ceases to have the hardship which qualified the Qualifying Patient for a Hardship Cultivation Certificate under subdivision 106(a)(1).

(2) The Hardship Cultivation Certificate becomes void 120 days after receipt by The Department that the Qualifying Patient ceases to have a qualifying hardship or at the expiration date, whichever comes first.

(e) Location of cultivation. This subsection governs the location of cultivation.

(1) A Qualifying Patient with a Hardship Cultivation Certificate shall only cultivate Cannabis at the location specified in the application and approved by The Department.

(2) The Hardship Cultivation Certificate must be displayed and clearly visible at the location where Cannabis is cultivated.

(3) At any given location, cultivation shall occur pursuant to only one (1) Hardship Cultivation Certificate unless it is the primary residence of more than one (1) Qualifying Patient for whom The Department has approved a Hardship Cultivation Certificate for that location or it is the primary residence of a Designated Caregiver who is the Designated Caregiver for more than one (1) Qualifying Patient for whom The Department has approved a Hardship Cultivation Certificate for that location.

(4) Cannabis cultivation and storage of Cannabis produced by the cultivation shall be in an Enclosed, Locked Facility.

(f) Inspection of cultivation. The Department shall inspect and search the location of cultivation specified in a Hardship Cultivation Certificate during normal business hours.

(g) Felony exclusion. The Department shall not issue a Hardship Cultivation Certificate to any Qualifying Patient or Designated Caregiver who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony. The Department shall conduct a background check of each prospective Hardship Cultivation Certificate applicant in order to carry out this subsection. The Department shall notify the Qualifying Patient or Designated Caregiver in writing of the reason for denying the Hardship Cultivation Certificate.

SECTION 107. Scope

(a) Limitations. This chapter does not permit any person to:

(1) Undertake any task under the influence of Cannabis when doing so would constitute negligence or professional malpractice;

(2) Possess, smoke, or otherwise engage in the Medical Use of Cannabis:

(A) In a school bus;

(B) On the grounds of any daycare center, preschool, or primary or secondary school;

(C) At a drug or alcohol treatment facility;

(D) At a skating rink, Boys Club, Girls Club, YMCA, YWCA, or any similar community or recreation center;

(E) In any correctional facility;

(F) On any form of public transportation; or

(G) In any public place;

(3) Operate, navigate or be in actual physical control of any motor vehicle, aircraft, motorized watercraft or any other vehicle drawn by power other than muscular power while under the influence of Cannabis; or

(4) Use Cannabis if that person does not have a Qualifying Medical Condition.

(b) Construction. This chapter shall not be construed to require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the Medical Use of Cannabis;

(2) An employer to accommodate the ingestion of Cannabis in any workplace or any employee working while under the influence of Cannabis;

(3) Any individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use Cannabis on or in that property; or

(4) A landlord to permit a Qualifying Patient to smoke Cannabis on any or in any leased property, except that a landlord shall not prohibit the Medical Use of Cannabis on leased property by a Qualifying Patient through means other than smoking, including but not limited to the ingestion of medical Cannabis or the inhalation through vaporization, as long as the tenant in possession of the property provides permission to the Qualifying Patient to use medical Cannabis in the rented property.

(c) Penalty for fraudulent representation. Fraudulent representation to a law enforcement official of any fact or circumstance relating to the Medical Use of Cannabis to avoid arrest or prosecution is a civil violation punishable by a fine of five hundred dollars (\$500) payable to The Department, which is in addition to any other penalties that may apply for making a false statement to law enforcement or for the use of Cannabis other than use undertaken pursuant to this chapter.

SECTION 108. Affirmative defense and dismissal for Medical Use of Cannabis

(a) Affirmative defense. Except as provided in subsection 107(a) and this section, an individual may assert a medical purpose for using Cannabis as an affirmative defense to prosecution for an offense involving Cannabis intended for the individual's Medical Use, and this defense shall be presumed valid and the prosecution shall be dismissed where the evidence demonstrates that:

(1) The individual is:

(A) A Qualifying Patient, Designated Caregiver, Cannabis Testing Agent, or Nonprofit Cannabis Care Center Agent; and

(B) In compliance with the conditions imposed in section 103 of this Act; or

(2) All of the following apply:

(A) The Department has delayed the review of the individual's application, the issuance of the individual's Registry Identification Card, or both for a period of greater than sixty (60) days; and

(B) The individual's application meets the requirements of a Qualifying Patient, Designated Caregiver, Cannabis Testing Lab Agent, or Nonprofit Cannabis Care Center Agent.

