By Senator Gruters

23-01424-22 20221268__

A bill to be entitled

An act relating to cannabis regulation; amending s. 381.986, F.S.; revising the course and examination requirements for qualified physicians and medical directors; prohibiting qualified physicians from engaging in certain advertising for their practices relating to marijuana for medical use; providing exceptions; authorizing qualified physicians to use telehealth to perform patient examinations for renewals of physician certifications for the medical use of marijuana under certain circumstances; requiring qualified physicians to conduct an initial physical examination in person for certain existing qualified patients before using telehealth to conduct any examinations; revising the frequency with which qualified physicians must evaluate existing qualified patients for a physician certification for the medical use of marijuana; revising the membership of the physician certification pattern review panel; revising the data that the panel is required to track and report; revising the frequency with which medical marijuana use registry identification cards must be renewed; prohibiting the Department of Health from renewing the license of a medical marijuana treatment center under certain circumstances; prohibiting medical marijuana treatment centers and certain individuals and entities from employing qualified physicians or having direct or indirect economic interests in qualified physician practices and medical

marijuana testing laboratories; authorizing the department to sample marijuana, rather than only edibles, from dispensing facilities for specified purposes; authorizing the department to sample marijuana delivery devices from dispensing facilities to determine that they are safe for patient use; requiring that a medical marijuana treatment center recall all marijuana, rather than only edibles, under certain circumstances; revising advertising requirements for medical marijuana treatment centers to prohibit radio and television advertising; creating the Medical Marijuana Testing Advisory Council adjunct to the department for a specified purpose; requiring the advisory council to operate in a specified manner; requiring the department to provide staff and administrative support for the advisory council; providing for membership and meetings of the advisory council; requiring the advisory council to submit an annual report to the Governor and Legislature by a specified date; providing requirements for the report; requiring the department to post the report on its website; authorizing the department and certain employees to acquire, possess, test, transport, and lawfully dispose of marijuana and marijuana delivery devices; amending s. 381.988, F.S.; prohibiting certified medical marijuana testing laboratories and specified individuals from having economic interest in or financial relationships with medical marijuana treatment centers; providing construction; authorizing

the department and certain employees to acquire, possess, test, transport, and lawfully dispose of marijuana; amending s. 456.47, F.S.; authorizing telehealth providers to use telehealth to treat and evaluate existing qualified patients for the medical use of marijuana; amending s. 581.217, F.S.; providing and revising definitions; requiring hemp extract and hemp extract products distributed in this state to be registered with the Department of Agriculture and Consumer Services; providing requirements for registration certificates; providing that an applicant who registers a hemp extract or hemp extract product assumes full responsibility for the registration, quality, and quantity of the extract or product manufactured and distributed in this state; providing for the expiration and renewal of such certificates; providing application requirements; authorizing the department to analyze samples of hemp extracts or hemp extract products and inspect their labels to ensure compliance with specified requirements; requiring the department to deny registration certificate applications under certain circumstances; prohibiting the sale of hemp extract and hemp extract products intended for ingestion to persons younger than 21 years of age; authorizing the department to make certain determinations related to public health, safety, and welfare; requiring the department to issue immediate final orders regarding unregistered hemp extracts and hemp extract products under certain

circumstances; authorizing the department to issue and enforce stop-sale orders and revoke or suspend the registration of any hemp extract or hemp extract product under certain circumstances; authorizing the department to impose a specified administrative fine under certain circumstances; reenacting ss. 893.02(3), 916.1085(1)(a), 944.47(1)(a), 951.22(1)(h), and 985.711(1)(a), F.S., to incorporate the amendment made to s. 581.217, F.S., in references thereto; providing an effective date.

