

By Senator Rodrigues

27-01439A-21

20211958__

1 A bill to be entitled
2 An act relating to the regulation of medical
3 marijuana; amending s. 381.986, F.S.; defining the
4 term "potency"; prohibiting qualified physicians from
5 engaging in certain advertising for their practices
6 relating to marijuana for medical use; providing
7 exceptions; prohibiting medical marijuana treatment
8 centers and certain other individuals and entities
9 from employing qualified physicians or having direct
10 or indirect economic interests in qualified physician
11 practices and medical marijuana testing laboratories;
12 requiring medical marijuana treatment centers to
13 measure carbon dioxide emissions produced by growing
14 marijuana; requiring medical marijuana treatment
15 centers to publish the data on their websites in a
16 specified manner; revising a provision relating to the
17 potency of tetrahydrocannabinol in edibles dispensed
18 by a medical marijuana treatment center; authorizing
19 the Department of Health to select and test marijuana
20 samples, rather than only edible samples, from
21 cultivation, processing, and dispensing facilities;
22 authorizing the department to select samples of
23 marijuana delivery devices from dispensing facilities
24 to determine that they are safe for use by qualified
25 patients; requiring medical marijuana treatment
26 centers to recall all marijuana, rather than only
27 edibles, under certain circumstances; revising
28 advertising requirements for medical marijuana
29 treatment centers to prohibit radio and television

27-01439A-21

20211958__

30 advertising; authorizing the department and certain
31 employees to acquire, possess, test, transport, and
32 lawfully dispose of marijuana; deleting a requirement
33 that a second physician evaluate a qualified patient
34 younger than 18 years of age and concur with certain
35 determinations made by the qualified physician
36 regarding the patient's medical use of marijuana;
37 prohibiting qualified physicians from issuing
38 physician certifications to qualified patients under
39 18 years of age for marijuana other than low-THC
40 cannabis, with an exception; revising provisions
41 related to supply and potency limits for marijuana;
42 prohibiting qualified physicians from issuing
43 physician certifications for marijuana that exceeds
44 certain potency limits, with an exception; revising
45 potency limits for edibles; conforming dispensing
46 requirements to changes made by the act; revising the
47 supply amount a qualified patient or a qualified
48 patient's caregiver may possess at any given time;
49 amending s. 381.988, F.S.; authorizing the department
50 and certain employees to acquire, possess, test,
51 transport, and lawfully dispose of marijuana;
52 prohibiting certified medical marijuana testing
53 laboratories and their officers, directors, and
54 employees from having economic interests in or
55 financial relationships with medical marijuana
56 treatment centers; providing construction; providing
57 effective dates.

58

27-01439A-21

20211958__

59 Be It Enacted by the Legislature of the State of Florida:

60
61 Section 1. Present paragraphs (l) through (o) of subsection
62 (1) of section 381.986, Florida Statutes, are redesignated as
63 paragraphs (m) through (p), respectively, a new paragraph (l) is
64 added to subsection (1), paragraph (d) is added to subsection
65 (3), paragraph (i) is added to subsection (14) of that section,
66 and paragraph (a) of subsection (3) and paragraphs (e) and (h)
67 of subsection (8) of that section are amended, to read:

68 381.986 Medical use of marijuana.—

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

70 (1) "Potency" means the relative strength of cannabinoids
71 and the total amount in milligrams of tetrahydrocannabinol as
72 the sum of (delta-9-tetrahydrocannabinol + (0.877 x
73 tetrahydrocannabinolic acid + delta-8-tetrahydrocannabinol)) and
74 cannabidiol as the sum of (cannabidiol + (0.877 x cannabidiolic
75 acid)) in the final product dispensed to a patient or caregiver.

76 (3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—

77 (a) Before being approved as a qualified physician, ~~as~~
78 ~~defined in paragraph (1)(m),~~ and before each license renewal, a
79 physician must successfully complete a 2-hour course and
80 subsequent examination offered by the Florida Medical
81 Association or the Florida Osteopathic Medical Association which
82 encompass the requirements of this section and any rules adopted
83 hereunder. The course and examination shall be administered at
84 least annually and may be offered in a distance learning format,
85 including an electronic, online format that is available upon
86 request. The price of the course may not exceed \$500. A
87 physician who has met the physician education requirements of

27-01439A-21

20211958__

88 former s. 381.986(4), Florida Statutes 2016, before June 23,
89 2017, shall be deemed to be in compliance with this paragraph
90 from June 23, 2017, until 90 days after the course and
91 examination required by this paragraph become available.

92 (d) With respect to his or her practice relating to
93 marijuana for medical use under this section, a qualified
94 physician may not engage in radio or television advertising or
95 advertising that is visible to members of the public from any
96 street, sidewalk, park, or other public place, except:

97 1. The qualified physician's practice may have a sign that
98 is affixed to the outside or hanging in the window of the
99 premises which identifies the qualified physician, a department-
100 approved practice name, or a department-approved logo. A
101 qualified physician's practice name and logo may not contain
102 wording or images commonly associated with marketing targeted
103 toward children or which promote the recreational use of
104 marijuana.

105 2. A qualified physician may engage in Internet advertising
106 and marketing for his or her practice under the following
107 conditions:

108 a. All advertisements must be approved by the department.

109 b. An advertisement may not have any content that
110 specifically targets individuals under the age of 18, including
111 cartoon characters or similar images.

112 c. An advertisement may not be an unsolicited pop-up
113 advertisement.

114 d. Opt-in marketing must include an easy and permanent opt-
115 out feature.

116 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

27-01439A-21

20211958__

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

143 1. A licensed medical marijuana treatment center may
144 transfer ownership to an individual or entity who meets the
145 requirements of this section. A publicly traded corporation or

27-01439A-21

20211958__

146 publicly traded company that meets the requirements of this
147 section is not precluded from ownership of a medical marijuana
148 treatment center. To accommodate a change in ownership:

149 a. The licensed medical marijuana treatment center shall
150 notify the department in writing at least 60 days before the
151 anticipated date of the change of ownership.