(b) Limitations. The defense and motion to dismiss shall not prevail if either of the following are proven:

(1) The individual's Registry Identification Card has been revoked; or

(2) The purposes for the possession or cultivation of Cannabis were not solely for Medical Use.

(c) Possession of Registry Identification Card is required. An individual is required to be in actual, physical possession of a Registry Identification Card to raise the affirmative defense set forth in this section.

(d) Protections. If an individual demonstrates a Medical Use of Cannabis pursuant to this section, except as provided in subsection 107(a), the individual shall not be subject to the following:

- (1) Disciplinary action by an occupational or professional licensing board or bureau; or
- (2) Forfeiture of any interest in or right to non-Cannabis, licit property.

SECTION 109. Registration, certification of Nonprofit Cannabis Care Centers

(a) Nonprofit Cannabis Care Center registration required. Nonprofit Cannabis Care Centers shall register with The Department.

(b) Issuing Nonprofit Cannabis Care Center registration certificates. Not later than sixty (60) days after receiving an application for a Nonprofit Cannabis Care Center, The Department shall register the Nonprofit Cannabis Care Center and issue a registration certificate and a random 10-digit alphanumeric identification number if:

(1) The prospective Nonprofit Cannabis Care Center has submitted the following:

(A) The application fee;

(B) An application, including:

(i) The legal name of the Nonprofit Cannabis Care Center;

(ii) The physical address of the Nonprofit Cannabis Care Center and the physical address of one (1) additional location, if any, where Cannabis will be cultivated, neither of which shall be within one thousand feet (1000') of a public or private school existing before the date of the Nonprofit Cannabis Care Center application;

(iii) The name, address and date of birth of each Nonprofit Cannabis Care Center Agent;

(iv) Written procedures to ensure accurate record-keeping and adequate security measures;

(v) A sworn statement certifying that the Nonprofit Cannabis Care Center will operate in compliance with the restrictions, if the city, town or county in which the Nonprofit Cannabis Care Center would be located has enacted zoning restrictions; and

(vi) A sworn statement that none of the Nonprofit Cannabis Care Center Agents is under twenty-one (21) years of age;

(2) None of the owners, board members, or officers has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony; and

(3) None of the owners, board members or officers has previously been an owner, board member, or officer of a Nonprofit Cannabis Care Center that has had its registration certificate revoked.

(c) Number of Nonprofit Cannabis Care Centers limited. The Department shall not issue more than one (1) Nonprofit Cannabis Care Center registration certificate for every twenty (20) pharmacies that have obtained a pharmacy permit from the Arkansas State Board of Pharmacy and operate within the state, except that The Department may issue Nonprofit Cannabis Care Center registration certificates in excess of this limit if The Department determines that additional Nonprofit Cannabis Care Centers are necessary to provide convenient access to Usable Cannabis by Qualifying Patients in all parts of the state.

(d) Criminal background checks. The Department shall conduct criminal background checks on each prospective owner, board member, or officer in order to carry out subdivision 109(b)(2).

(e) Allowable conduct. A Nonprofit Cannabis Care Center registered under this section may acquire, possess, manufacture, prepare, deliver, transfer and transport Cannabis; and supply, sell, and dispense Usable Cannabis, Cannabis paraphernalia, and related supplies and educational materials to Qualifying Patients who have designated it as their Nonprofit Cannabis Care Center and to their Designated Caregivers for the Qualifying Patients' Medical Use. Nonprofit Cannabis Care Centers are required to submit samples of their Usable Cannabis for testing to a certified Cannabis Testing Lab to be tested and labeled for potency, and to guarantee pesticide free, organically grown product. A Nonprofit Cannabis Care Center may receive compensation for providing the goods and services allowed by this section. A Nonprofit Cannabis Care Center may possess Cannabis and non-Cannabis parts of the Cannabis plant necessary for the cultivation of Cannabis. A Nonprofit Cannabis Care Center may also cultivate and possess whichever of the following quantities is greater:

(1) One hundred (100) Cannabis plants, of which only fifty (50) may be greater than twelve (12) inches in height or diameter, and the Cannabis produced by the plants or predecessor plants; or

(2) ten (10) Cannabis plants, of which only five (5) may be greater than twelve (12) inches in height or diameter, and all Cannabis produced by the plants or predecessor plants, for each Qualifying Patient who has designated the Nonprofit Cannabis Care Center to provide him or her with Cannabis for Medical Use.

