SECTION 1. The following is added as an amendment to the Arkansas Constitution:

§ 1. Short title.

This amendment shall be known and cited as the "Arkansas Medical Marijuana Amendment of 2016".

§ 2. Definitions.

As used in this amendment:

(1) "Acquire" or "acquisition" means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with this amendment and any rules promulgated under this amendment;

(2) "Assist" or "assisting" means helping a qualifying patient make medical use of marijuana by enabling the medical use by any means authorized under this amendment;

(3) "Cardholder" means a qualifying patient, a dispensary agent, a cultivation facility agent, or a designated caregiver;

(4) "Cultivation facility" means an entity that:

(A) Has been licensed by the Medical Marijuana Commission under § 8 of this amendment; and

(B) Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary;

(5) "Cultivation facility agent" means an employee, supervisor, or agent of a cultivation facility who:

(A) Is twenty-one (21) years of age or older;

(B) Works at the cultivation facility; and

(C) Has registered with the Alcoholic Beverage Control Division under § 9 of this amendment;

(6)(A) "Designated caregiver" means a person who is at least twenty-one (21) years of age, has not been convicted of an excluded felony offense, has agreed to assist a physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health under § 5 of this amendment.

(B) "Designated caregiver" includes without limitation a parent:

(i) Of a qualifying patient who is under the age of eighteen (18); and

(ii) Required to register as a designated caregiver under this amendment;

(7) "Dispensary" means an entity that has been licensed by the Medical Marijuana Commission under § 8 of this amendment;

(8) "Dispensary agent" means:

(A) An employee, supervisor, volunteer, or agent of a dispensary who:

(i) Is twenty-one (21) years of age or older;

(ii) Works at the dispensary; and

(iii) Has registered with the division under § 9 of this amendment; and

(B) An owner, officer, or board member of a dispensary who has registered with the division under § 8 of this amendment;

(9) "Enclosed, locked facility" means a room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual;

(10) "Excluded felony offense" means:

(A)(i) A felony involving violence.

(ii) However, an offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or

(B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court or for which a pardon has been granted;

(11) "Medical use" means the acquisition, possession, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's qualifying medical condition or symptoms associated with the qualifying patient's qualifying medical condition;

(12) "Physician" means a doctor of medicine or doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice in the state of Arkansas and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances;

(13) "Qualifying medical condition" means one (1) or more of the following:

(A) Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette's syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

(B) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis; and

(C) Any other medical condition or its treatment approved by the Department of

Health under § 4 of this amendment;

(14) "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the department under § 5 of this amendment;

(15) "Registry identification card" means a document issued by the department or the division that identifies a person as a qualifying patient, a dispensary agent, a cultivation facility agent, or a designated caregiver;

(16) "Sealed" means to expunge, remove, sequester, and treat as confidential the record or records of a felony offense;

(17)(A) "Usable marijuana" means the stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof.

(B) "Usable marijuana" does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food or drink;

(18) "Visiting qualifying patient" means a patient with a qualifying medical condition who is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days and who is in actual possession of a registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and pertains to a qualifying medical condition under this section; and

(19)(A) "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed a full assessment of the qualifying patient's medical history and current medical condition made in the course of a physician-patient relationship, the qualifying patient has a qualifying medical condition and the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient.

(B) A written certification shall specify the qualifying patient's qualifying medical condition, which also shall be noted in the qualifying patient's medical records.

§ 3. Protections for the medical use of marijuana.

(a) A qualifying patient or designated caregiver in actual possession of a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for the medical use of marijuana in accordance with this amendment if the qualifying patient or designated caregiver possesses not more than two and one-half ounces (2 ½ oz.) of usable marijuana.

(b)(1) A qualifying patient or designated caregiver is presumed to be lawfully engaged in the medical use of marijuana in accordance with this amendment if the qualifying patient or designated caregiver is in actual possession of a registry identification card and possesses an amount of usable marijuana that does not exceed the amount allowed under this amendment.

(2) The presumption made in subdivision (b)(1) of this section may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's qualifying medical condition or symptoms associated with the qualifying medical condition in accordance with this amendment.

(c) A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for giving, or offering to give, up to two and one-half ounces (2 ½ oz.) of usable marijuana to a qualifying patient or designated caregiver for the qualifying patient's medical use when nothing of value is transferred in return.

(d) A designated caregiver is not prohibited from receiving compensation or reimbursement of expenses from a qualifying patient for assisting a qualifying patient with the medical use of marijuana.

