

HOUSE AMENDMENT  
Bill No. HB 5A (2017A)

Amendment No.

CHAMBER ACTION

Senate

House

1 Representative Jenne offered the following:

2

3           **Substitute Amendment for Amendment (769791)**

4           Remove lines 167-418 and insert:

5           (b)   "Close relative" means a spouse, parent, sibling,  
6           grandparent, child, or grandchild, whether related by whole or  
7           half blood, by marriage, or by adoption.

8           (c)   "Edibles" means commercially produced food items made  
9           with marijuana oil, but no other form of marijuana, that are  
10          produced and dispensed by a medical marijuana treatment center.

11          (d)   "Low-THC cannabis" means a plant of the genus  
12          Cannabis, the dried flowers of which contain 0.8 percent or less  
13          of tetrahydrocannabinol and more than 10 percent of cannabidiol

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14     weight for weight; the seeds thereof; the resin extracted from  
15     any part of such plant; or any compound, manufacture, salt,  
16     derivative, mixture, or preparation of such plant or its seeds  
17     or resin that is dispensed from a medical marijuana treatment  
18     center.

19         (e) "Marijuana" means all parts of any plant of the genus  
20     Cannabis, whether growing or not; the seeds thereof; the resin  
21     extracted from any part of the plant; and every compound,  
22     manufacture, salt, derivative, mixture, or preparation of the  
23     plant or its seeds or resin, including low-THC cannabis, which  
24     are dispensed from a medical marijuana treatment center for  
25     medical use by a qualified patient.

26         (f) "Marijuana delivery device" means an object used,  
27     intended for use, or designed for use in preparing, storing,  
28     ingesting, inhaling, or otherwise introducing marijuana into the  
29     human body, and which is dispensed from a medical marijuana  
30     treatment center for medical use by a qualified patient.

31         (g) "Marijuana testing laboratory" means a facility that  
32     collects and analyzes marijuana samples from a medical marijuana  
33     treatment center and has been certified by the department  
34     pursuant to s. 381.988.

35         (h) "Medical director" means a person who holds an active,  
36     unrestricted license as an allopathic physician under chapter  
37     458 or osteopathic physician under chapter 459 and is in  
38     compliance with the requirements of paragraph (3) (c).

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39        (i) "Medical use" means the acquisition, possession, use,  
40 delivery, transfer, or administration of marijuana authorized by  
41 a physician certification. The term does not include:

42        1. Possession, use, or administration of marijuana that  
43 was not purchased or acquired from a medical marijuana treatment  
44 center.

45        2. Possession, use, or administration of marijuana in the  
46 form of commercially produced food items other than edibles, or  
47 of marijuana seeds or flower, except for flower in a sealed,  
48 tamper-proof receptacle for vaping.

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

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

55        5. Use or administration of marijuana in the following  
56 locations:

57            a. On any form of public transportation, except for low-  
58 THC cannabis.

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

60            c. In a state correctional institution, as defined in s.

61 944.02, or a correctional institution, as defined in s. 944.241.

62            d. On the grounds of a preschool, primary school, or  
63 secondary school, except as provided in s. 1006.062.

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64       e. In a school bus, a vehicle, an aircraft, or a  
65       motorboat, except for low-THC cannabis.

66

67       This paragraph does not require any accommodation of any onsite  
68       medical use of marijuana in any correctional institution,  
69       detention facility, or place of education or employment or any  
70       accommodation of smoking medical marijuana in any public place.

71       (j) "Physician certification" means a qualified  
72       physician's authorization for a qualified patient to receive  
73       marijuana and a marijuana delivery device from a medical  
74       marijuana treatment center.

75       (k) "Qualified patient" means a resident of this state who  
76       has been added to the medical marijuana use registry by a  
77       qualified physician to receive marijuana or a marijuana delivery  
78       device for a medical use and who has a qualified patient  
79       identification card.

80       (l) "Qualified physician" means a person who holds an  
81       active, unrestricted license as an allopathic physician under  
82       chapter 458 or as an osteopathic physician under chapter 459 and  
83       is in compliance with the physician education requirements of  
84       subsection (3).

85       (m) "Smoking" means burning or igniting a substance and  
86       inhaling the smoke. The smoking of medical marijuana, as  
87       prescribed by a qualified physician, shall be allowed.

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88       (n) "Terminal condition" means a progressive disease or  
89       medical or surgical condition that causes significant functional  
90       impairment, is not considered by a treating physician to be  
91       reversible without the administration of life-sustaining  
92       procedures, and will result in death within 1 year after  
93       diagnosis if the condition runs its normal course.

94       (2) DEBILITATING MEDICAL CONDITION.—"Debilitating medical  
95       condition" means cancer, epilepsy, glaucoma, positive status for  
96       human immunodeficiency virus (HIV) or acquired immune deficiency  
97       syndrome (AIDS), post-traumatic stress disorder (PTSD),  
98       amyotrophic lateral sclerosis (ALS), Crohn's disease,  
99       Parkinson's disease, multiple sclerosis, or other debilitating  
100      medical conditions of the same kind or class as or comparable to  
101      those enumerated, and for which a physician believes that the  
102      medical use of marijuana would likely outweigh the potential  
103      health risks for the patient.