(f) Tracking. The Department shall track the number of Qualifying Patients who have designated each Nonprofit Cannabis Care Center to cultivate Cannabis for them and issue a monthly written statement to the Nonprofit Cannabis Care Center identifying the number of Qualifying Patients who have designated that Nonprofit Cannabis Care Center along with the Registry Identification Card numbers of each Qualifying Patient and each Qualifying Patient's Designated Caregivers. This statement must be updated each time a new Qualifying Patient designates the Nonprofit Cannabis Care Center or ceases to designate the Nonprofit Cannabis Care Center and may be transmitted electronically if The Department's rules so provide. The Department shall provide by rule that the updated written statements shall not be required more frequently than one (1) time per week.

(g) Nonprofit Cannabis Care Center Agent Registry Identification Card. The Department shall issue each Nonprofit Cannabis Care Center Agent a Registry Identification Card within ten (10) days of receipt of the person's name, address and date of birth under subdivision 109(b)(1)(B)(iii,) and a fee in an amount established by The Department. Each card must specify that the Cardholder is a Nonprofit Cannabis Care Center Agent and must contain:

(1) The name, address and date of birth of the Nonprofit Cannabis Care Center Agent;

(2) The legal name of the Nonprofit Cannabis Care Center with which the Nonprofit Cannabis Care Center Agent is affiliated;

(3) A random identification number that is unique to the Cardholder;

(4) The date of issuance and expiration date of the Registry Identification Card; and

(5) A photograph, if The Department decides to require one.

(h) Felony exclusion. The Department shall not issue a Registry Identification Card to any Nonprofit Cannabis Care Center Agent who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony. The Department shall conduct a background check of each prospective Nonprofit Cannabis Care Center Agent in order to carry out this subsection. The Department shall notify the Nonprofit Cannabis Care Center Agent in writing of the reason for denying the Registry Identification Card.

(i) Expiration. A Nonprofit Cannabis Care Center registration certificate and the Registry Identification Card for each Nonprofit Cannabis Care Center Agent expire one (1) year after the date of issuance. The Department shall issue renewal Nonprofit Cannabis Care Center registration certificates and renewal Registry Identification Cards within ten (10) days prior to their expiration. A Registry Identification Card of a Nonprofit Cannabis Care Center Agent expires upon notification by a Nonprofit Cannabis Care Center that such person ceases to work at the Nonprofit Cannabis Care Center.

SECTION 110. Nonprofit Cannabis Care Center inspections and search requirements

(a) Reasonable inspection and search. Nonprofit Cannabis Care Centers are highly regulated by the state. A Nonprofit Cannabis Care Center therefore is subject to reasonable inspection and search by The Department, including of its inventory and records of transactions. Inspection and search under this subsection shall be conducted during normal business hours and in a reasonable manner. This does not preclude use of a search warrant if probable cause to believe a criminal offense has occurred on the premises.

(b) Nonprofit Cannabis Care Center requirements. This subsection governs the operations of Nonprofit Cannabis Care Centers.

(1) A Nonprofit Cannabis Care Center must be operated on a not-for-profit basis for the mutual benefit of its members and patrons. A Nonprofit Cannabis Care Center need not be recognized as a tax-exempt organization under 26 U.S.C. § 501(c)(3).

(2) A Nonprofit Cannabis Care Center shall not be located within one thousand feet (1000') of the property line of a pre-existing public or private school.

(3) A Nonprofit Cannabis Care Center shall notify The Department within ten (10) days of when a Nonprofit Cannabis Care Center Agent ceases to work at the Nonprofit Cannabis Care Center.

(4) A Nonprofit Cannabis Care Center shall notify The Department in writing of the name, address and date of birth of any new Nonprofit Cannabis Care Center Agent and shall submit a fee in an amount established by The Department for a new Registry Identification Card before the new Nonprofit Cannabis Care Center Agent begins working at the Nonprofit Cannabis Care Center.