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

Section 1. Present paragraph (c) of subsection (3) of section 381.986, Florida Statutes, is redesignated as paragraph (d), present subsections (14) through (17) are redesignated as subsections (15) through (18), respectively, a new paragraph (c) is added to subsection (3), a new subsection (14) is added to that section, and paragraph (i) is added to present subsection (14), and paragraph (a) and present paragraph (c) of subsection (3), paragraphs (a), (g), and (j) of subsection (4), paragraph (a) of subsection (7), and paragraphs (b), (e), and (h) of subsection (8) of that section are amended, to read:

381.986 Medical use of marijuana.—

(3) QUALIFIED PHYSICIANS AND MEDICAL DIRECTORS.—

(a) Before being approved as a qualified physician~~, as defined in paragraph (1)(m),~~ and before each license renewal, a physician must successfully complete a 6-hour ~~2-hour~~ course and subsequent examination offered by the Florida Medical

Association or the Florida Osteopathic Medical Association which address the potential health and safety risks and benefits of, and the appropriate dosages for, prescribing marijuana for medical use and ~~encompass~~ the requirements of this section and any rules adopted hereunder. The course and examination shall be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The price of the course may not exceed $500. A physician who has met the physician education requirements of former s. 381.986(4), Florida Statutes 2016, before June 23, 2017, shall be deemed to be in compliance with this paragraph from June 23, 2017, until 90 days after the course and examination required by this paragraph become available.

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

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

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

conditions:

a. All advertisements must be approved by the department.

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

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

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

(d) ~~(c)~~ Before being employed as a medical director, as defined in paragraph (1)(i), and before each license renewal, a medical director must successfully complete a 6-hour ~~2-hour~~ course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association which address the potential health and safety risks and benefits of, and the appropriate dosages for, prescribing marijuana for medical use and ~~encompass~~ the requirements of this section and any rules adopted hereunder. The course and examination shall be administered at least annually and may be offered in a distance learning format, including an electronic, online format that is available upon request. The price of the course may not exceed $500.

(4) PHYSICIAN CERTIFICATION.—

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

1. Conducted an ~~a physical~~ examination of ~~while physically present in the same room as~~ the patient and a full assessment of the medical history of the patient. For an initial certification, the examination must be a physical examination

conducted while physically present in the same room as the patient. For a certification renewal, the examination may be conducted through telehealth under s. 456.47 only if such examination is conducted by the same qualified physician who conducted the examination for initial certification. If a patient changes his or her qualified physician, the new qualified physician must conduct an initial physical examination of the patient while physically present in the same room before conducting any examination through telehealth.

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

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

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

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

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

7. Registers as the issuer of the physician certification for the named qualified patient on the medical marijuana use

registry in an electronic manner determined by the department, and:

a. Enters into the registry the contents of the physician 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 Food and Drug Administration.

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

d. The potential for addiction.

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

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

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

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

(g) A qualified physician must evaluate an existing qualified patient at least once every 34 ~~30~~ weeks before issuing a new physician certification. The evaluation may be conducted through telehealth as defined in s. 456.47. A physician must:

1. Determine if the patient still meets the requirements to be issued a physician certification under paragraph (a).

2. Identify and document in the qualified patient's medical records whether the qualified patient experienced either of the following related to the medical use of marijuana:

a. An adverse drug interaction with any prescription or nonprescription medication; or

b. A reduction in the use of, or dependence on, other types of controlled substances as defined in s. 893.02.

3. Submit a report with the findings required pursuant to

subparagraph 2. to the department. The department shall submit such reports to the Consortium for Medical Marijuana Clinical Outcomes Research established pursuant to s. 1004.4351.

(j) The Board of Medicine and the Board of Osteopathic Medicine shall jointly create a physician certification pattern review panel that shall review all physician certifications submitted to the medical marijuana use registry and consists of at least one member who is a qualified physician. The panel shall track and report the number of physician certifications and the qualifying medical conditions, dosage, supply amount, total milligrams dispensed for each qualified patient under each qualified physician's care, and form of marijuana certified. The panel shall report the data both by individual qualified physician, including his or her specialty and type of practice, and in the aggregate, by county, and statewide. The physician certification pattern review panel shall, beginning January 1, 2018, submit an annual report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

(7) IDENTIFICATION CARDS.—

(a) The department shall issue medical marijuana use registry identification cards for qualified patients and caregivers who are residents of this state, which must be renewed every 2 years ~~annually~~. The identification cards must be resistant to counterfeiting and tampering and must include, at a minimum, the following:

1. The name, address, and date of birth of the qualified patient or caregiver.

2. A full-face, passport-type, color photograph of the

qualified patient or caregiver taken within the 90 days immediately preceding registration or the Florida driver license or Florida identification card photograph of the qualified patient or caregiver obtained directly from the Department of Highway Safety and Motor Vehicles.

