

By the Committee on Health Policy; and Senator Brandes

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1 A bill to be entitled  
2 An act relating to smoking marijuana for medical use;  
3 amending s. 381.986, F.S.; redefining the term  
4 "medical use" to include the possession, use, or  
5 administration of marijuana in a form for smoking;  
6 conforming a provision to changes made by the act;  
7 requiring a patient's informed consent form to include  
8 the risks specifically associated with smoking  
9 marijuana; requiring a certifying physician to make a  
10 determination in concurrence with a second physician  
11 who meets specified requirements before certifying a  
12 patient not diagnosed with a terminal condition to  
13 smoke marijuana for medical use; deleting a provision  
14 prohibiting a medical marijuana treatment center from  
15 dispensing or selling specified products; providing an  
16 effective date.

17  
18 Be It Enacted by the Legislature of the State of Florida:

19  
20 Section 1. Paragraph (j) of subsection (1), paragraph (a)  
21 of subsection (4), and paragraph (e) of subsection (8) of  
22 section 381.986, Florida Statutes, are amended to read:

23 381.986 Medical use of marijuana.—

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

25 (j) "Medical use" means the acquisition, possession, use,  
26 delivery, transfer, or administration of marijuana authorized by  
27 a physician certification. The term does not include:

28 1. Possession, use, or administration of marijuana that was  
29 not purchased or acquired from a medical marijuana treatment

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30 center.

31 2. Possession, use, or administration of marijuana in a  
32 ~~form for smoking, in the form of commercially produced food~~  
33 ~~items other than edibles, or of marijuana seeds or flower,~~  
34 ~~except for flower in a sealed, tamper-proof receptacle for~~  
35 ~~vaping.~~

36 3. Use or administration of any form or amount of marijuana  
37 in a manner that is inconsistent with the qualified physician's  
38 directions or physician certification.

39 4. Transfer of marijuana to a person other than the  
40 qualified patient for whom it was authorized or the qualified  
41 patient's caregiver on behalf of the qualified patient.

42 5. Use or administration of marijuana in the following  
43 locations:

44 a. On any form of public transportation, except for low-THC  
45 cannabis.

46 b. In any public place, except for low-THC cannabis.

47 c. In a qualified patient's place of employment, except  
48 when permitted by his or her employer.

49 d. In a state correctional institution, as defined in s.  
50 944.02, or a correctional institution, as defined in s. 944.241.

51 e. On the grounds of a preschool, primary school, or  
52 secondary school, except as provided in s. 1006.062.

53 f. In a school bus, a vehicle, an aircraft, or a motorboat,  
54 except for low-THC cannabis.

55  
56 For the purposes of this subparagraph, the exceptions for low-  
57 THC cannabis do not include the smoking of low-THC cannabis.

58 (4) PHYSICIAN CERTIFICATION.—

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59 (a) A qualified physician may issue a physician  
60 certification only if the qualified physician:

61 1. Conducted a physical examination while physically  
62 present in the same room as the patient and a full assessment of  
63 the medical history of the patient.

64 2. Diagnosed the patient with at least one qualifying  
65 medical condition.

66 3. Determined that the medical use of marijuana would  
67 likely outweigh the potential health risks for the patient, and  
68 such determination must be documented in the patient's medical  
69 record. If a patient is younger than 18 years of age, a second  
70 physician must concur with this determination, and such  
71 concurrence must be documented in the patient's medical record.

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

76 5. Reviewed the patient's controlled drug prescription  
77 history in the prescription drug monitoring program database  
78 established pursuant to s. 893.055.

79 6. Reviews the medical marijuana use registry and confirmed  
80 that the patient does not have an active physician certification  
81 from another qualified physician.

82 7. Registers as the issuer of the physician certification  
83 for the named qualified patient on the medical marijuana use  
84 registry in an electronic manner determined by the department,  
85 and:

86 a. Enters into the registry the contents of the physician  
87 certification, including the patient's qualifying condition and

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88 the dosage not to exceed the daily dose amount determined by the  
89 department, the amount and forms of marijuana authorized for the  
90 patient, and any types of marijuana delivery devices needed by  
91 the patient for the medical use of marijuana.