(e) A dispensary may:

(1) Accept marijuana seedlings, plants, or usable marijuana from:

(A) Cultivation facilities;

(B) Other dispensaries in Arkansas; and

(C) If permissible under federal law, out-of-state dispensaries;

(2) Transfer or sell marijuana seedlings, plants, or usable marijuana to:

(A) Cultivation facilities;

(B) Other dispensaries in Arkansas; and

(C) If permissible under federal law, out-of-state dispensaries; and

(3) Accept marijuana seeds from any individual lawfully entitled to possess marijuana seeds, seedlings, or plants under the laws of the state in which the individual resides.

(f)(1) A school or landlord shall not refuse to enroll, refuse to lease to, or otherwise penalize an individual solely for his or her status as a qualifying patient or designated caregiver unless doing so would put the school or landlord in violation of federal law or regulations.

(2) For the purposes of medical care, including without limitation organ transplants, a qualifying patient's authorized use of marijuana in accordance with this amendment is considered the equivalent of the authorized use of any other medication used at the direction of a physician and does not constitute the use of an illicit substance.

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

(g) A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied custody, visitation, or parenting time solely for conduct allowed under this amendment, nor shall there be:

(1) A finding of abuse solely for conduct allowed under this amendment; or

(2) A presumption of neglect or child endangerment for conduct allowed under this amendment.

(h)(1) A physician shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by the Arkansas State Medical Board or by any other business, occupational, or professional licensing board or bureau, solely for providing a written certification.

(2) Subdivision (g)(1) of this section does not prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or for otherwise violating the applicable physician-patient standard of care.

(i) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for providing a qualifying patient or designated caregiver with marijuana paraphernalia for purposes of facilitating the qualifying patient's medical use of marijuana.

(j) Any marijuana, marijuana paraphernalia, licit property, or interest in licit property, that is possessed, owned, or used exclusively in connection with the medical use of marijuana as allowed under this amendment, or property incidental to such use, shall not be seized or forfeited.

(k) A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this amendment or for directly assisting a physically disabled qualifying patient with the medical use of marijuana.

(l)(1) A registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows a visiting qualifying patient to possess or use marijuana for medical use in the jurisdiction of issuance has the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the Department of Health if the same qualifying medical condition exists.

(2)(A) A visiting qualifying patient may obtain marijuana from a dispensary upon producing evidence of his or her registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States.

(B) The department shall promulgate necessary rules concerning a visiting qualifying patient obtaining marijuana from a dispensary.

§ 4. Qualifying Patient — Administration and Enforcement — Rules.

(a)(1) The Department of Health shall administer and enforce the provisions of this amendment concerning qualifying patients, qualifying medical conditions, and designated caregivers, including without limitation the issuance of a registry identification card to a qualifying patient and designated

caregiver.

(2) The department shall adopt rules necessary to:

(A) Carry out the purposes of this amendment; and

(B) Perform its duties under this amendment.

(3) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) Not later than one hundred twenty (120) days after the effective date of this amendment, the department shall adopt rules governing:

(1) The manner in which it considers applications for and renewals of registry identification cards;

(2) Labeling and testing standards for marijuana distributed to qualifying patients; and

(3) Any other matters necessary for the department's fair, impartial, stringent, and comprehensive administration of this amendment.

(c)(1) Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules that govern the manner in which the department considers petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment.

(2) In considering a petition, the department shall add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of marijuana, taking into account the positive and negative health effects of such use.

(3)(A) The department shall, after hearing, approve or deny a petition within one hundred twenty (120) days of submission of the petition.

(B) The approval or denial of a petition constitutes final agency action, subject to judicial review, and jurisdiction for judicial review is vested in the Pulaski County Circuit Court.

(d) The department shall adopt rules within one hundred twenty (120) days of the effective date of this amendment that govern the manner in which a designated caregiver assists a physically disabled qualifying patient or a qualifying patient under the age of eighteen (18) with the medical use of marijuana.

§ 5. Registry identification cards.

(a) The Department of Health shall issue registry identification cards to qualifying patients and designated caregivers who submit in accordance with the rules promulgated by the department:

(1) Written certification issued by a physician within thirty (30) days of the application;

(2)(A) A reasonable application or renewal fee as established by the department by rule.