152 b. The individual or entity applying for initial licensure
153 due to a change of ownership must submit an application that
154 must be received by the department at least 60 days before the
155 date of change of ownership.

156 c. Upon receipt of an application for a license, the
157 department shall examine the application and, within 30 days
158 after receipt, notify the applicant in writing of any apparent
159 errors or omissions and request any additional information
160 required.

161 d. Requested information omitted from an application for
162 licensure must be filed with the department within 21 days after
163 the department's request for omitted information or the
164 application shall be deemed incomplete and shall be withdrawn
165 from further consideration and the fees shall be forfeited.

166
167 Within 30 days after the receipt of a complete application, the
168 department shall approve or deny the application.

169 2. A medical marijuana treatment center, and any individual
170 or entity who directly or indirectly owns, controls, or holds
171 with power to vote 5 percent or more of the voting shares of a
172 medical marijuana treatment center, may not acquire direct or
173 indirect ownership or control of any voting shares or other form
174 of ownership of any other medical marijuana treatment center.

27-01439A-21

20211958__

175 3. A medical marijuana treatment center and any individual
176 or entity that directly or indirectly owns, controls, or holds
177 with power to vote 5 percent or more of the voting shares of a
178 medical marijuana treatment center may not employ a qualified
179 physician or have any direct or indirect economic interest in a
180 qualified physician's practice or a marijuana testing
181 laboratory.

182 4. A medical marijuana treatment center may not enter into
183 any form of profit-sharing arrangement with the property owner
184 or lessor of any of its facilities where cultivation,
185 processing, storing, or dispensing of marijuana and marijuana
186 delivery devices occurs.

187 ~~5.4.~~ All employees of a medical marijuana treatment center
188 must be 21 years of age or older and have passed a background
189 screening pursuant to subsection (9).

190 ~~6.5.~~ Each medical marijuana treatment center must adopt and
191 enforce policies and procedures to ensure employees and
192 volunteers receive training on the legal requirements to
193 dispense marijuana to qualified patients.

194 ~~7.6.~~ When growing marijuana, a medical marijuana treatment
195 center:

196 a. May use pesticides determined by the department, after
197 consultation with the Department of Agriculture and Consumer
198 Services, to be safely applied to plants intended for human
199 consumption, but may not use pesticides designated as
200 restricted-use pesticides pursuant to s. 487.042.

201 b. Must grow marijuana within an enclosed structure and in
202 a room separate from any other plant.

203 c. Must inspect seeds and growing plants for plant pests

27-01439A-21

20211958__

204 that endanger or threaten the horticultural and agricultural
205 interests of this ~~the~~ state in accordance with chapter 581 and
206 any rules adopted thereunder.

207 d. Must perform fumigation or treatment of plants, or
208 remove and destroy infested or infected plants, in accordance
209 with chapter 581 and any rules adopted thereunder.

210 e. Must measure the amount of carbon dioxide emissions
211 produced per kilogram of marijuana grown at the medical
212 marijuana treatment center and the total amount of carbon
213 dioxide emissions produced by marijuana grown at the medical
214 marijuana treatment center each month. Medical marijuana
215 treatment centers must publish this data on their websites on
216 the same page and in the same font size as their product
217 listings.

218 ~~8.7.~~ Each medical marijuana treatment center must produce
219 and make available for purchase at least one low-THC cannabis
220 product.

221 ~~9.8.~~ A medical marijuana treatment center that produces
222 edibles must hold a permit to operate as a food establishment
223 pursuant to chapter 500, the Florida Food Safety Act, and must
224 comply with all the requirements for food establishments
225 pursuant to chapter 500 and any rules adopted thereunder.
226 Edibles may not contain more than 200 milligrams of
227 tetrahydrocannabinol, and a single serving portion of an edible
228 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles
229 may have a potency variance of no greater than 15 percent of the
230 10 milligrams of tetrahydrocannabinol per single serving limit
231 or 15 percent of the 200 milligrams of tetrahydrocannabinol per
232 product limit. Edibles may not be attractive to children; be

27-01439A-21

20211958__

233 manufactured in the shape of humans, cartoons, or animals; be
234 manufactured in a form that bears any reasonable resemblance to
235 products available for consumption as commercially available
236 candy; or contain any color additives. To discourage consumption
237 of edibles by children, the department shall determine by rule
238 any shapes, forms, and ingredients allowed and prohibited for
239 edibles. Medical marijuana treatment centers may not begin
240 processing or dispensing edibles until after the effective date
241 of the rule. The department shall also adopt sanitation rules
242 providing the standards and requirements for the storage,
243 display, or dispensing of edibles.

244 10.9. Within 12 months after licensure, a medical marijuana
245 treatment center must demonstrate to the department that all of
246 its processing facilities have passed a Food Safety Good
247 Manufacturing Practices, such as Global Food Safety Initiative
248 or equivalent, inspection by a nationally accredited certifying
249 body. A medical marijuana treatment center must immediately stop
250 processing at any facility which fails to pass this inspection
251 until it demonstrates to the department that such facility has
252 met this requirement.

253 11.10. A medical marijuana treatment center that produces
254 prerolled marijuana cigarettes may not use wrapping paper made
255 with tobacco or hemp.

256 12.11. When processing marijuana, a medical marijuana
257 treatment center must:

258 a. Process the marijuana within an enclosed structure and
259 in a room separate from other plants or products.

260 b. Comply with department rules when processing marijuana
261 with hydrocarbon solvents or other solvents or gases exhibiting

27-01439A-21

20211958__

262 potential toxicity to humans. The department shall determine by
263 rule the requirements for medical marijuana treatment centers to
264 use such solvents or gases exhibiting potential toxicity to
265 humans.