92 b. Updates the registry within 7 days after any change is  
93 made to the original physician certification to reflect such  
94 change.

95 c. Deactivates the registration of the qualified patient  
96 and the patient's caregiver when the physician no longer  
97 recommends the medical use of marijuana for the patient.

98 8. Obtains the voluntary and informed written consent of  
99 the patient for medical use of marijuana each time the qualified  
100 physician issues a physician certification for the patient,  
101 which shall be maintained in the patient's medical record. The  
102 patient, or the patient's parent or legal guardian if the  
103 patient is a minor, must sign the informed consent acknowledging  
104 that the qualified physician has sufficiently explained its  
105 content. The qualified physician must use a standardized  
106 informed consent form adopted in rule by the Board of Medicine  
107 and the Board of Osteopathic Medicine, which must include, at a  
108 minimum, information related to:

109 a. The Federal Government's classification of marijuana as  
110 a Schedule I controlled substance.

111 b. The approval and oversight status of marijuana by the  
112 Food and Drug Administration.

113 c. The current state of research on the efficacy of  
114 marijuana to treat the qualifying conditions set forth in this  
115 section.

116 d. The potential for addiction.

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117 e. The potential effect that marijuana may have on a  
118 patient's coordination, motor skills, and cognition, including a  
119 warning against operating heavy machinery, operating a motor  
120 vehicle, or engaging in activities that require a person to be  
121 alert or respond quickly.

122 f. The potential side effects of marijuana use.

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

124 h. The risks specifically associated with smoking  
125 marijuana.

126 ~~i.h.~~ That the patient's de-identified health information  
127 contained in the physician certification and medical marijuana  
128 use registry may be used for research purposes.

129  
130 For a patient not diagnosed with a terminal condition, if the  
131 certifying physician intends to certify the patient's medical  
132 use of marijuana by way of smoking, the certifying physician  
133 must determine that smoking is the only means of administering  
134 medical marijuana that is likely to benefit the patient and a  
135 second physician must concur with that determination. The second  
136 physician must not be registered with the department as a  
137 certifying physician for any qualified patients. Such  
138 determination and concurrence must be documented in the  
139 patient's medical record.

140 (8) MEDICAL MARIJUANA TREATMENT CENTERS.—

141 (e) A licensed medical marijuana treatment center shall  
142 cultivate, process, transport, and dispense marijuana for  
143 medical use. A licensed medical marijuana treatment center may  
144 not contract for services directly related to the cultivation,  
145 processing, and dispensing of marijuana or marijuana delivery

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146 devices, except that a medical marijuana treatment center  
147 licensed pursuant to subparagraph (a)1. may contract with a  
148 single entity for the cultivation, processing, transporting, and  
149 dispensing of marijuana and marijuana delivery devices. A  
150 licensed medical marijuana treatment center must, at all times,  
151 maintain compliance with the criteria demonstrated and  
152 representations made in the initial application and the criteria  
153 established in this subsection. Upon request, the department may  
154 grant a medical marijuana treatment center a variance from the  
155 representations made in the initial application. Consideration  
156 of such a request shall be based upon the individual facts and  
157 circumstances surrounding the request. A variance may not be  
158 granted unless the requesting medical marijuana treatment center  
159 can demonstrate to the department that it has a proposed  
160 alternative to the specific representation made in its  
161 application which fulfills the same or a similar purpose as the  
162 specific representation in a way that the department can  
163 reasonably determine will not be a lower standard than the  
164 specific representation in the application. A variance may not  
165 be granted from the requirements in subparagraph 2. and  
166 subparagraphs (b)1. and 2.

167 1. A licensed medical marijuana treatment center may  
168 transfer ownership to an individual or entity who meets the  
169 requirements of this section. A publicly traded corporation or  
170 publicly traded company that meets the requirements of this  
171 section is not precluded from ownership of a medical marijuana  
172 treatment center. To accommodate a change in ownership:

173 a. The licensed medical marijuana treatment center shall  
174 notify the department in writing at least 60 days before the

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175 anticipated date of the change of ownership.