(B) The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income;

(3) The name, address, and date of birth of the qualifying patient or designated

caregiver, except that if the applicant is homeless, no address is required;

(4) For a designated caregiver application:

(A) The name of the physically disabled qualifying patient or qualifying patient under the age of eighteen (18) whom the applicant will be assisting; and

(B) Documentation from the qualifying patient's physician indicating that the qualifying patient is physically disabled or under the age of eighteen (18);

(5) The name, address, and telephone number of the qualifying patient's physician; and

(6) A signed statement from the qualifying patient or designated caregiver pledging not to divert marijuana to anyone who is not allowed to possess marijuana under this amendment.

(b) The department shall not issue a registry identification card to a qualifying patient who is under eighteen (18) years of age unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

(2) A parent, guardian, or person having legal custody:

(A) Consents in writing to:

(i) Allow the qualifying patient's medical use of marijuana;

(ii) Assist the qualifying patient in the medical use of marijuana; and

(iii) Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient; and

(B) Registers as a designated caregiver under this amendment.

(c)(1) The department shall review the information contained in an application or renewal submitted under this section within fourteen (14) days of receiving it.

(2) The department shall deny an application or renewal if the:

(A) Applicant previously had a registry identification card revoked; or

(B) Department determines the written certification was not made in the context of a physician-patient relationship or that the written certification was fraudulently obtained.

(3) Rejection of an application or renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in the Pulaski County Circuit Court.

(d)(1) A registry identification card expires one (1) year after the date of issuance unless the physician states in the written certification that he or she believes the qualifying patient would benefit from the medical use of marijuana only until a specified earlier date.

(2) If the written certification specifies an earlier date, the registry identification card shall expire on that date.

(f)(1) An application or renewal and supporting information submitted by a qualifying patient or designated caregiver under this amendment, including without limitation information regarding the

qualifying patient's physician, are considered confidential medical records.

(2)(A)(i) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.

(ii) The department may share information from the confidential list under this subsection with the Alcoholic Beverage Control Division and the Medical Marijuana Commission as necessary. Confidential information shared with the division or commission shall remain confidential while in the division's or commission's possession.

(B) Individual names and other identifying information on the confidential list are confidential, exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., and not subject to disclosure except to authorized employees of the department, division, and commission as necessary to perform official duties of the department, division, and commission.

(3) The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including without limitation an employee or official of the department, division, commission, or another state agency or local government, who knowingly breaches the confidentiality of information obtained under this amendment commits a Class A misdemeanor.

(g)(1) Except as provided in § 3 of this amendment, a cardholder who transfers marijuana to a person who is not a qualifying patient or designated caregiver under this amendment shall have his or her registry identification card revoked and shall be subject to any other penalties established by law.

(2) The department may revoke the registry identification card of any cardholder who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law.

(3) This subsection does not prohibit:

(A) A qualifying patient or designated caregiver from giving up to two and one-half ounces (2 ½ oz.) of usable marijuana to another qualifying patient or designated caregiver as set forth in § 3 of this amendment; or

(B) The transfer of marijuana seedlings, plants, or usable marijuana as set forth in § 3 of this amendment.

(h) The department, division, and commission shall submit to the General Assembly an annual report that does not disclose any identifying information about cardholders or physicians but contains at a minimum:

(1) The number of applications and renewals filed for registry identification cards;

(2) The nature of the qualifying medical conditions of the qualifying patients;

(3) The number of registry identification cards revoked and the number of licenses to operate a dispensary and licenses to operate a cultivation facility revoked;

(4) The number of physicians providing written certifications for qualifying patients;

(5) The number of licensed dispensaries;

(6) The number of licensed cultivation facilities;

(7) The number of dispensary agents; and

(8) The number of cultivation facility agents.

§ 6. Scope.

(a) This amendment does not permit a person to:

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

(2) Possess, smoke, or otherwise engage in the use of marijuana:

(A) On a school bus;

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

(C) At a drug or alcohol treatment facility;

(D) At a community or recreation center;

(E) In a correctional facility;

(F) On any form of public transportation; or

(G) In a public place; or

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

(b) This amendment does not require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana unless federal law requires reimbursement;

(2) An employer to accommodate the ingestion of marijuana in a workplace or an employee working while under the influence of marijuana;

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

(4) An individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is inebriated as a result of his or her medical used of marijuana; or

(5) A landlord to permit a qualifying patient to smoke marijuana on or in leased property, except that a landlord may not prohibit the medical use of marijuana through means other than smoking on leased property by a qualifying patient.

§ 7. Affirmative defense and dismissal for medical use of marijuana.