266 c. Comply with federal and state laws and regulations and
267 department rules for solid and liquid wastes. The department
268 shall determine by rule procedures for the storage, handling,
269 transportation, management, and disposal of solid and liquid
270 waste generated during marijuana production and processing. The
271 Department of Environmental Protection shall assist the
272 department in developing such rules.

273 13.d. A medical marijuana treatment center must test the
274 ~~processed~~ marijuana using a medical marijuana testing laboratory
275 before it is dispensed. Results must be verified and signed by
276 two medical marijuana treatment center employees. Before
277 dispensing, the medical marijuana treatment center must
278 determine that the test results indicate that low-THC cannabis
279 meets the definition of low-THC cannabis, the concentration of
280 tetrahydrocannabinol meets the potency requirements of this
281 section, the labeling of the concentration of
282 tetrahydrocannabinol and cannabidiol is accurate, and all
283 marijuana is safe for human consumption and free from
284 contaminants that are unsafe for human consumption. The
285 department shall determine by rule which contaminants must be
286 tested for and the maximum levels of each contaminant which are
287 safe for human consumption. The Department of Agriculture and
288 Consumer Services shall assist the department in developing the
289 testing requirements for contaminants that are unsafe for human
290 consumption in edibles. The department shall also determine by

27-01439A-21

20211958__

291 rule the procedures for the treatment of marijuana that fails to
292 meet the testing requirements of this section, s. 381.988, or
293 department rule. The department may select samples of marijuana
294 ~~a random sample from edibles~~ available in a cultivation facility
295 or processing facility or for purchase in a dispensing facility
296 which shall be tested by the department to determine that the
297 marijuana edible meets the potency requirements of this section
298 and is safe for human consumption, and the labeling of the
299 tetrahydrocannabinol and cannabidiol concentration is accurate,
300 or to verify medical marijuana testing laboratory results. The
301 department may also sample marijuana delivery devices from a
302 dispensing facility to determine that the marijuana delivery
303 device is safe for use by qualified patients. A medical
304 marijuana treatment center may not require payment from the
305 department for the sample. A medical marijuana treatment center
306 must recall marijuana that fails edibles, including all edibles
307 ~~made from the same batch of marijuana, which fail~~ to meet the
308 potency requirements of this section, that is ~~which are~~ unsafe
309 for human consumption, or for which the labeling of the
310 tetrahydrocannabinol and cannabidiol concentration is
311 inaccurate. The medical marijuana treatment center must retain
312 records of all testing and samples of each homogenous batch of
313 marijuana for at least 9 months. The medical marijuana treatment
314 center must contract with a marijuana testing laboratory to
315 perform audits on the medical marijuana treatment center's
316 standard operating procedures, testing records, and samples and
317 provide the results to the department to confirm that the
318 marijuana or low-THC cannabis meets the requirements of this
319 section and that the marijuana or low-THC cannabis is safe for

27-01439A-21

20211958__

320 human consumption. A medical marijuana treatment center shall
321 reserve two processed samples from each batch and retain such
322 samples for at least 9 months for the purpose of such audits. A
323 medical marijuana treatment center may use a laboratory that has
324 not been certified by the department under s. 381.988 until such
325 time as at least one laboratory holds the required
326 certification, but in no event later than July 1, 2018.

327 14. When packaging marijuana, a medical marijuana treatment
328 center must:

329 a.e. Package the marijuana in compliance with the United
330 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.
331 1471 et seq.

332 b.f. Package the marijuana in a receptacle that has a
333 firmly affixed and legible label stating the following
334 information:

335 (I) The marijuana or low-THC cannabis meets the
336 requirements of subparagraph 13 ~~sub-subparagraph d.~~

337 (II) The name of the medical marijuana treatment center
338 from which the marijuana originates.

339 (III) The batch number and harvest number from which the
340 marijuana originates and the date dispensed.

341 (IV) The name of the physician who issued the physician
342 certification.

343 (V) The name of the patient.

344 (VI) The product name, if applicable, and dosage form,
345 including concentration of tetrahydrocannabinol and cannabidiol.
346 The product name may not contain wording commonly associated
347 with products marketed by or to children.

348 (VII) The recommended dose.

27-01439A-21

20211958__

349 (VIII) A warning that it is illegal to transfer medical
350 marijuana to another person.

351 (IX) A marijuana universal symbol developed by the
352 department.

353 15.12. The medical marijuana treatment center must ~~shall~~
354 include in each package a patient package insert with
355 information on the specific product dispensed related to:

- 356 a. Clinical pharmacology.
357 b. Indications and use.
358 c. Dosage and administration.
359 d. Dosage forms and strengths.
360 e. Contraindications.
361 f. Warnings and precautions.
362 g. Adverse reactions.

363 16.13. In addition to the packaging and labeling
364 requirements specified in subparagraphs 14. and 15. ~~11. and 12.~~,
365 marijuana in a form for smoking must be packaged in a sealed
366 receptacle with a legible and prominent warning to keep away
367 from children and a warning that states marijuana smoke contains
368 carcinogens and may negatively affect health. Such receptacles
369 for marijuana in a form for smoking must be plain, opaque, and
370 white without depictions of the product or images other than the
371 medical marijuana treatment center's department-approved logo
372 and the marijuana universal symbol.

373 17.14. The department shall adopt rules to regulate the
374 types, appearance, and labeling of marijuana delivery devices
375 dispensed from a medical marijuana treatment center. The rules
376 must require marijuana delivery devices to have an appearance
377 consistent with medical use.