(5) A Nonprofit Cannabis Care Center shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing Cannabis and the theft of Cannabis.

(6) A Nonprofit Cannabis Care Center must have procedures for the oversight of the Nonprofit Cannabis Care Center and procedures to ensure accurate record keeping.

(7) Each Nonprofit Cannabis Care Center shall keep the following records, dating back at least one (1) year:

(A) Records of the disposal of Cannabis that is not distributed by the Nonprofit Cannabis Care Center to Qualifying Patients who have designated the Nonprofit Cannabis Care Center to cultivate for them; and

(B) A record of each transaction, including the amount of Usable Cannabis dispensed, the amount of compensation, and the Registry Identification Card number of the Qualifying Patient or Designated Caregiver.

(8) Each Nonprofit Cannabis Care Center shall:

(A) Conduct an initial comprehensive inventory of all Usable Cannabis available for dispensing, Cannabis plants and seedlings at each approved location on the date the Nonprofit Cannabis Care Center first dispenses Cannabis; and

(B) Conduct a monthly comprehensive inventory of all Cannabis, including Usable Cannabis available for dispensing, at each approved location.

(9) A Nonprofit Cannabis Care Center is prohibited from acquiring, possessing, cultivating, preparing, manufacturing, delivering, transferring, transporting, supplying or dispensing Cannabis for any purpose except to Assist Qualifying Patients with the Medical Use of Cannabis directly or through the Qualifying Patients' Designated Caregiver or to supply samples to a Cannabis Testing Lab.

(10) All cultivation of Cannabis must take place in an Enclosed, Locked Facility.

(11) A Nonprofit Cannabis Care Center or a Nonprofit Cannabis Care Center Agent shall not dispense more than two and one-half (2 ½) ounces of Usable Cannabis to a Qualifying Patient or to a Designated Caregiver on behalf of a Qualifying Patient during a fifteen (15) day period. Each time a Nonprofit Cannabis Care Center Agent dispenses Usable Cannabis to a Qualifying Patient directly or through the Qualifying Patient's Designated Caregiver, he must consult the Nonprofit Cannabis Care Center's records to verify that the records do not indicate that the dispensing of Usable Cannabis would cause the Qualifying Patient to receive more Usable Cannabis than is permitted in a fifteen (15) day period. Each time Usable Cannabis is dispensed, the Nonprofit Cannabis Care Center Agent shall record the date the Usable Cannabis was dispensed and the amount dispensed. All records must be kept according to the Registry Identification Card number of the Qualifying Patient and Designated Caregiver, if any.

(12) The Nonprofit Cannabis Care Center records with Qualifying Patient information shall be treated as a confidential medical record.

Section 111. Registration, Certification of Cannabis Testing Labs

(a) Cannabis Testing Lab registration required. Cannabis Testing Labs shall register with The Department.

(b) Issuing Cannabis Testing Lab registration certificates. Not later than sixty (60) days after receiving an application for a Cannabis Testing Lab, The Department shall register the Cannabis Testing Lab and issue a registration certificate and a random 10-digit alphanumeric identification number if:

(1) The prospective Cannabis Testing Lab has submitted the following:

(A) The application fee;

(B) An application, including:

(i) The legal name of the Cannabis Testing Lab;

(ii) The physical address of the Cannabis Testing Lab, which shall not be within one thousand feet (1000') of a public or private school existing before the date of the Cannabis Testing Lab application;

(iii) The name, address and date of birth of each Cannabis Testing Lab Agent;

(iv) Written procedures to ensure accurate record-keeping and adequate security measures;

(v) A sworn statement that none of the Cannabis Testing Lab Agents is under twenty-one (21) years of age;

(2) None of the owners, board members, or officers has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony; and

(3) None of the owners, board members or officers has previously been an owner, board member, or officer of a Cannabis Testing Lab that has had its registration certificate revoked.

(c) Criminal background checks. The Department shall conduct criminal background checks on each prospective owner, board member, or officer in order to carry out subdivision 111(b)(2).

(d) Allowable conduct. A Cannabis Testing Lab registered under this section may acquire, possess, transfer and transport Cannabis to a Nonprofit Cannabis Care Center for the purpose of testing and labeling Cannabis for potency, and to guarantee pesticide free, organically grown product. A Cannabis Testing Lab may receive compensation for providing the services allowed by this section.