(a) Except as provided in § 6 of this amendment and this section, an individual may assert a

medical purpose for using marijuana as an affirmative defense to prosecution for an offense involving marijuana intended for the individual's medical use, and this defense shall be presumed valid and the prosecution shall be dismissed where the evidence demonstrates that the individual is:

(1) A qualifying patient or a designated caregiver; and

(2) In compliance with the conditions set forth in § 3 of this amendment.

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

(1) The individual's registry identification card had been revoked at the time of the alleged offense; or

(2) The purposes for the possession of marijuana were not solely for medical use.

(c) An individual is not required to be in actual physical possession of a registry identification card to raise the affirmative defense set forth in this section.

(d) If an individual demonstrates a medical use of marijuana under this section, except as provided in § 6 of this amendment, the individual shall not be subject to the following:

(1) Disciplinary action by a business, occupational, or professional licensing board or bureau; or

(2) Forfeiture of any interest in or right to nonmarijuana, licit property.

§ 8. Licensing of dispensaries and cultivation facilities.

(a)(1) Dispensaries and cultivation facilities shall be licensed by the Medical Marijuana Commission.

(2) The commission shall administer and regulate the licensing of dispensaries and cultivation facilities, including the issuance of a:

(i) License to operate a dispensary; and

(ii) License to operate a cultivation facility.

(3) The Alcoholic Beverage Control Division shall administer and enforce the provisions of this amendment concerning dispensaries and cultivation facilities.

(b)(1) The commission and division shall each adopt rules necessary to:

(A) Carry out the purposes of this amendment; and

(B) Perform its duties under this amendment.

(2) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) The following individuals associated with a dispensary or cultivation facility shall be current residents of Arkansas who have resided in the state for the previous seven (7) consecutive years:

(1) The individual(s) submitting an application to license a dispensary or cultivation facility; and,

(2) Sixty percent (60%) of the individuals owning an interest in a dispensary or cultivation facility.

(d) Not later than one hundred twenty (120) days after the effective date of this amendment, the commission shall adopt rules governing:

(1) The manner in which the commission considers applications for and renewals of licenses for dispensaries and cultivation facilities;

(2) The form and content of registration and renewal applications for dispensaries and cultivation facilities; and

(3) Any other matters necessary for the commission's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

(e) Not later than one hundred twenty (120) days after the effective date of this amendment, the division shall adopt rules governing:

(1) Oversight requirements for dispensaries and cultivation facilities;

(2) Recordkeeping requirements for dispensaries and cultivation facilities;

(3) Security requirements for dispensaries and cultivation facilities;

(4) Personnel requirements for dispensaries and cultivation facilities;

(5) The manufacture, processing, packaging, and dispensing of usable marijuana to qualifying patients and designated caregivers;

(6) Procedures for suspending or terminating the licenses of dispensaries and cultivation facilities that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

(7) Procedures for inspections and investigations of dispensaries and cultivation facilities;

(8) Advertising restrictions for dispensaries and cultivation facilities;

(9) Procedures for the disposal or other use of marijuana not dispensed to a qualifying patient; and

(10) Any other matters necessary for the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

(f)(1) Not later than one hundred twenty (120) days after the effective date of this amendment, the commission shall adopt rules establishing license application and license renewal fees for dispensary and cultivation facility licenses.

(2)(A) The initial dispensary application fee shall be a maximum of seven thousand five hundred dollars ($7,500).

(B) The initial cultivation facility application fee shall be a maximum of fifteen thousand dollars ($15,000).

(g)(1) Not later than June 1, 2017, the commission shall begin accepting applications for licenses to operate a dispensary and cultivation facility.

(2) The application shall include without limitation the following:

(A) The application fee;

(B) The legal name of the dispensary or cultivation facility;

(C) The physical address of the:

(i) Dispensary, which location may not be within one thousand five hundred feet (1,500') of a public or private school, church, or daycare center existing before the date of the dispensary application; or

(ii) Cultivation facility, which location may not be within three thousand feet (3,000') of a public or private school, church, or daycare center existing before the date of the cultivation facility application;

(D) The name, address, and date of birth of each dispensary agent or cultivation facility agent; and

(E) If the city, town, or county in which the dispensary or cultivation facility would be located has enacted zoning restrictions, a sworn statement certifying that the dispensary or cultivation facility will operate in compliance with the restrictions.

(2) None of the owners, board members, or officers of the dispensary or cultivation facility:

(A) Shall have been convicted of an excluded felony offense;

(B) Shall have previously been an owner of a dispensary or cultivation facility that has had its license revoked; and

(C) Shall be under twenty-one (21) years of age.