3. Identification as a qualified patient or a caregiver.

4. The unique numeric identifier used for the qualified patient in the medical marijuana use registry.

5. For a caregiver, the name and unique numeric identifier of the caregiver and the qualified patient or patients that the caregiver is assisting.

6. The expiration date of the identification card.

(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(b) An applicant for licensure as a medical marijuana treatment center shall apply to the department on a form prescribed by the department and adopted in rule. The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 establishing a procedure for the issuance and biennial renewal of licenses, including initial application and biennial renewal fees sufficient to cover the costs of implementing and administering this section, and establishing supplemental licensure fees for payment beginning May 1, 2018, sufficient to cover the costs of administering ss. 381.989 and 1004.4351. The department shall identify applicants with strong diversity plans reflecting this state’s commitment to diversity and implement training programs and other educational programs to enable minority persons and minority business enterprises, as defined in s. 288.703, and veteran business enterprises, as defined in s. 295.187, to compete for medical marijuana treatment center

licensure and contracts. Subject to the requirements in subparagraphs (a)2.-4., the department shall issue a license to an applicant if the applicant meets the requirements of this section and pays the initial application fee. The department shall renew the licensure of a medical marijuana treatment center biennially if the licensee meets the requirements of this section and pays the biennial renewal fee. However, the department may not renew the license of a medical marijuana treatment center that has not begun to cultivate, process, and dispense marijuana by the date on which the medical marijuana treatment center is required to renew its license. An individual may not be an applicant, owner, officer, board member, or manager on more than one application for licensure as a medical marijuana treatment center. An individual or entity may not be awarded more than one license as a medical marijuana treatment center. An applicant for licensure as a medical marijuana treatment center must demonstrate:

1. That, for the 5 consecutive years before submitting the application, the applicant has been registered to do business in the state.

2. Possession of a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131.

3. The technical and technological ability to cultivate and produce marijuana, including, but not limited to, low-THC cannabis.

4. The ability to secure the premises, resources, and personnel necessary to operate as a medical marijuana treatment center.

5. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.

6. An infrastructure reasonably located to dispense marijuana to registered qualified patients statewide or regionally as determined by the department.

7. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financial statements to the department.

a. Upon approval, the applicant must post a $5 million performance bond issued by an authorized surety insurance company rated in one of the three highest rating categories by a nationally recognized rating service. However, a medical marijuana treatment center serving at least 1,000 qualified patients is only required to maintain a $2 million performance bond.

b. In lieu of the performance bond required under sub-subparagraph a., the applicant may provide an irrevocable letter of credit payable to the department or provide cash to the department. If provided with cash under this sub-subparagraph, the department shall deposit the cash in the Grants and Donations Trust Fund within the Department of Health, subject to the same conditions as the bond regarding requirements for the applicant to forfeit ownership of the funds. If the funds deposited under this sub-subparagraph generate interest, the amount of that interest shall be used by the department for the administration of this section.

8. That all owners, officers, board members, and managers

have passed a background screening pursuant to subsection (9).

9. The employment of a medical director to supervise the activities of the medical marijuana treatment center.

10. A diversity plan that promotes and ensures the involvement of minority persons and minority business enterprises, as defined in s. 288.703, or veteran business enterprises, as defined in s. 295.187, in ownership, management, and employment. An applicant for licensure renewal must show the effectiveness of the diversity plan by including the following with his or her application for renewal:

a. Representation of minority persons and veterans in the medical marijuana treatment center's workforce;

b. Efforts to recruit minority persons and veterans for employment; and

c. A record of contracts for services with minority business enterprises and veteran business enterprises.