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

180       c. Upon receipt of an application for a license, the  
181 department shall examine the application and, within 30 days  
182 after receipt, notify the applicant in writing of any apparent  
183 errors or omissions and request any additional information  
184 required.

185       d. Requested information omitted from an application for  
186 licensure must be filed with the department within 21 days after  
187 the department's request for omitted information or the  
188 application shall be deemed incomplete and shall be withdrawn  
189 from further consideration and the fees shall be forfeited.

190  
191 Within 30 days after the receipt of a complete application, the  
192 department shall approve or deny the application.

193       2. A medical marijuana treatment center, and any individual  
194 or entity who directly or indirectly owns, controls, or holds  
195 with power to vote 5 percent or more of the voting shares of a  
196 medical marijuana treatment center, may not acquire direct or  
197 indirect ownership or control of any voting shares or other form  
198 of ownership of any other medical marijuana treatment center.

199       3. A medical marijuana treatment center may not enter into  
200 any form of profit-sharing arrangement with the property owner  
201 or lessor of any of its facilities where cultivation,  
202 processing, storing, or dispensing of marijuana and marijuana  
203 delivery devices occurs.

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204 4. All employees of a medical marijuana treatment center  
205 must be 21 years of age or older and have passed a background  
206 screening pursuant to subsection (9).

207 5. Each medical marijuana treatment center must adopt and  
208 enforce policies and procedures to ensure employees and  
209 volunteers receive training on the legal requirements to  
210 dispense marijuana to qualified patients.

211 6. When growing marijuana, a medical marijuana treatment  
212 center:

213 a. May use pesticides determined by the department, after  
214 consultation with the Department of Agriculture and Consumer  
215 Services, to be safely applied to plants intended for human  
216 consumption, but may not use pesticides designated as  
217 restricted-use pesticides pursuant to s. 487.042.

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

220 c. Must inspect seeds and growing plants for plant pests  
221 that endanger or threaten the horticultural and agricultural  
222 interests of the state in accordance with chapter 581 and any  
223 rules adopted thereunder.

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

227 7. Each medical marijuana treatment center must produce and  
228 make available for purchase at least one low-THC cannabis  
229 product.

230 8. A medical marijuana treatment center that produces  
231 edibles must hold a permit to operate as a food establishment  
232 pursuant to chapter 500, the Florida Food Safety Act, and must

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233 comply with all the requirements for food establishments  
234 pursuant to chapter 500 and any rules adopted thereunder.  
235 Edibles may not contain more than 200 milligrams of  
236 tetrahydrocannabinol, and a single serving portion of an edible  
237 may not exceed 10 milligrams of tetrahydrocannabinol. Edibles  
238 may have a potency variance of no greater than 15 percent.  
239 Edibles may not be attractive to children; be manufactured in  
240 the shape of humans, cartoons, or animals; be manufactured in a  
241 form that bears any reasonable resemblance to products available  
242 for consumption as commercially available candy; or contain any  
243 color additives. To discourage consumption of edibles by  
244 children, the department shall determine by rule any shapes,  
245 forms, and ingredients allowed and prohibited for edibles.  
246 Medical marijuana treatment centers may not begin processing or  
247 dispensing edibles until after the effective date of the rule.  
248 The department shall also adopt sanitation rules providing the  
249 standards and requirements for the storage, display, or  
250 dispensing of edibles.

251       9. Within 12 months after licensure, a medical marijuana  
252 treatment center must demonstrate to the department that all of  
253 its processing facilities have passed a Food Safety Good  
254 Manufacturing Practices, such as Global Food Safety Initiative  
255 or equivalent, inspection by a nationally accredited certifying  
256 body. A medical marijuana treatment center must immediately stop  
257 processing at any facility which fails to pass this inspection  
258 until it demonstrates to the department that such facility has  
259 met this requirement.

260       10. When processing marijuana, a medical marijuana  
261 treatment center must:

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

264 b. Comply with department rules when processing marijuana  
265 with hydrocarbon solvents or other solvents or gases exhibiting  
266 potential toxicity to humans. The department shall determine by  
267 rule the requirements for medical marijuana treatment centers to  
268 use such solvents or gases exhibiting potential toxicity to  
269 humans.