(h) The commission shall issue at least twenty (20) but no more than forty (40) dispensary licenses.

(i) There shall be no more than four (4) dispensaries in any one (1) county.

(j) The commission shall issue at least four (4) but no more than eight (8) cultivation facility licenses.

(k) The commission may conduct a criminal records check in order to carry out this section.

(l)(1) No individual shall own an interest in more than:

(1) One (1) cultivation facility; and,

(2) One (1) dispensary.

(m)(1) A dispensary licensed under this section may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana paraphernalia, and related supplies and educational materials to a qualifying patient or designated caregiver.

(2) A dispensary may receive compensation for providing the goods and services allowed by this section.

(3)(A) A dispensary may grow or possess:

(i) Fifty (50) mature marijuana plants at any one (1) time plus seedlings;

and

(ii) All usable marijuana derived from the plants under subdivision (m)(3)(A)(i) of this section or predecessor plants.

(B) A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

(4)(A)(i) A cultivation facility may cultivate and possess usable marijuana in an amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the commission with the assistance of the Department of Health.

(ii) However, a cultivation facility shall not sell marijuana in any form except to a dispensary or other cultivation facility.

(B) A cultivation facility may also possess marijuana seeds.

(C) The commission with the assistance of the Department of Health shall promulgate rules determining the amount of marijuana reasonably necessary under subdivision (m)(4)(A) of this section.

(5) A cultivation facility may receive compensation for providing the goods and services allowed by this section.

(n)(1) A dispensary license and cultivation facility license shall expire one (1) year after the date of issuance.

(2) The commission shall issue a renewal dispensary license or a renewal cultivation facility license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.

(o) The commission may charge a reasonable fee as established by rule for the issuance of a renewal license.

§ 9. Registration and certification of cultivation facility agents and dispensary agents.

(a)(1) Cultivation facility agents and dispensary agents shall register with the Alcoholic Beverage Control Division.

(2) The division shall administer and enforce the provisions of this amendment concerning cultivation facility agents and dispensary agents, including without limitation the issuance of a:

(A) Registry identification card to a dispensary agent; and

(B) Registry identification card to a cultivation facility agent.

(b)(1) The division shall adopt rules necessary to:

(A) Carry out the purposes of this amendment; and

(B) Perform its duties under this amendment.

(2) Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) Not later than one hundred twenty (120) days after the effective date of this amendment, the

division shall adopt rules governing:

(1) The manner in which the division considers applications for and renewals of registry identification cards for dispensary agents and cultivation facility agents;

(2) The form and content of registration and renewal applications for dispensary agents and cultivation facility agents;

(3) Procedures for suspending or terminating the registration of dispensary agents and cultivation facility agents who violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties; and

(4) Any other matters necessary for the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

(d) The division may conduct criminal records checks in order to carry out this section.

(e) Except as provided herein, the division shall issue each dispensary agent and cultivation facility agent a registry identification card within ten (10) days of receipt of:

(1) The person's name, address, and date of birth under this amendment; and

(2) A reasonable fee in an amount established by rule of the division.

(f)(1) The division shall not issue a registry identification card to a dispensary agent or cultivation facility agent who has been convicted of an excluded felony offense.

(2) The division may conduct a criminal background check of each dispensary agent or cultivation facility agent in order to carry out this provision.

(3) The division shall notify the dispensary or cultivation facility in writing of the reason for denying the registry identification card.

(g)(1) A registry identification card for a dispensary agent or cultivation facility agent shall expire one (1) year after the date of issuance.

(2) A registry identification card of a dispensary agent or cultivation facility agent expires upon notification to the division by a dispensary or cultivation facility that the person ceases to work at the dispensary or cultivation facility.

(h) The division may charge a reasonable fee as established by rule for the issuance of a new, renewal or replacement registry identification card.

(i)(1) The division may revoke the registry identification card of a dispensary agent or cultivation facility agent who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law for the violation.

(2) The division may revoke or suspend the dispensary license or cultivation facility license of a dispensary or cultivation facility that the division determines knowingly aided or facilitated a violation of any provision of this amendment, and the licenseholder is subject to any other penalties established in law for the violation.

§ 10. Dispensary and cultivation facility inspections and requirements.

(a) Dispensaries and cultivation facilities are highly regulated by the state, and a dispensary and cultivation facility is therefore subject to reasonable inspection by the Alcoholic Beverage Control Division.

(b)(1) This subsection governs the operations of dispensaries and cultivation facilities.

(2) A dispensary and a cultivation facility shall be an entity incorporated in the State of Arkansas.