(e) A licensed medical marijuana treatment center shall cultivate, process, transport, and dispense marijuana for medical use. A licensed medical marijuana treatment center may not contract for services directly related to the cultivation, processing, and dispensing of marijuana or marijuana delivery devices, except that a medical marijuana treatment center licensed pursuant to subparagraph (a)1. may contract with a single entity for the cultivation, processing, transporting, and dispensing of marijuana and marijuana delivery devices. A licensed medical marijuana treatment center must, at all times, maintain compliance with the criteria demonstrated and representations made in the initial application and the criteria established in this subsection. Upon request, the department may

grant a medical marijuana treatment center a variance from the representations made in the initial application. Consideration of such a request shall be based upon the individual facts and circumstances surrounding the request. A variance may not be granted unless the requesting medical marijuana treatment center can demonstrate to the department that it has a proposed alternative to the specific representation made in its application which fulfills the same or a similar purpose as the specific representation in a way that the department can reasonably determine will not be a lower standard than the specific representation in the application. A variance may not be granted from the requirements in subparagraph 2. and subparagraphs (b)1. and 2.

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

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

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

c. Upon receipt of an application for a license, the department shall examine the application and, within 30 days after receipt, notify the applicant in writing of any apparent

errors or omissions and request any additional information required.

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

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

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

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

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

5.~~4.~~ All employees of a medical marijuana treatment center

must be 21 years of age or older and have passed a background screening pursuant to subsection (9).

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

7.~~6.~~ When growing marijuana, a medical marijuana treatment center:

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

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

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

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

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

9.~~8.~~ A medical marijuana treatment center that produces edibles must hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and must comply with all the requirements for food establishments

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

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

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

12.~~11.~~ When processing marijuana, a medical marijuana treatment center must:

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

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

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

13.~~d.~~ A medical marijuana treatment center must test ~~the processed~~ marijuana using a medical marijuana testing laboratory before it is dispensed. Results must be verified and signed by two medical marijuana treatment center employees. Before dispensing, the medical marijuana treatment center must determine that the test results indicate that low-THC cannabis meets the definition of low-THC cannabis, the concentration of tetrahydrocannabinol meets the potency requirements of this section, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and all marijuana is safe for human consumption and free from contaminants that are unsafe for human consumption. The

department shall determine by rule which contaminants must be tested for and the maximum levels of each contaminant which are safe for human consumption. The Department of Agriculture and Consumer Services shall assist the department in developing the testing requirements for contaminants that are unsafe for human consumption in edibles. The department shall also determine by rule the procedures for the treatment of marijuana that fails to meet the testing requirements of this section, s. 381.988, or department rule. The department may sample marijuana from ~~select a random sample from edibles available for purchase in~~ a dispensing facility which shall be tested by the department to determine that the marijuana ~~edible~~ meets the potency requirements of this section, is safe for human consumption, and the labeling of the tetrahydrocannabinol and cannabidiol concentration is accurate or to verify medical marijuana testing laboratory results. The department may also sample marijuana delivery devices from a dispensing facility to determine that the marijuana delivery devices are safe for use by qualified patients. A medical marijuana treatment center may not require payment from the department for the sample. A medical marijuana treatment center must recall all marijuana that fails ~~edibles, including all edibles made from the same batch of marijuana, which fail~~ to meet the potency requirements of this section, that is ~~which are~~ unsafe for human consumption, or for which the labeling of the tetrahydrocannabinol and cannabidiol concentration is inaccurate. The medical marijuana treatment center must retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months. The medical marijuana treatment center must contract with a marijuana

testing laboratory to perform audits on the medical marijuana treatment center's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the marijuana or low-THC cannabis meets the requirements of this section and that the marijuana or low-THC cannabis is safe for human consumption. A medical marijuana treatment center shall reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of such audits. A medical marijuana treatment center may use a laboratory that has not been certified by the department under s. 381.988 until such time as at least one laboratory holds the required certification, but in no event later than July 1, 2018.

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

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

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

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

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

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

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

(V) The name of the patient.

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

(VII) The recommended dose.

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

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

15.~~12.~~ The medical marijuana treatment center shall include in each package a patient package insert with information on the specific product dispensed related to:

a. Clinical pharmacology.

b. Indications and use.

c. Dosage and administration.

d. Dosage forms and strengths.

e. Contraindications.

f. Warnings and precautions.

g. Adverse reactions.

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

and the marijuana universal symbol.