27-01439A-21

20211958__

378 18.15. Each edible must ~~shall~~ be individually sealed in
379 plain, opaque wrapping marked only with the marijuana universal
380 symbol. Where practical, each edible must ~~shall~~ be marked with
381 the marijuana universal symbol. In addition to the packaging and
382 labeling requirements in subparagraphs 14. and 15. ~~11. and 12.~~,
383 edible receptacles must be plain, opaque, and white without
384 depictions of the product or images other than the medical
385 marijuana treatment center's department-approved logo and the
386 marijuana universal symbol. The receptacle must also include a
387 list of all the edible's ingredients, storage instructions, an
388 expiration date, a legible and prominent warning to keep away
389 from children and pets, and a warning that the edible has not
390 been produced or inspected pursuant to federal food safety laws.

391 19.16. When dispensing marijuana or a marijuana delivery
392 device, a medical marijuana treatment center:

393 a. May dispense any active, valid order for low-THC
394 cannabis, medical cannabis and cannabis delivery devices issued
395 pursuant to former s. 381.986, Florida Statutes 2016, which was
396 entered into the medical marijuana use registry before July 1,
397 2017.

398 b. May not dispense more than a 70-day supply of marijuana
399 within any 70-day period to a qualified patient or caregiver.
400 May not dispense more than one 35-day supply of marijuana in a
401 form for smoking within any 35-day period to a qualified patient
402 or caregiver. A 35-day supply of marijuana in a form for smoking
403 may not exceed 2.5 ounces unless an exception to this amount is
404 approved by the department pursuant to paragraph (4) (f).

405 c. Must have the medical marijuana treatment center's
406 employee who dispenses the marijuana or a marijuana delivery

27-01439A-21

20211958__

407 device enter into the medical marijuana use registry his or her
408 name or unique employee identifier.

409 d. Must verify that the qualified patient and the
410 caregiver, if applicable, each have an active registration in
411 the medical marijuana use registry and an active and valid
412 medical marijuana use registry identification card, the amount
413 and type of marijuana dispensed matches the physician
414 certification in the medical marijuana use registry for that
415 qualified patient, and the physician certification has not
416 already been filled.

417 e. May not dispense marijuana to a qualified patient who is
418 younger than 18 years of age. If the qualified patient is
419 younger than 18 years of age, marijuana may only be dispensed to
420 the qualified patient's caregiver.

421 f. May not dispense or sell any other type of cannabis,
422 alcohol, or illicit drug-related product, including pipes or
423 wrapping papers made with tobacco or hemp, other than a
424 marijuana delivery device required for the medical use of
425 marijuana and which is specified in a physician certification.

426 g. Must, upon dispensing the marijuana or marijuana
427 delivery device, record in the registry the date, time,
428 quantity, and form of marijuana dispensed; the type of marijuana
429 delivery device dispensed; and the name and medical marijuana
430 use registry identification number of the qualified patient or
431 caregiver to whom the marijuana delivery device was dispensed.

432 h. Must ensure that patient records are not visible to
433 anyone other than the qualified patient, his or her caregiver,
434 and authorized medical marijuana treatment center employees.

435 (h) A medical marijuana treatment center may not engage in

27-01439A-21

20211958__

436 radio or television advertising or advertising that is visible
437 to members of the public from any street, sidewalk, park, or
438 other public place, except:

439 1. The dispensing location of a medical marijuana treatment
440 center may have a sign that is affixed to the outside or hanging
441 in the window of the premises which identifies the dispensary by
442 the licensee's business name, a department-approved trade name,
443 or a department-approved logo. A medical marijuana treatment
444 center's trade name and logo may not contain wording or images
445 commonly associated with marketing targeted toward children or
446 which promote recreational use of marijuana.

447 2. A medical marijuana treatment center may engage in
448 Internet advertising and marketing under the following
449 conditions:

450 a. All advertisements must be approved by the department.

451 b. An advertisement may not have any content that
452 specifically targets individuals under the age of 18, including
453 cartoon characters or similar images.

454 c. An advertisement may not be an unsolicited pop-up
455 advertisement.

456 d. Opt-in marketing must include an easy and permanent opt-
457 out feature.

458 (14) EXCEPTIONS TO OTHER LAWS.—

459 (i) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
460 any other law, but subject to the requirements of this section,
461 the department, including an employee of the department acting
462 within the scope of his or her employment, may acquire, possess,
463 test, transport, and lawfully dispose of marijuana as provided
464 in this section.

27-01439A-21

20211958__

465 Section 2. Effective July 1, 2022, present paragraphs (g)
466 through (k) of subsection (4) of section 381.986, Florida
467 Statutes, are redesignated as paragraphs (h) through (l),
468 respectively, a new paragraph (g) is added to that subsection,
469 and paragraphs (a), (d), and (f) of subsection (4), paragraph
470 (e) of subsection (8), and paragraph (a) of subsection (14) of
471 that section, as amended by this act, are amended, to read:

472 381.986 Medical use of marijuana.—

473 (4) PHYSICIAN CERTIFICATION.—

474 (a) A qualified physician may issue a physician
475 certification only if the qualified physician:

476 1. Conducted a physical examination while physically
477 present in the same room as the patient and a full assessment of
478 the medical history of the patient.

479 2. Diagnosed the patient with at least one qualifying
480 medical condition.

481 3. Determined that the medical use of marijuana would
482 likely outweigh the potential health risks for the patient, and
483 such determination must be documented in the patient's medical
484 record. ~~If a patient is younger than 18 years of age, a second
485 physician must concur with this determination, and such
486 concurrence must be documented in the patient's medical record.~~

487 4. Determined whether the patient is pregnant and
488 documented such determination in the patient's medical record. A
489 physician may not issue a physician certification, except for
490 low-THC cannabis, to a patient who is pregnant.

491 5. Reviewed the patient's controlled drug prescription
492 history in the prescription drug monitoring program database
493 established pursuant to s. 893.055.