(3) A dispensary and cultivation facility shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

(4) A dispensary and cultivation facility shall have procedures in place to ensure accurate recordkeeping.

(5) Each dispensary shall keep the following records, dating back at least three (3) years:

(A) Records of the disposal of marijuana that is not distributed by the dispensary to qualifying patients; and

(B) A record of each transaction, including the amount of marijuana dispensed, the amount of compensation, and the registry identification number of the qualifying patient or designated caregiver.

(6) Each dispensary and cultivation facility shall:

(A) Conduct an initial comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location on the date the dispensary first dispenses usable marijuana or the cultivation facility first cultivates, prepares, manufactures, processes, or packages usable marijuana; and

(B) Conduct a biannual comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location.

(7) All cultivation of marijuana shall take place in an enclosed, locked facility.

(8)(A) A qualifying patient or designated caregiver acting on behalf of a qualifying patient shall not be dispensed more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana during a fourteen-day period.

(B) A dispensary or a dispensary agent may not dispense more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana to either a qualifying patient or designated caregiver acting on behalf of a qualifying patient during a fourteen-day period.

(C) Each time a dispensary agent dispenses usable marijuana to a qualifying patient or designated caregiver, he or she shall verify that the dispensing of usable marijuana would not cause the qualifying patient or designated caregiver to receive more usable marijuana than is permitted in a fourteen-day period.

(D) Each time usable marijuana is dispensed, the dispensary agent shall:

(i) Record the date the usable marijuana was dispensed and the amount dispensed; and

(ii) Notify the Department of Health in the manner required by the department.

(E) The department shall maintain a database that enables a dispensary to verify that dispensing usable marijuana to a qualifying patient or designated caregiver will not cause the qualifying patient or designated caregiver to exceed the amount allowed by law.

(F) All records shall be kept according to the registry identification number of the qualifying patient or designated caregiver.

(G) It is the specific intent of this Amendment that no qualifying patient or designated caregiver acting on behalf of a qualifying patient be dispensed more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana during a fourteen-day period whether the usable marijuana is dispensed from one or any combination of dispensaries.

(9) The dispensary records with patient information shall be treated as confidential medical records.

§ 11. Immunity for dispensaries and cultivation facilities.

(a) A dispensary or cultivation facility is not subject to the following:

(1) Prosecution for the acquisition, possession, cultivation, processing, preparation, manufacture, delivery, transfer, transport, sale, supply, or dispensing of marijuana and related supplies in accordance with the provisions of this amendment and any rule adopted under this amendment;

(2) Inspection, except under § 10 of this amendment or upon a search warrant issued by a court or judicial officer;

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

(4) Imposition of a penalty or denial of a right or privilege, including without limitation imposition of a civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this amendment.

(b)(1) A dispensary agent or cultivation facility agent shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including without limitation civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a dispensary or cultivation facility to engage in acts permitted by this amendment.

(2)(A) A dispensary agent or cultivation facility agent may possess and manufacture marijuana at the dispensary or cultivation facility location or locations for which the dispensary agent or cultivation facility agent is registered or when transferring marijuana under this section.

(B)(i) A dispensary agent who is a volunteer may possess and manufacture marijuana at a dispensary location.

(ii) A dispensary agent who is a volunteer may not dispense or transport

marijuana.

(3) A cultivation facility shall label the marijuana that is moved between the cultivation facility and a dispensary or other cultivation facility with a trip ticket that identifies the cultivation facility by identification number, the time, date, origin, and destination of the marijuana being transported, and the amount and form of marijuana that is being transported.

§ 12. Prohibitions for dispensaries.

(a) Except as provided in § 3 of this amendment, a dispensary may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or designated caregiver.

(b)(1) Except as provided in § 3 of this amendment, the Alcoholic Beverage Control Division shall immediately revoke the registry identification card of a dispensary agent who has dispensed, delivered, or otherwise transferred marijuana to a person other than a qualifying patient or designated caregiver, and that dispensary agent shall be disqualified from serving as a dispensary agent.

(2) A dispensary employing a dispensary agent found to violate subdivision (b)(1) of this section is not subject to penalties, including without limitation the revocation of its license, for the actions of a dispensary agent unless the dispensary knowingly aided or facilitated the violation.

§ 13. Prohibitions for cultivation facilities.

A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary or other cultivation facility.

§ 14. Local regulation.

(a) This amendment does not prohibit a city, incorporated town, or county of this state from enacting reasonable zoning regulations applicable to dispensaries or cultivation facilities, provided that those zoning regulations are the same as those for a licensed retail pharmacy.