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

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

19.~~16.~~ When dispensing marijuana or a marijuana delivery device, a medical marijuana treatment center:

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

b. May not dispense more than one ~~a~~ 70-day supply of marijuana within any 70-day period to a qualified patient or caregiver. May not dispense more than one 35-day supply of

marijuana in a form for smoking within any 35-day period to a qualified patient or caregiver. A 35-day supply of marijuana in a form for smoking may not exceed 2.5 ounces unless an exception to this amount is approved by the department pursuant to paragraph (4)(f).

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

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

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

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

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana

delivery device dispensed; and the name and medical marijuana use registry identification number of the qualified patient or caregiver to whom the marijuana delivery device was dispensed.

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

(h) A medical marijuana treatment center may not engage in radio or television advertising or advertising that is visible to members of the public from any street, sidewalk, park, or other public place, except:

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

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

a. All advertisements must be approved by the department.

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

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

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

(14) MEDICAL MARIJUANA TESTING ADVISORY COUNCIL.—

(a) The Medical Marijuana Testing Advisory Council, an advisory council as defined in s. 20.03(7), is created adjunct to the department for the purpose of providing advice and expertise regarding the adoption and evaluation of policies and standards applicable to marijuana testing. Except as otherwise provided in this section, the advisory council shall operate in a manner consistent with s. 20.052.

(b) The department shall provide staff and administrative support for the advisory council to carry out its duties and responsibilities under this section.

(c) The advisory council is composed of the following members:

1. Two members appointed by the Governor.

2. Two members appointed by the Commissioner of Agriculture.

3. Two members appointed by the President of the Senate.

4. Two members appointed by the Speaker of the House of Representatives.

5. The dean for research of the Institute of Food and Agricultural Sciences of the University of Florida, or his or her designee.

6. The President of Florida Agricultural and Mechanical University, or his or her designee.

7. The president or executive director of a statewide cannabis testing association, appointed by the Governor.

8. The president or executive director of a medical marijuana trade association that does not primarily consist of dispensaries or cannabis laboratory testing facility owners,

appointed by the Governor.

9. A board member of a medical marijuana dispensary based in this state, appointed by the Governor.

10. An owner of a cannabis testing laboratory based in this state, appointed by the Governor.

11. A laboratory scientist who holds a doctorate and who has at least 3 years of experience in cannabis laboratory testing, appointed by the Governor.

12. A registered qualified patient who resides in this state, appointed by the Governor.

(d) The advisory council shall annually elect a chair by a majority vote of the members.

(e) A majority of the members of the advisory council constitutes a quorum.

(f) The advisory council shall meet at least three times annually at the call of the chair.

(g) Advisory council members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.

(h) Beginning July 1, 2023, and each July 1 thereafter, the advisory council shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report that describes the activities of the advisory council during the previous year and includes its findings and recommendations, which must include, but need not be limited to, the prevention of marijuana-related traffic infractions and accidents as a result of driving under the influence, the application of drug-free workplace policies to qualified patients, and the policies and standards applicable to marijuana

testing in this state to ensure marijuana products are safe. The department shall post the report on its website.

(15)~~(14)~~ EXCEPTIONS TO OTHER LAWS.—

(i) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, the department, including an employee of the department acting within the scope of his or her employment, may acquire, possess, test, transport, and lawfully dispose of marijuana and marijuana delivery devices as provided in this section, s. 381.988, and department rule.

Section 2. Present subsection (11) of section 381.988, Florida Statutes, is redesignated as subsection (13), and new subsections (11) and (12) are added to that section, to read:

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

(11) A certified medical marijuana testing laboratory and its officers, directors, and employees may not have a direct or indirect economic interest in, or financial relationship with, a medical marijuana treatment center. This subsection does not prohibit a certified medical marijuana testing laboratory from contracting with a medical marijuana treatment center to provide testing services.

(12) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, the department, including an employee of the department acting within the scope of his or her employment, may acquire, possess, test, transport, and lawfully dispose of marijuana as provided in this section, s. 381.986, and department rule.

Section 3. Paragraph (c) of subsection (2) of section 456.47, Florida Statutes, is amended to read:

456.47 Use of telehealth to provide services.—

(2) PRACTICE STANDARDS.—

(c) A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following:

1. The treatment of a psychiatric disorder;

2. Inpatient treatment at a hospital licensed under chapter 395;

3. The treatment of a patient receiving hospice services as defined in s. 400.601; ~~or~~

4. The treatment of a resident of a nursing home facility as defined in s. 400.021; or

5. The treatment and evaluation of an existing qualified patient for the medical use of marijuana in accordance with s. 381.986.