27-01439A-21

20211958__

494 6. Reviews the medical marijuana use registry and confirmed
495 that the patient does not have an active physician certification
496 from another qualified physician.

497 7. Registers as the issuer of the physician certification
498 for the named qualified patient on the medical marijuana use
499 registry in an electronic manner determined by the department,
500 and:

501 a. Enters into the registry the contents of the physician
502 certification, including the patient's qualifying condition and
503 the dosage not to exceed the daily dose amount determined by the
504 department, the amount and forms of marijuana authorized for the
505 patient, and any types of marijuana delivery devices needed by
506 the patient for the medical use of marijuana.

507 b. Updates the registry within 7 days after any change is
508 made to the original physician certification to reflect such
509 change.

510 c. Deactivates the registration of the qualified patient
511 and the patient's caregiver when the physician no longer
512 recommends the medical use of marijuana for the patient.

513 8. Obtains the voluntary and informed written consent of
514 the patient for medical use of marijuana each time the qualified
515 physician issues a physician certification for the patient,
516 which shall be maintained in the patient's medical record. The
517 patient, or the patient's parent or legal guardian if the
518 patient is a minor, must sign the informed consent acknowledging
519 that the qualified physician has sufficiently explained its
520 content. The qualified physician must use a standardized
521 informed consent form adopted in rule by the Board of Medicine
522 and the Board of Osteopathic Medicine, which must include, at a

27-01439A-21

20211958__

523 minimum, information related to:

524 a. The Federal Government's classification of marijuana as
525 a Schedule I controlled substance.

526 b. The approval and oversight status of marijuana by the
527 Food and Drug Administration.

528 c. The current state of research on the efficacy of
529 marijuana to treat the qualifying conditions set forth in this
530 section.

531 d. The potential for addiction.

532 e. The potential effect that marijuana may have on a
533 patient's coordination, motor skills, and cognition, including a
534 warning against operating heavy machinery, operating a motor
535 vehicle, or engaging in activities that require a person to be
536 alert or respond quickly.

537 f. The potential side effects of marijuana use, including
538 the negative health risks associated with smoking marijuana.

539 g. The risks, benefits, and drug interactions of marijuana.

540 h. That the patient's de-identified health information
541 contained in the physician certification and medical marijuana
542 use registry may be used for research purposes.

543 (d) A qualified physician may not issue a physician
544 certification to a patient under 18 years of age for marijuana,
545 except for low-THC cannabis, unless the qualified physician
546 determines that marijuana other than low-THC cannabis is the
547 most effective treatment for the patient and a second physician
548 who is a board-certified pediatrician concurs with such
549 determination. A qualified physician may not issue a physician
550 certification for marijuana in a form for smoking to a patient
551 under 18 years of age unless the patient is diagnosed with a

27-01439A-21

20211958__

552 terminal condition, the qualified physician determines that
553 smoking is the most effective route of administration for the
554 patient, and a second physician who is a board-certified
555 pediatrician concurs with such determination. Such
556 determinations ~~determination~~ and concurrences ~~concurrence~~ must
557 be documented in the patient's medical record and in the medical
558 marijuana use registry. The certifying physician must obtain the
559 written informed consent of such patient's parent or legal
560 guardian before issuing a physician certification to the patient
561 for marijuana or marijuana in a form for smoking. The qualified
562 physician must use a standardized informed consent form adopted
563 in rule by the Board of Medicine and the Board of Osteopathic
564 Medicine which must include information concerning the negative
565 health effects of marijuana and smoking marijuana on persons
566 under 18 years of age and an acknowledgment that the qualified
567 physician has sufficiently explained the contents of the form.

568 (f) A qualified physician may not issue a physician
569 certification for ~~more than three 70-day supply limits of~~
570 ~~marijuana or~~ more than six 35-day supply limits of marijuana ~~in~~
571 ~~a form for smoking~~. The department may ~~shall~~ quantify by rule a
572 daily dose amount with equivalent dose amounts for each
573 allowable form of marijuana dispensed by a medical marijuana
574 treatment center. A 35-day supply of marijuana may not exceed
575 15,000 milligrams of tetrahydrocannabinol ~~The department shall~~
576 ~~use the daily dose amount to calculate a 70-day supply.~~

577 1. A qualified physician may request an exception to the
578 daily dose amount limit, the 35-day supply limit of marijuana ~~in~~
579 ~~a form for smoking~~, and the 4-ounce possession limit of
580 marijuana in a form for smoking established in paragraph

27-01439A-21

20211958__

581 (14) (a). The request shall be made electronically on a form
582 adopted by the department in rule and must include, at a
583 minimum, all of the following:

584 a. The qualified patient's qualifying medical condition.

585 b. The dosage and route of administration that was
586 insufficient to provide relief to the qualified patient.

587 c. A description of how the patient will benefit from an
588 increased amount.

589 d. The minimum daily dose amount of marijuana that would be
590 sufficient for the treatment of the qualified patient's
591 qualifying medical condition.

592 2. A qualified physician must provide the qualified
593 patient's records upon the request of the department.

594 3. The department shall approve or disapprove the request
595 within 14 days after receipt of the complete documentation
596 required by this paragraph. The request shall be deemed approved
597 if the department fails to act within this time period.

598 (g) A qualified physician may not issue a physician
599 certification for marijuana that has a tetrahydrocannabinol
600 potency, by weight or volume, of greater than 10 percent for
601 marijuana in a form for smoking or greater than 60 percent in
602 the final product for all other forms of marijuana, excluding
603 edibles. A qualified physician may certify marijuana with any
604 potency of tetrahydrocannabinol, if the qualified patient is
605 diagnosed with a terminal condition and the qualified physician
606 indicates such diagnosis on the physician certification.