104       (3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—  
105       (a) Before being approved as a qualified physician, as  
106       defined in paragraph (1)(l), and before each license renewal, a  
107       physician must successfully complete a 2-hour course and  
108       subsequent examination offered by the Florida Medical  
109       Association or the Florida Osteopathic Medical Association which  
110       encompass the requirements of this section and any rules adopted  
111       hereunder. The course and examination shall be administered at  
112       least annually and may be offered in a distance learning format,

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113     including an electronic, online format that is available upon  
114     request. The price of the course may not exceed \$500. A  
115     physician who has met the physician education requirements of  
116     former s. 381.986(4), Florida Statutes 2016, before the  
117     effective date of this section, shall be deemed to be in  
118     compliance with this paragraph from the effective date of this  
119     act until 90 days after the course and examination required by  
120     this paragraph become available.

121         (b) A qualified physician may not be employed by, or have  
122     any direct or indirect economic interest in, a medical marijuana  
123     treatment center or marijuana testing laboratory.

124         (c) Before being employed as a medical director, as  
125     defined in paragraph (1)(h), and before each license renewal, a  
126     medical director must successfully complete a 2-hour course and  
127     subsequent examination offered by the Florida Medical  
128     Association or the Florida Osteopathic Medical Association which  
129     encompass the requirements of this section and any rules adopted  
130     hereunder. The course and examination shall be administered at  
131     least annually and may be offered in a distance learning format,  
132     including an electronic, online format that is available upon  
133     request. The price of the course may not exceed \$500.

134             (4) PHYSICIAN CERTIFICATION.—

135         (a) A qualified physician may issue a physician  
136     certification only if the qualified physician:

137             1. Conducted a physical examination while physically

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138 present in the same room as the patient and a full assessment of  
139 the medical history of the patient.

140 2. Diagnosed the patient with at least one qualifying  
141 medical condition.

142 3. Determined that the medical use of marijuana would  
143 likely outweigh the potential health risks for the patient, and  
144 such determination must be documented in the patient's medical  
145 record. If a patient is younger than 18 years of age, a second  
146 physician must concur with this determination, and such  
147 concurrence must be documented in the patient's medical record.

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

152 5. Reviewed the patient's controlled drug prescription  
153 history in the prescription drug monitoring program database  
154 established pursuant to s. 893.055.

155 6. Reviews the medical marijuana use registry and  
156 confirmed that the patient does not have an active physician  
157 certification from another qualified physician.

158 7. Registers as the issuer of the physician certification  
159 for the named qualified patient on the medical marijuana use  
160 registry in an electronic manner determined by the department,  
161 and:

162 a. Enters into the registry the contents of the physician

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certification, including the patient's qualifying condition and the dosage not to exceed the daily dose amount determined by the department, the amount and forms of marijuana authorized for the patient, and any types of marijuana delivery devices needed by the patient for the medical use of marijuana.

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

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

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

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

b. The approval and oversight status of marijuana by the

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188 Food and Drug Administration.

189       c. The current state of research on the efficacy of  
190       marijuana to treat the qualifying conditions set forth in this  
191       section.

192       d. The potential for addiction.

193       e. The potential effect that marijuana may have on a  
194       patient's coordination, motor skills, and cognition, including a  
195       warning against operating heavy machinery, operating a motor  
196       vehicle, or engaging in activities that require a person to be  
197       alert or respond quickly.

198       f. The potential side effects of marijuana use.

199       g. The risks, benefits, and drug interactions of  
200       marijuana.

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

204       (b) If a qualified physician issues a physician  
205       certification for a qualified patient diagnosed with a  
206       debilitating medical condition pursuant to subsection (2), the  
207       physician must submit the following to the applicable board  
208       within 14 days after issuing the physician certification:

209           1. Documentation supporting the qualified physician's  
210           opinion that the medical condition is of the same kind or class  
211           as the conditions in subsection (2).

212           2. Documentation that establishes the efficacy of

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213 marijuana as treatment for the condition.

214 3. Documentation supporting the qualified physician's  
215 opinion that the benefits of medical use of marijuana would  
216 likely outweigh the potential health risks for the patient.

217 4. Any other documentation as required by board rule.

219 The department must submit such documentation to the Coalition  
220 for Medical Marijuana Research and Education established  
221 pursuant to s. 1004.4351.

222 (c) A qualified physician may issue a physician  
223 certification for marijuana and determine the appropriate dosage  
224 and supply for the patient based on the physician's assessment  
225 of medical necessity.