Section 4. Subsections (3), (7), (10), and paragraph (a) of subsection (12) of section 581.217, Florida Statutes, are amended, and subsection (13) of that section is republished, to read:

581.217 State hemp program.—

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

(a) "Acceptable hemp THC level" has the same meaning as provided in 7 C.F.R. s. 990.1, as that definition exists on the effective date of this act.

(b) "Brand" means the product name appearing on the label of a hemp extract product.

(c) ~~(a)~~ "Certifying agency" has the same meaning as in s.

578.011(8).

(d) ~~(b)~~ "Contaminants unsafe for human consumption" includes, but is not limited to, any microbe, fungus, yeast, mildew, herbicide, pesticide, fungicide, residual solvent, metal, or other contaminant found in any amount that exceeds any of the accepted limitations as determined by rules adopted by the Department of Health in accordance with s. 381.986, or other limitation pursuant to the laws of this state, whichever amount is less.

(e) ~~(c)~~ "Cultivate" means planting, watering, growing, or harvesting hemp.

(f) "Distribute" means to sell or hold with the intent to sell, offer for sale, barter, or otherwise supply to a consumer.

(g) ~~(d)~~ "Hemp" has the same meaning as provided in 7 C.F.R. s. 990.1, as that definition exists on the effective date of this act ~~means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis~~.

(h) ~~(e)~~ "Hemp extract" means a substance or compound intended for ingestion, containing more than trace amounts of cannabinoid, or for inhalation which is derived from or contains hemp and which does not contain other controlled substances. The term does not include synthetic CBD or seeds or seed-derived ingredients that are generally recognized as safe by the United States Food and Drug Administration.

(i) "Hemp extract product" means a product manufactured or

distributed in this state which contains hemp extract and is labeled with a brand name and descriptors, including, but not limited to, flavor, size or volume, or specific cannabinoid content.

(j) ~~(f)~~ "Independent testing laboratory" means a laboratory that:

1. Does not have a direct or indirect interest in the entity whose product is being tested;

2. Does not have a direct or indirect interest in a facility that cultivates, processes, distributes, dispenses, or sells hemp, hemp extract, or hemp extract products in the state or in another jurisdiction or cultivates, processes, distributes, dispenses, or sells marijuana, as defined in s. 381.986; and

3. Is accredited by a third-party accrediting body as a competent testing laboratory pursuant to ISO/IEC 17025 of the International Organization for Standardization.

(k) "Label" means any display of written, printed, or graphic matter on or attached to a package or to the outside individual container or wrapper of a package containing hemp extract or a hemp extract product.

(l) "Labeling" means the labels and any other written, printed, or graphic matter accompanying a package.

(m) "Package" means a sealed, tamperproof retail package or other container designed for the sale of hemp extract or a hemp extract product directly to a consumer. The term does not include shipping containers containing properly labeled inner containers.

(7) DISTRIBUTION ~~AND RETAIL SALE~~ OF HEMP EXTRACT AND HEMP

EXTRACT PRODUCTS.—

(a) Hemp extract and hemp extract products may only be distributed ~~and sold~~ in the state if the extract or product:

1. Has a certificate of analysis prepared by an independent testing laboratory that states:

a. The hemp extract is from ~~the product of~~ a batch tested by the independent testing laboratory;

b. The batch contained an acceptable hemp THC level ~~a total delta-9-tetrahydrocannabinol concentration that did not exceed 0.3 percent pursuant to the testing of a random sample of the batch~~; and

c. The batch does not contain contaminants unsafe for human consumption.

2. Is distributed ~~or sold~~ in a container that includes:

a. A scannable barcode or quick response code linked to the certificate of analysis of the hemp extract or hemp extract product batch by an independent testing laboratory;

b. The batch number;

c. The Internet address of a website where batch information may be obtained;

d. The expiration date; and

e. The number of milligrams of each marketed cannabinoid per serving.