607 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

608 (e) A licensed medical marijuana treatment center shall
609 cultivate, process, transport, and dispense marijuana for

27-01439A-21

20211958__

610 medical use. A licensed medical marijuana treatment center may
611 not contract for services directly related to the cultivation,
612 processing, and dispensing of marijuana or marijuana delivery
613 devices, except that a medical marijuana treatment center
614 licensed pursuant to subparagraph (a)1. may contract with a
615 single entity for the cultivation, processing, transporting, and
616 dispensing of marijuana and marijuana delivery devices. A
617 licensed medical marijuana treatment center must, at all times,
618 maintain compliance with the criteria demonstrated and
619 representations made in the initial application and the criteria
620 established in this subsection. Upon request, the department may
621 grant a medical marijuana treatment center a variance from the
622 representations made in the initial application. Consideration
623 of such a request shall be based upon the individual facts and
624 circumstances surrounding the request. A variance may not be
625 granted unless the requesting medical marijuana treatment center
626 can demonstrate to the department that it has a proposed
627 alternative to the specific representation made in its
628 application which fulfills the same or a similar purpose as the
629 specific representation in a way that the department can
630 reasonably determine will not be a lower standard than the
631 specific representation in the application. A variance may not
632 be granted from the requirements in subparagraph 2. and
633 subparagraphs (b)1. and 2.

634 1. A licensed medical marijuana treatment center may
635 transfer ownership to an individual or entity who meets the
636 requirements of this section. A publicly traded corporation or
637 publicly traded company that meets the requirements of this
638 section is not precluded from ownership of a medical marijuana

27-01439A-21

20211958__

639 treatment center. To accommodate a change in ownership:

640 a. The licensed medical marijuana treatment center shall
641 notify the department in writing at least 60 days before the
642 anticipated date of the change of ownership.

643 b. The individual or entity applying for initial licensure
644 due to a change of ownership must submit an application that
645 must be received by the department at least 60 days before the
646 date of change of ownership.

647 c. Upon receipt of an application for a license, the
648 department shall examine the application and, within 30 days
649 after receipt, notify the applicant in writing of any apparent
650 errors or omissions and request any additional information
651 required.

652 d. Requested information omitted from an application for
653 licensure must be filed with the department within 21 days after
654 the department's request for omitted information or the
655 application shall be deemed incomplete and shall be withdrawn
656 from further consideration and the fees shall be forfeited.

657
658 Within 30 days after the receipt of a complete application, the
659 department shall approve or deny the application.

660 2. A medical marijuana treatment center, and any individual
661 or entity who directly or indirectly owns, controls, or holds
662 with power to vote 5 percent or more of the voting shares of a
663 medical marijuana treatment center, may not acquire direct or
664 indirect ownership or control of any voting shares or other form
665 of ownership of any other medical marijuana treatment center.

666 3. A medical marijuana treatment center and any individual
667 or entity that directly or indirectly owns, controls, or holds

27-01439A-21

20211958__

668 with power to vote 5 percent or more of the voting shares of a
669 medical marijuana treatment center may not employ a qualified
670 physician or have any direct or indirect economic interest in a
671 qualified physician's practice or a marijuana testing
672 laboratory.

673 4. A medical marijuana treatment center may not enter into
674 any form of profit-sharing arrangement with the property owner
675 or lessor of any of its facilities where cultivation,
676 processing, storing, or dispensing of marijuana and marijuana
677 delivery devices occurs.

678 5. All employees of a medical marijuana treatment center
679 must be 21 years of age or older and have passed a background
680 screening pursuant to subsection (9).

681 6. Each medical marijuana treatment center must adopt and
682 enforce policies and procedures to ensure employees and
683 volunteers receive training on the legal requirements to
684 dispense marijuana to qualified patients.

685 7. When growing marijuana, a medical marijuana treatment
686 center:

687 a. May use pesticides determined by the department, after
688 consultation with the Department of Agriculture and Consumer
689 Services, to be safely applied to plants intended for human
690 consumption, but may not use pesticides designated as
691 restricted-use pesticides pursuant to s. 487.042.

692 b. Must grow marijuana within an enclosed structure and in
693 a room separate from any other plant.

694 c. Must inspect seeds and growing plants for plant pests
695 that endanger or threaten the horticultural and agricultural
696 interests of this state in accordance with chapter 581 and any

27-01439A-21

20211958__

697 rules adopted thereunder.

698 d. Must perform fumigation or treatment of plants, or
699 remove and destroy infested or infected plants, in accordance
700 with chapter 581 and any rules adopted thereunder.

701 e. Must measure the amount of carbon dioxide emissions
702 produced per kilogram of marijuana grown at the medical
703 marijuana treatment center and the total amount of carbon
704 dioxide emissions produced by marijuana grown at the medical
705 marijuana treatment center each month. Medical marijuana
706 treatment centers must publish this data on their websites on
707 the same page and in the same font size as their product
708 listings.

709 8. Each medical marijuana treatment center must produce and
710 make available for purchase at least one low-THC cannabis
711 product.

712 9. A medical marijuana treatment center that produces
713 edibles must hold a permit to operate as a food establishment
714 pursuant to chapter 500, the Florida Food Safety Act, and must
715 comply with all the requirements for food establishments
716 pursuant to chapter 500 and any rules adopted thereunder.
717 Edibles may not contain more than 200 milligrams of
718 tetrahydrocannabinol, and a single serving portion of an edible
719 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles
720 may have a potency variance of no greater than 15 percent of the
721 10 milligrams of tetrahydrocannabinol per single serving limit
722 or 15 percent of the 200 milligrams of tetrahydrocannabinol per
723 product limit. Edibles may not be attractive to children; be
724 manufactured in the shape of humans, cartoons, or animals; be
725 manufactured in a form that bears any reasonable resemblance to

27-01439A-21

20211958__

726 products available for consumption as commercially available
727 candy; or contain any color additives. To discourage consumption
728 of edibles by children, the department shall determine by rule
729 any shapes, forms, and ingredients allowed and prohibited for
730 edibles. Medical marijuana treatment centers may not begin
731 processing or dispensing edibles until after the effective date
732 of the rule. The department shall also adopt sanitation rules
733 providing the standards and requirements for the storage,
734 display, or dispensing of edibles.