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

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

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

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320 purpose of such audits. A medical marijuana treatment center may  
321 use a laboratory that has not been certified by the department  
322 under s. 381.988 until such time as at least one laboratory  
323 holds the required certification, but in no event later than  
324 July 1, 2018.

325 e. Package the marijuana in compliance with the United  
326 States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss.  
327 1471 et seq.

328 f. Package the marijuana in a receptacle that has a firmly  
329 affixed and legible label stating the following information:

330 (I) The marijuana or low-THC cannabis meets the  
331 requirements of sub-subparagraph d.

332 (II) The name of the medical marijuana treatment center  
333 from which the marijuana originates.

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

336 (IV) The name of the physician who issued the physician  
337 certification.

338 (V) The name of the patient.

339 (VI) The product name, if applicable, and dosage form,  
340 including concentration of tetrahydrocannabinol and cannabidiol.  
341 The product name may not contain wording commonly associated  
342 with products marketed by or to children.

343 (VII) The recommended dose.

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

346 (IX) A marijuana universal symbol developed by the  
347 department.

348 11. The medical marijuana treatment center shall include in

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349 each package a patient package insert with information on the  
350 specific product dispensed related to:

- 351 a. Clinical pharmacology.
- 352 b. Indications and use.
- 353 c. Dosage and administration.
- 354 d. Dosage forms and strengths.
- 355 e. Contraindications.
- 356 f. Warnings and precautions.
- 357 g. Adverse reactions.

358 12. Each edible shall be individually sealed in plain,  
359 opaque wrapping marked only with the marijuana universal symbol.  
360 Where practical, each edible shall be marked with the marijuana  
361 universal symbol. In addition to the packaging and labeling  
362 requirements in subparagraphs 10. and 11., edible receptacles  
363 must be plain, opaque, and white without depictions of the  
364 product or images other than the medical marijuana treatment  
365 center's department-approved logo and the marijuana universal  
366 symbol. The receptacle must also include a list all of the  
367 edible's ingredients, storage instructions, an expiration date,  
368 a legible and prominent warning to keep away from children and  
369 pets, and a warning that the edible has not been produced or  
370 inspected pursuant to federal food safety laws.

371 13. When dispensing marijuana or a marijuana delivery  
372 device, a medical marijuana treatment center:

- 373 a. May dispense any active, valid order for low-THC  
374 cannabis, medical cannabis and cannabis delivery devices issued  
375 pursuant to former s. 381.986, Florida Statutes 2016, which was  
376 entered into the medical marijuana use registry before July 1,  
377 2017.

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378           b. May not dispense more than a 70-day supply of marijuana  
379 to a qualified patient or caregiver.

380           c. Must have the medical marijuana treatment center's  
381 employee who dispenses the marijuana or a marijuana delivery  
382 device enter into the medical marijuana use registry his or her  
383 name or unique employee identifier.

384           d. Must verify that the qualified patient and the  
385 caregiver, if applicable, each have an active registration in  
386 the medical marijuana use registry and an active and valid  
387 medical marijuana use registry identification card, the amount  
388 and type of marijuana dispensed matches the physician  
389 certification in the medical marijuana use registry for that  
390 qualified patient, and the physician certification has not  
391 already been filled.

392           e. May not dispense marijuana to a qualified patient who is  
393 younger than 18 years of age. If the qualified patient is  
394 younger than 18 years of age, marijuana may only be dispensed to  
395 the qualified patient's caregiver.

396           f. May not dispense or sell any other type of cannabis,  
397 alcohol, or illicit drug-related product, ~~including pipes,~~  
398 ~~bongs, or wrapping papers,~~ other than a marijuana delivery  
399 device required for the medical use of marijuana and which is  
400 specified in a physician certification.

401           g. Must, upon dispensing the marijuana or marijuana  
402 delivery device, record in the registry the date, time,  
403 quantity, and form of marijuana dispensed; the type of marijuana  
404 delivery device dispensed; and the name and medical marijuana  
405 use registry identification number of the qualified patient or  
406 caregiver to whom the marijuana delivery device was dispensed.

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

410           Section 2. This act shall take effect upon becoming a law.