3. Has a registration certificate pursuant to paragraph (b).

(b) Each hemp extract and hemp extract product manufactured or distributed in this state must be registered with the department before distribution. The person or entity whose name appears on the label of the hemp extract or hemp extract product

must apply to the department for a registration certificate on a form prescribed by the department. By applying to register the hemp extract or hemp extract product, the applicant assumes full responsibility for the registration, quality, and quantity of the extract or product manufactured or distributed in this state. A hemp extract or hemp extract product registration certificate is valid for 1 year after the date of issuance and must be renewed annually on or before its expiration date.

1. A completed registration certificate application must be accompanied by all of the following:

a. A sample of the hemp extract or hemp extract product and a copy of the proposed labeling as it will be manufactured or distributed.

b. A certificate of analysis pursuant to paragraph (a) which is dated no more than 30 days before the date upon which the registration application is submitted.

2. The department may analyze a sample of the hemp extract or hemp extract product and inspect the label to ensure that the extract or product:

a. Meets all proposed labeling claims.

b. Meets all requirements under this subsection and department rules.

c. Contains an acceptable hemp THC level.

d. Is not adulterated or misbranded pursuant to chapter 500, chapter 502, or chapter 580.

3. The department shall deny a registration certificate application that does not meet the requirements of this paragraph or department rules.

(c) ~~(b)~~ Hemp extract and hemp extract products manufactured

or distributed ~~or sold~~ in violation of this subsection ~~section~~ shall be considered adulterated or misbranded pursuant to chapter 500, chapter 502, or chapter 580.

(d) ~~(c)~~ Hemp extract and hemp extract products that are intended for inhalation or ingestion ~~and contain hemp extract~~ may not be sold in this state to a person who is younger than ~~under~~ 21 years of age.

(e) The department may determine that an unregistered hemp extract or hemp extract product presents an imminent threat to the public health, safety, and welfare. If the department makes such a determination, it shall issue an immediate final order directing the manufacturer or distributor of the hemp extract or hemp extract product to cease manufacturing or distribution until the extract or product is registered in accordance with this paragraph and department rules.

(10) VIOLATIONS.—

(a) A licensee must complete a corrective action plan if the department determines that the licensee has negligently violated this section or department rules, including negligently:

1. Failing to provide the legal land description and global positioning coordinates pursuant to subsection (5);

2. Failing to obtain a proper license or other required authorization from the department; or

3. Producing *Cannabis sativa* L. that does not contain an acceptable hemp THC level ~~has a total delta-9-tetrahydrocannabinol concentration that exceeds 0.3 percent on a dry-weight basis~~.

(b) The corrective action plan must include:

1. A reasonable date by which the licensee must correct the negligent violation; and

2. A requirement that the licensee periodically report to the department on compliance with this section and department rules for a period of at least 2 calendar years after the date of the violation.

(c) A licensee who negligently violates the corrective action plan under this subsection three times within 5 years is ineligible to cultivate hemp for 5 years following the date of the third violation.

(d) If the department determines that a licensee has violated this section or department rules with a culpable mental state greater than negligence, the department shall immediately report the licensee to the Attorney General and the United States Attorney General.

(e) The department may issue and enforce a stop-sale order, as provided in s. 500.172, and may revoke or suspend the registration for any hemp extract or hemp extract product that the department finds, or has probable cause to believe, is in violation of subsection (7) or department rules.

(f) Notwithstanding any other provision of law, the department may, after notice and hearing, impose an administrative fine pursuant to s. 570.971 in the Class III category for each violation of subsection (7).

(12) RULES.—By August 1, 2019, the department, in consultation with the Department of Health and the Department of Business and Professional Regulation, shall initiate rulemaking to administer the state hemp program. The rules must provide for:

(a) A procedure that uses post-decarboxylation or other similarly reliable methods for testing the acceptable hemp THC level ~~delta-9-tetrahydrocannabinol concentration~~ of cultivated hemp.

(13) APPLICABILITY.—Notwithstanding any other law:

(a) This section does not authorize a licensee to violate any federal or state law or regulation.

(b) This section does not apply to a pilot project developed in accordance with 7 U.S.C. 5940 and s. 1004.4473.