(e) Cannabis Testing Lab Agent Registry Identification Card. The Department shall issue each Cannabis Testing Lab Agent a Registry Identification Card within ten (10) days of receipt of the person's name, address and date of birth under subdivision 111(b)(1)(B)(iii,) and a fee in an amount established by The Department. Each card must specify that the Cardholder is a Cannabis Testing Lab Agent and must contain:

(1) The name, address and date of birth of the Cannabis Testing Lab Agent;

(2) The legal name of the Cannabis Testing Lab with which the Cannabis Testing Lab Agent is affiliated;

(3) A random identification number that is unique to the Cardholder;

(4) The date of issuance and expiration date of the Registry Identification Card; and

(5) A photograph, if The Department decides to require one.

(f) Felony exclusion. The Department shall not issue a Registry Identification Card to any Cannabis Testing Lab Agent who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony. The Department shall conduct a background check of each prospective Cannabis Testing Lab Agent in order to carry out this subsection. The Department shall notify the Cannabis Testing Lab Agent in writing of the reason for denying the Registry Identification Card.

(g) Expiration. A Cannabis Testing Lab registration certificate and the Registry Identification Card for each Cannabis Testing Lab Agent expire one (1) year after the date of issuance. The Department shall issue renewal Cannabis Testing Lab registration certificates and renewal Registry Identification Cards within ten (10) days prior to their expiration. A Registry Identification Card of a Cannabis Testing Lab Agent expires upon notification by a Cannabis Testing Lab that such person ceases to work at the Cannabis Testing Lab.

(h) Reasonable inspection and search. Cannabis Testing Labs are highly regulated by the state. A Cannabis Testing Lab therefore is subject to reasonable inspection and search by The Department, including of its inventory and records of transactions. Inspection and search under this subsection shall be conducted during normal business hours and in a reasonable manner. This does not preclude use of a search warrant if probable cause to believe a criminal offense has occurred on the premises.

SECTION 112. Immunity for Nonprofit Cannabis Care Centers and Cannabis Testing Labs

(a) Protections for Nonprofit Cannabis Care Centers and Cannabis Testing Labs. No Nonprofit Cannabis Care Center or Cannabis Testing Lab shall be subject to the following:

(1) Prosecution for the Medical Use of Cannabis in accordance with the provisions of this chapter and any rule adopted by The Department pursuant to this chapter;

(2) Inspection and search, except pursuant to subsection 110(a) and subsection 111(h), or upon a search warrant issued by a court or judicial officer;

(3) Seizure of Cannabis, except upon any order issued by a court or judicial officer and with due process of law; or

(4) Imposition of any penalty or denial of any right or privilege including, but not limited to, imposition of a civil penalty or disciplinary action by an occupational or professional licensing board or entity, solely for acting in accordance with this chapter for a Nonprofit Cannabis Care Center to Assist Qualifying Patients or Designated Caregivers with the Medical Use of Cannabis or for a Cannabis Testing Lab to have possession of Cannabis for testing purposes.

(b) Protections for Nonprofit Cannabis Care Center Agents and Cannabis Testing Lab Agents. No Nonprofit Cannabis Care Center Agent or Cannabis Testing Lab Agent shall be subject to arrest, prosecution, search, seizure, or penalty in any manner, or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a business, or occupational, or professional licensing board or entity, solely for working for or with a Nonprofit Cannabis Care Center or a Cannabis Testing Lab to engage in acts permitted by this chapter.

SECTION 113. Prohibitions for Nonprofit Cannabis Care Centers and Cannabis Testing Labs

(a) A Nonprofit Cannabis Care Center shall not dispense, deliver or otherwise transfer Cannabis to a person other than a Qualifying Patient who has designated the Nonprofit Cannabis Care Center to cultivate Cannabis for them or to the Qualifying Patient's Designated Caregiver, or another Nonprofit Cannabis Care Center, or to a Cannabis Testing Lab for testing purposes.

(b) A Cannabis Testing Lab shall not deliver or otherwise transfer Cannabis to any person other than a Nonprofit Cannabis Care Center Agent.

(c) The Department shall immediately revoke the Registry Identification Card of a Nonprofit Cannabis Care Center Agent or Cannabis Testing Agent who is found to have violated subsection 113(a) or subsection 113(b), and such a person shall be disqualified from serving as a Nonprofit Cannabis Care Center Agent or Cannabis Testing Lab Agent.