226 (5) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—

227 (a) Before being approved as a qualified physician, as  
228 defined in paragraph (1)(l), and before each license renewal, a  
229 physician must successfully complete a 2-hour course and  
230 subsequent examination offered by the Florida Medical  
231 Association or the Florida Osteopathic Medical Association which  
232 encompass the requirements of this section and any rules adopted  
233 hereunder. The course and examination shall be administered at  
234 least annually and may be offered in a distance learning format,  
235 including an electronic, online format that is available upon  
236 request. The price of the course may not exceed \$500. A  
237 physician who has met the physician education requirements of

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238 former s. 381.986(4), Florida Statutes 2016, before the  
239 effective date of this section, shall be deemed to be in  
240 compliance with this paragraph from the effective date of this  
241 act until 90 days after the course and examination required by  
242 this paragraph become available.

243 (b) A qualified physician may not be employed by, or have  
244 any direct or indirect economic interest in, a medical marijuana  
245 treatment center or marijuana testing laboratory.

246 (c) Before being employed as a medical director, as  
247 defined in paragraph (1)(h), and before each license renewal, a  
248 medical director must successfully complete a 2-hour course and  
249 subsequent examination offered by the Florida Medical  
250 Association or the Florida Osteopathic Medical Association which  
251 encompass the requirements of this section and any rules adopted  
252 hereunder. The course and examination shall be administered at  
253 least annually and may be offered in a distance learning format,  
254 including an electronic, online format that is available upon  
255 request. The price of the course may not exceed \$500.

256 (6) PHYSICIAN CERTIFICATION.—

257 (a) A qualified physician may issue a physician  
258 certification only if the qualified physician:

259 1. Conducted a physical examination while physically  
260 present in the same room as the patient and a full assessment of  
261 the medical history of the patient.

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262       2. Diagnosed the patient with at least one qualifying  
263       medical condition.

264       3. Determined that the medical use of marijuana would  
265       likely outweigh the potential health risks for the patient, and  
266       such determination must be documented in the patient's medical  
267       record. If a patient is younger than 18 years of age, a second  
268       physician must concur with this determination, and such  
269       concurrence must be documented in the patient's medical record.

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

274       5. Reviewed the patient's controlled drug prescription  
275       history in the prescription drug monitoring program database  
276       established pursuant to s. 893.055.

277       6. Reviews the medical marijuana use registry and  
278       confirmed that the patient does not have an active physician  
279       certification from another qualified physician.

280       7. Registers as the issuer of the physician certification  
281       for the named qualified patient on the medical marijuana use  
282       registry in an electronic manner determined by the department,  
283       and:

284       a. Enters into the registry the contents of the physician  
285       certification, including the patient's qualifying condition and  
286       the dosage not to exceed the daily dose amount determined by the

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287 department, the amount and forms of marijuana authorized for the  
288 patient, and any types of marijuana delivery devices needed by  
289 the patient for the medical use of marijuana.

290 b. Updates the registry within 7 days after any change is  
291 made to the original physician certification to reflect such  
292 change.

293 c. Deactivates the registration of the qualified patient  
294 and the patient's caregiver when the physician no longer  
295 recommends the medical use of marijuana for the patient.

296 8. Obtains the voluntary and informed written consent of  
297 the patient for medical use of marijuana each time the qualified  
298 physician issues a physician certification for the patient,  
299 which shall be maintained in the patient's medical record. The  
300 patient, or the patient's parent or legal guardian if the  
301 patient is a minor, must sign the informed consent acknowledging  
302 that the qualified physician has sufficiently explained its  
303 content. The qualified physician must use a standardized  
304 informed consent form adopted in rule by the Board of Medicine  
305 and the Board of Osteopathic Medicine, which must include, at a  
306 minimum, information related to:

307 a. The Federal Government's classification of marijuana as  
308 a Schedule I controlled substance.

309 b. The approval and oversight status of marijuana by the  
310 Food and Drug Administration.

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311        c. The current state of research on the efficacy of  
312        marijuana to treat the qualifying conditions set forth in this  
313        section.

314        d. The potential for addiction.

315        e. The potential effect that marijuana may have on a  
316        patient's coordination, motor skills, and cognition, including a  
317        warning against operating heavy machinery, operating a motor  
318        vehicle, or engaging in activities that require a person to be  
319        alert or respond quickly.

320        f. The potential side effects of marijuana use.

321        g. The risks, benefits, and drug interactions of  
322        marijuana.

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

326        (b) If a qualified physician issues a physician  
327        certification for a qualified patient diagnosed with a  
328        qualifying medical condition pursuant to subsection (2), the  
329        physician must submit the following to the applicable board  
330        within 14 days after issuing the physician certification:

331        1. Documentation supporting the qualified physician's  
332        opinion that the medical condition is of the same kind or class  
333        as the conditions in subsection (2).

334        2. Documentation that establishes the efficacy of  
335        marijuana as treatment for the condition.

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336       3. Documentation supporting the qualified physician's  
337       opinion that the benefits of medical use of marijuana would  
338       likely outweigh the potential health risks for the patient.

339       4. Any other documentation as required by board rule.

340

341       The department must submit such documentation to the Coalition  
342       for Medical Marijuana Research and Education established  
343       pursuant to s. 1004.4351.

344       (c) A qualified physician may issue a physician  
345       certification for marijuana and determine the appropriate dosage  
346       and supply for the patient based on the physician's assessment  
347       of medical necessity.

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