(c) A licensee who negligently violates this section or department rules is not subject to any criminal or civil enforcement action by the state or a local government other than the enforcement of violations of this section as authorized under subsection (10).

Section 5. For the purpose of incorporating the amendment made by this act to section 581.217, Florida Statutes, in a reference thereto, subsection (3) of section 893.02, Florida Statutes, is reenacted to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) "Cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "marijuana," as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986. The term does not

include hemp as defined in s. 581.217 or industrial hemp as defined in s. 1004.4473.

Section 6. For the purpose of incorporating the amendment made by this act to section 581.217, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 916.1085, Florida Statutes, is reenacted to read:

916.1085 Introduction or removal of certain articles unlawful; penalty.—

(1)(a) Except as authorized by law or as specifically authorized by the person in charge of a facility, it is unlawful to introduce into or upon the grounds of any facility under the supervision or control of the department or agency, or to take or attempt to take or send therefrom, any of the following articles, which are declared to be contraband for the purposes of this section:

1. Any intoxicating beverage or beverage which causes or may cause an intoxicating effect;

2. Any controlled substance as defined in chapter 893, marijuana as defined in s. 381.986, hemp as defined in s. 581.217, or industrial hemp as defined in s. 1004.4473;

3. Any firearm or deadly weapon;

4. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any forensic facility under the operation and control of the department or agency. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the person in charge of the forensic facility;

5. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any forensic facility under the operation and control of the department or agency; or

6. Any other item as determined by the department or the agency, and as designated by rule or by written institutional policies, to be hazardous to the welfare of clients or the operation of the facility.

Section 7. For the purpose of incorporating the amendment made by this act to section 581.217, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 944.47, Florida Statutes, is reenacted to read:

944.47 Introduction, removal, or possession of contraband; penalty.—

(1)(a) Except through regular channels as authorized by the officer in charge of the correctional institution, it is unlawful to introduce into or upon the grounds of any state correctional institution, or to take or attempt to take or send or attempt to send therefrom, any of the following articles which are hereby declared to be contraband for the purposes of this section, to wit:

1. Any written or recorded communication or any currency or coin given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

2. Any article of food or clothing given or transmitted, or intended to be given or transmitted, to any inmate of any state correctional institution.

3. Any intoxicating beverage or beverage which causes or

may cause an intoxicating effect.

4. Any controlled substance as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug having a hypnotic, stimulating, or depressing effect.

5. Any firearm or weapon of any kind or any explosive substance.

6. Any cellular telephone or other portable communication device intentionally and unlawfully introduced inside the secure perimeter of any state correctional institution without prior authorization or consent from the officer in charge of such correctional institution. As used in this subparagraph, the term "portable communication device" means any device carried, worn, or stored which is designed or intended to receive or transmit verbal or written messages, access or store data, or connect electronically to the Internet or any other electronic device and which allows communications in any form. Such devices include, but are not limited to, portable two-way pagers, hand-held radios, cellular telephones, Blackberry-type devices, personal digital assistants or PDA's, laptop computers, or any components of these devices which are intended to be used to assemble such devices. The term also includes any new technology that is developed for similar purposes. Excluded from this definition is any device having communication capabilities which has been approved or issued by the department for investigative or institutional security purposes or for conducting other state business.

7. Any vapor-generating electronic device as defined in s.

386.203, intentionally and unlawfully introduced inside the secure perimeter of any state correctional institution.

Section 8. For the purpose of incorporating the amendment made by this act to section 581.217, Florida Statutes, in a reference thereto, paragraph (h) of subsection (1) of section 951.22, Florida Statutes, is reenacted to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles, which are contraband:

(h) Any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or controlled substances as defined in s. 893.02(4).

Section 9. For the purpose of incorporating the amendment made by this act to section 581.217, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 985.711, Florida Statutes, is reenacted to read:

985.711 Introduction, removal, or possession of certain articles unlawful; penalty.—

(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention

facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:

1. Any unauthorized article of food or clothing.

2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.

3. Any controlled substance as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.

4. Any firearm or weapon of any kind or any explosive substance.

5. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term "portable communication device" does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.

6. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

Section 10. This act shall take effect upon becoming a law.