735 10. Within 12 months after licensure, a medical marijuana
736 treatment center must demonstrate to the department that all of
737 its processing facilities have passed a Food Safety Good
738 Manufacturing Practices, such as Global Food Safety Initiative
739 or equivalent, inspection by a nationally accredited certifying
740 body. A medical marijuana treatment center must immediately stop
741 processing at any facility which fails to pass this inspection
742 until it demonstrates to the department that such facility has
743 met this requirement.

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

747 12. When processing marijuana, a medical marijuana
748 treatment center must:

749 a. Process the marijuana within an enclosed structure and
750 in a room separate from other plants or products.

751 b. Comply with department rules when processing marijuana
752 with hydrocarbon solvents or other solvents or gases exhibiting
753 potential toxicity to humans. The department shall determine by
754 rule the requirements for medical marijuana treatment centers to

27-01439A-21

20211958__

755 use such solvents or gases exhibiting potential toxicity to
756 humans.

757 c. Comply with federal and state laws and regulations and
758 department rules for solid and liquid wastes. The department
759 shall determine by rule procedures for the storage, handling,
760 transportation, management, and disposal of solid and liquid
761 waste generated during marijuana production and processing. The
762 Department of Environmental Protection shall assist the
763 department in developing such rules.

764 13. A medical marijuana treatment center must test
765 marijuana using a medical marijuana testing laboratory before it
766 is dispensed. Results must be verified and signed by two medical
767 marijuana treatment center employees. Before dispensing, the
768 medical marijuana treatment center must determine that the test
769 results indicate that low-THC cannabis meets the definition of
770 low-THC cannabis, the concentration of tetrahydrocannabinol
771 meets the potency requirements of this section, the labeling of
772 the concentration of tetrahydrocannabinol and cannabidiol is
773 accurate, and all marijuana is safe for human consumption and
774 free from contaminants that are unsafe for human consumption.
775 The department shall determine by rule which contaminants must
776 be tested for and the maximum levels of each contaminant which
777 are safe for human consumption. The Department of Agriculture
778 and Consumer Services shall assist the department in developing
779 the testing requirements for contaminants that are unsafe for
780 human consumption in edibles. The department shall also
781 determine by rule the procedures for the treatment of marijuana
782 that fails to meet the testing requirements of this section, s.
783 381.988, or department rule. The department may select samples

27-01439A-21

20211958__

784 of marijuana available in a cultivation facility or processing
785 facility or for purchase in a dispensing facility which shall be
786 tested by the department to determine that the marijuana meets
787 the potency requirements of this section and is safe for human
788 consumption and the labeling of the tetrahydrocannabinol and
789 cannabidiol concentration is accurate, or to verify medical
790 marijuana testing laboratory results. The department may also
791 sample marijuana delivery devices from a dispensing facility to
792 determine that the marijuana delivery device is safe for use by
793 qualified patients. A medical marijuana treatment center may not
794 require payment from the department for the sample. A medical
795 marijuana treatment center must recall all marijuana which fails
796 to meet the potency requirements of this section, which is
797 unsafe for human consumption, or for which the labeling of the
798 tetrahydrocannabinol and cannabidiol concentration is
799 inaccurate. The medical marijuana treatment center must retain
800 records of all testing and samples of each homogenous batch of
801 marijuana for at least 9 months. The medical marijuana treatment
802 center must contract with a marijuana testing laboratory to
803 perform audits on the medical marijuana treatment center's
804 standard operating procedures, testing records, and samples and
805 provide the results to the department to confirm that the
806 marijuana or low-THC cannabis meets the requirements of this
807 section and that the marijuana or low-THC cannabis is safe for
808 human consumption. A medical marijuana treatment center shall
809 reserve two processed samples from each batch and retain such
810 samples for at least 9 months for the purpose of such audits. A
811 medical marijuana treatment center may use a laboratory that has
812 not been certified by the department under s. 381.988 until such

27-01439A-21

20211958__

813 time as at least one laboratory holds the required
814 certification, but in no event later than July 1, 2018.

815 14. When packaging marijuana, a medical marijuana treatment
816 center must:

817 a. Package the marijuana in compliance with the United
818 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.
819 1471 et seq.

820 b. Package the marijuana in a receptacle that has a firmly
821 affixed and legible label stating the following information:

822 (I) The marijuana or low-THC cannabis meets the
823 requirements of subparagraph 13.

824 (II) The name of the medical marijuana treatment center
825 from which the marijuana originates.

826 (III) The batch number and harvest number from which the
827 marijuana originates and the date dispensed.

828 (IV) The name of the physician who issued the physician
829 certification.

830 (V) The name of the patient.

831 (VI) The product name, if applicable, and dosage form,
832 including concentration of tetrahydrocannabinol and cannabidiol.
833 The product name may not contain wording commonly associated
834 with products marketed by or to children.

835 (VII) The recommended dose.

836 (VIII) A warning that it is illegal to transfer medical
837 marijuana to another person.

838 (IX) A marijuana universal symbol developed by the
839 department.

840 15. The medical marijuana treatment center must include in
841 each package a patient package insert with information on the

27-01439A-21

20211958__

842 specific product dispensed related to:

- 843 a. Clinical pharmacology.
844 b. Indications and use.
845 c. Dosage and administration.
846 d. Dosage forms and strengths.
847 e. Contraindications.
848 f. Warnings and precautions.
849 g. Adverse reactions.