(b) This section does not allow a city, incorporated town, or county to prohibit the operation of any dispensaries or cultivation facilities in the city, incorporated town, or county unless such a prohibition is approved at an election under Article 5, § 1, of this constitution.

§ 15. Prohibited conduct for physicians.

A physician shall not:

(1) Accept, solicit, or offer any form of pecuniary remuneration from or to a dispensary or cultivation facility provided however, that this does not prohibit a physician who is also a qualifying patient from purchasing usable marijuana from a dispensary;

(2) Offer a discount or other thing of value to a qualifying patient who uses or agrees to use a particular dispensary;

(3) Examine a patient for purposes of diagnosing a qualifying medical condition at a dispensary; or

(4) Hold an economic interest in a dispensary or cultivation facility if the physician certifies the qualifying medical condition of a patient for medical use of marijuana.

§ 16. Failure to adopt rules or issue registry identification cards or licenses.

If the Department of Health, Alcoholic Beverage Control Division, or Medical Marijuana Commission fails to adopt rules to implement this amendment within the time prescribed or fails to issue the minimum number of dispensary licenses or cultivation facility licenses, any person who would be a qualifying patient under this amendment may commence a mandamus action in Pulaski County Circuit Court to compel the department, division, or commission to perform the actions mandated under the provisions of this amendment.

§ 17. Taxation and distribution of proceeds.

(a) The sale of usable marijuana is subject to all state and local sales taxes at the same rate as other goods.

(b) The states sales tax revenues received by the Department of Finance and Administration from the sale of usable marijuana under this amendment shall be distributed as follows:

(1) Five percent (5%) to the Department of Health paying account or its successor fund or fund account;

(2) Two percent (2%) to the Miscellaneous Agencies Fund or its successor fund or fund account to be used exclusively by the Department of Finance and Administration - Alcoholic Beverage Control Administration Division or its successor;

(3) Two percent (2%) to the Miscellaneous Agencies Fund or its successor fund or fund account to be used exclusively by the Department of Finance and Administration- Alcoholic Beverage Control Enforcement Division or its successor;

(4)(A) One percent (1%) to a special revenue account credited to the Medical Marijuana Commission Fund or its successor fund or fund account to be used exclusively by the Medical Marijuana Commission.

(B) The General Assembly shall by law created the Medical Marijuana Commission Fund no later than July 1, 2017;

(5)(A) Ten percent (10%) to the Skills Development Fund or its successor fund or fund account, to be used exclusively by the Office of Skills Development of the Department of Career Education or its successor for the development and implementation of workforce training programs.

(B) The Office of Skills Development of the Department of Career Education or its successor may use revenues received under subdivision (b)(6)(A) of this section to:

(i) Supplement or enhance existing programs, including without limitation grant programs; or

(ii) Establish new programs, including without limitation grant programs.

(C) If the Office of Skills Development of the Department of Career Education or its successor establishes a new program under subdivision (b)(6)(B) of this section, it shall promulgate rules to implement the program;

(6)(A) Fifty percent (50%) to a special revenue account credited to the Vocational and Technical Training Special Revenue Fund or its successor fund or fund account, to be used exclusively by the Department of Finance and Administration or its successor for grants to technical institutes and vocational-technical schools for personal services and operating expenses, scholarships, research, development and delivery of education coursework and math and science coursework, land acquisition, equipment acquisition, infrastructure costs, including without limitation site development costs, construction, improvements, landscaping, renovation, dormitory renovation, major maintenance, and the building of roads and parking lots.

(B) The General Assembly shall by law create the Vocational and Technical Training Special Revenue Fund no later than July 1, 2017.

(C) The Department of Finance and Administration or its successor shall promulgate rules to implement the grant program described in this subdivision (b)(7) by July 1, 2017;

(7) Thirty percent (30%) to the General Revenue Fund.

(c) An entity receiving a grant of state sales tax revenue under subsection (b) of this section may make one (1) or more successive grant applications for the same project or projects.

§ 18. Costs of administration and regulation of amendment.

(a) The following funds shall be used by the Department of Health to perform its duties under this amendment:

(1) State sales tax revenues received under § 17 of this amendment;

(2)(A) The revenue generated from fees, penalties, and other assessments of the department provided for by this amendment, including without limitation:

(i) Registry identification card application and renewal fees; and

(ii) Fees for replacement registry identification cards.