(d) A person who has been found guilty or pleaded guilty or *nolo contendere* in a criminal proceeding, regardless of whether or not the adjudication of guilt or sentence is withheld by a court of this state, another state, or the federal government for any felony shall not be a Nonprofit Cannabis Care Center Agent or a Cannabis Testing Lab Agent. A Nonprofit Cannabis Care Center Agent or Cannabis Testing Lab Agent in violation of this subsection commits a civil violation for which a fine of not more than \$1,000 may be adjudged and collected by The Department. A Nonprofit Cannabis Care Center Agent or a Cannabis Testing Lab Agent in violation of this subsection and who at the time of the violation has been previously found to have violated this subsection commits a Class C misdemeanor.

SECTION 114. Local regulation.

This chapter does not prohibit a city, incorporated town or county of this state from limiting the number of Nonprofit Cannabis Care Centers that may operate in the political subdivision as it sees fit or from enacting reasonable zoning regulations applicable to Nonprofit Cannabis Care Centers.

SECTION 115. Prohibited conduct for Physicians.

A Physician shall not:

(a) Accept, solicit, or offer any form of pecuniary remuneration from or to a Nonprofit Cannabis Care Center or other provider of Cannabis.

(b) Offer a discount or other thing of value to a Qualifying Patient who uses or agrees to use a particular Nonprofit Cannabis Care Center.

(c) Examine a patient for purposes of diagnosing a Qualifying Medical Condition at a location where Cannabis is sold or distributed.

(d) Hold an economic interest in a Nonprofit Cannabis Care Center if the Physician certifies the Qualifying Medical Condition of a patient for participation in the medical Cannabis program.

SECTION 116. Enforcement

(a) Department failure to adopt rules. If The Department fails to adopt rules to implement this chapter within the time prescribed, any Arkansas citizen may commence a mandamus action in Pulaski County Circuit Court to compel The Department to perform the actions mandated pursuant to the provisions of this chapter.

(b) Department failure to issue a valid Registry Identification Card or Hardship Cultivation Certificate. If The Department fails to issue a valid Registry Identification Card or Hardship Cultivation Certificate in response to a valid application or renewal submitted pursuant to this chapter within forty-five (45) days of its submission, the Registry Identification Card or Hardship Cultivation Certificate is deemed granted, and a copy of the application or renewal is deemed a valid Registry Identification Card or Hardship Cultivation Certificate.

(c) Department failure to accept or process applications for Registry Identification Cards. If at any time after the effective date of this chapter, allowing time for adoption of rules, The Department has failed to accept or process applications in a reasonable timely manner under subsection 105(c), a notarized statement by a Qualifying Patient

containing the information required in an application, pursuant to subsection 105(a), is deemed a valid Registry Identification Card.

(d) Department failure to accept or process applications for Hardship Cultivation Certificates. If at any time after the effective date of this chapter, allowing time for adoption of rules, The Department has failed to accept or process applications in a reasonable timely manner under subsection 106(b), for Hardship Cultivation Certificates, a notarized statement by a Qualifying Patient containing the information required in an application, pursuant to section 106(a), is deemed a valid Hardship Cultivation Certificate.

SECTION 117. Taxation and distribution of proceeds.

(a) The sale of Cannabis under this chapter is subject to all state and local taxes.

(b) No special taxes will be added to the sale of medical cannabis.

(c) The state sales tax revenues received by the Department of Finance and Administration from the sale of Cannabis under this chapter shall be distributed as special revenue to The Department to cover the cost of administering this chapter. Any remaining revenue shall be allocated as special revenues and shall be used to provide Usable Cannabis on the sliding scale to Qualifying Patients determined to be eligible pursuant to subdivision 104(h)(1).

SECTION 118. No implied repeal.

By adoption of this Act, there is no implied repeal of the existing Arkansas laws criminalizing possession of Cannabis for purposes not specified in this Act. This Act also acknowledges that Cannabis use, possession, and distribution for any purpose remain illegal under federal law. Nothing in this Act requires the violation of federal law or purports to give immunity under federal law.

SECTION 119. Severability

If any provision or section of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or application of the Act which can be given effect without the invalid provisions or applications, and to this end the provisions of the Act are declared to be severable.