850 16. In addition to the packaging and labeling requirements
851 specified in subparagraphs 14. and 15., marijuana in a form for
852 smoking must be packaged in a sealed receptacle with a legible
853 and prominent warning to keep away from children and a warning
854 that states marijuana smoke contains carcinogens and may
855 negatively affect health. Such receptacles for marijuana in a
856 form for smoking must be plain, opaque, and white without
857 depictions of the product or images other than the medical
858 marijuana treatment center's department-approved logo and the
859 marijuana universal symbol.

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

865 18. Each edible must be individually sealed in plain,
866 opaque wrapping marked only with the marijuana universal symbol.
867 Where practical, each edible must be marked with the marijuana
868 universal symbol. In addition to the packaging and labeling
869 requirements in subparagraphs 14. and 15., edible receptacles
870 must be plain, opaque, and white without depictions of the

27-01439A-21

20211958__

871 product or images other than the medical marijuana treatment
872 center's department-approved logo and the marijuana universal
873 symbol. The receptacle must also include a list of all the
874 edible's ingredients, storage instructions, an expiration date,
875 a legible and prominent warning to keep away from children and
876 pets, and a warning that the edible has not been produced or
877 inspected pursuant to federal food safety laws.

878 19. When dispensing marijuana or a marijuana delivery
879 device, a medical marijuana treatment center:

880 a. May dispense any active, valid order for low-THC
881 cannabis, medical cannabis and cannabis delivery devices issued
882 pursuant to former s. 381.986, Florida Statutes 2016, which was
883 entered into the medical marijuana use registry before July 1,
884 2017.

885 b. May not dispense more than two 35-day supplies ~~a 70-day~~
886 ~~supply~~ of marijuana within any 70-day period to a qualified
887 patient or caregiver. ~~May not dispense more than one 35-day~~
888 ~~supply of marijuana in a form for smoking within any 35-day~~
889 ~~period to a qualified patient or caregiver.~~ A 35-day supply of
890 marijuana ~~in a form for smoking~~ may not exceed 15,000 milligrams
891 of tetrahydrocannabinol ~~2.5 ounces~~ unless an exception to this
892 amount is approved by the department pursuant to paragraph
893 (4) (f).

894 c. Must have the medical marijuana treatment center's
895 employee who dispenses the marijuana or a marijuana delivery
896 device enter into the medical marijuana use registry his or her
897 name or unique employee identifier.

898 d. Must verify that the qualified patient and the
899 caregiver, if applicable, each have an active registration in

27-01439A-21

20211958__

900 the medical marijuana use registry and an active and valid
901 medical marijuana use registry identification card, the amount
902 and type of marijuana dispensed matches the physician
903 certification in the medical marijuana use registry for that
904 qualified patient, and the physician certification has not
905 already been filled.

906 e. May not dispense marijuana to a qualified patient who is
907 younger than 18 years of age. If the qualified patient is
908 younger than 18 years of age, marijuana may only be dispensed to
909 the qualified patient's caregiver.

910 f. May not dispense marijuana that has a
911 tetrahydrocannabinol potency, by weight or volume, of greater
912 than 10 percent for marijuana in a form for smoking or greater
913 than 60 percent in the final product for all other forms of
914 marijuana, excluding edibles, to a qualified patient or
915 caregiver, unless the qualified physician certification
916 indicates that the qualified patient has been diagnosed with a
917 terminal condition.

918 g. May not dispense or sell any other type of cannabis,
919 alcohol, or illicit drug-related product, including pipes or
920 wrapping papers made with tobacco or hemp, other than a
921 marijuana delivery device required for the medical use of
922 marijuana and which is specified in a physician certification.

923 ~~h.g.~~ Must, upon dispensing the marijuana or marijuana
924 delivery device, record in the registry the date, time,
925 quantity, and form of marijuana dispensed; the type of marijuana
926 delivery device dispensed; and the name and medical marijuana
927 use registry identification number of the qualified patient or
928 caregiver to whom the marijuana delivery device was dispensed.

27-01439A-21

20211958__

929 ~~i.h.~~ Must ensure that patient records are not visible to
930 anyone other than the qualified patient, his or her caregiver,
931 and authorized medical marijuana treatment center employees.

932 (14) EXCEPTIONS TO OTHER LAWS.—

933 (a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
934 any other provision of law, but subject to the requirements of
935 this section, a qualified patient and the qualified patient's
936 caregiver may purchase from a medical marijuana treatment center
937 for the patient's medical use a marijuana delivery device and up
938 to the amount of marijuana authorized in the physician
939 certification, but may not possess more than two 35-day supplies
940 ~~a 70-day supply~~ of marijuana, or the greater of 4 ounces of
941 marijuana in a form for smoking or an amount of marijuana in a
942 form for smoking approved by the department pursuant to
943 paragraph (4) (f), at any given time and all marijuana purchased
944 must remain in its original packaging.

945 Section 3. Present subsection (11) of section 381.988,
946 Florida Statutes, is redesignated as subsection (13), and a new
947 subsection (11) and subsection (12) are added to that section,
948 to read:

949 381.988 Medical marijuana testing laboratories; marijuana
950 tests conducted by a certified laboratory.—

951 (11) A certified medical marijuana testing laboratory and
952 its officers, directors, and employees may not have a direct or
953 indirect economic interest in, or financial relationship with, a
954 medical marijuana treatment center. Nothing in this subsection
955 may be construed to prohibit a certified medical marijuana
956 testing laboratory from contracting with a medical marijuana
957 treatment center to provide testing services.

27-01439A-21

20211958__

958 (12) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or
959 any other law, but subject to the requirements of this section,
960 the department, including an employee of the department acting
961 within the scope of his or her employment, may acquire, possess,
962 test, transport, and lawfully dispose of marijuana as provided
963 in this section.

964 Section 4. Except as otherwise expressly provided in this
965 act, this act shall take effect July 1, 2021.