(B) Revenue generated from fees, penalties, and other assessments under this amendment shall be used solely for the performance of the department's duties under this amendment and shall be used for no other purpose;

(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

(b) The following funds shall be used by the Alcoholic Beverage Control Division to perform its duties under this amendment:

(1) State sales tax revenues received under § 17 of this amendment;

(2)(A) The revenue generated from fees, penalties, and other assessments of the division provided for by this amendment.

(B) Revenue generated from fees, penalties, and other assessments of the division under this amendment shall be used solely for the performance of the division's duties under this amendment and shall be used for no other purpose;

(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

(c) The following funds shall be used by the Medical Marijuana Commission to perform its duties under this amendment:

(1) State sales tax revenues received under § 17 of this amendment;

(2) The revenue generated from fees, penalties, and other assessments of the commission provided for by this amendment, including without limitation dispensary and cultivation facility application fees, licensing fees, and renewal fees;

(3) Private donations, if such funds are available; and

(4) Other appropriations by the General Assembly, if such funds are available.

§ 19. Medical Marijuana Commission - Creation.

(a)(1) There is created a Medical Marijuana Commission to determine the qualifications for receiving a license to operate a dispensary or a license to operate a cultivation facility and the awarding of licenses.

(2) Each member of the commission shall serve a term of four (4) years.

(3) The commission shall consist of five (5) members as follows:

(A) Two (2) members appointed by the President Pro Tempore of the Senate;

(B) Two (2) members appointed by the Speaker of the House of Representatives; and

(C) One (1) member appointed by the Governor.

(4) Vacancies on the commission shall be filled in the manner of the original appointment.

(5) The commission shall select one (1) of its members as chair.

(6) An affirmative vote of a majority of a quorum present shall be necessary to transact business.

(b)(1)(A) One (1) of the initial members appointed by the President Pro Tempore of the Senate shall serve a term of two (2) years and one (1) of the initial members appointed by the President Pro Tempore of the Senate shall serve a term of four (4) years.

(B) The initial members appointed by the President Pro Tempore of the Senate shall draw lots to determine which member shall serve a term of two (2) years.

(2)(A) One (1) of the initial members appointed by the Speaker of the House of Representatives shall serve a term of two (2) years and one (1) of the initial members appointed by the Speaker of the House of Representatives shall serve a term of four (4) years.

(B) The initial members appointed by the Speaker of the House of Representatives shall draw lots to determine which member shall serve a term of two (2) years.

(3) The initial member appointed by the Governor shall serve a term of four (4) years.

(4) All subsequent persons appointed to the commission shall serve a term of four (4) years.

(c) A member of the commission shall be:

(1) A citizen of the United States;

(2) A resident of the State of Arkansas for at least ten (10) years preceding his or her appointment;

(3) A qualified elector;

(4) At least twenty-five (25) years of age; and

(5) Have no economic interest in a dispensary or cultivation facility.

(d)(1) The commission, by a majority vote of the total membership of the commission cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed eighty-five dollars ($85.00) per day for each meeting attended or for any day while performing any proper business of the commission.

(2) Members of the commission shall receive no other compensation, expense reimbursement, or in-lieu-of payments.

(e)(1) The commission may employ staff necessary to assist in the performance of its duties under this amendment.

(2) The Alcoholic Beverage Control Division shall provide staff for the commission if the commission does not have employees available for that purpose.

(f)(1) Initial members of the commission shall be appointed within thirty (30) days of the effective date of this section.

(2) The President Pro Tempore of the Senate shall call the first meeting of the commission, which shall occur within forty-five (45) days of the effective date of this section.

§ 20. No implied repeal.

(a) By adoption of this amendment, there is no implied repeal of the existing Arkansas laws criminalizing possession of marijuana for purposes not specified in this amendment.

(b) This amendment acknowledges that marijuana use, possession, and distribution for any purpose remains illegal under federal law.

§ 21. Limitation on growing.

This amendment:

(1) Authorizes the growing of marijuana at a dispensary or cultivation facility that is properly licensed with the state; and

(2) Does not authorize a qualifying patient, designated caregiver, or other person to grow marijuana.

§ 22. Severability.

If any provision or section of this amendment or the application thereof to any person or

circumstance is held invalid, such invalidity shall not affect any other provisions or application of the amendment that can be given effect without the invalid provisions or applications, and to this end the provisions of this amendment are declared to be severable.

§ 23. Amendment by General Assembly.

(a) Except as provided in subsection (b) of this section, the General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend the sections of this amendment so long as the amendments are germane to this section and consistent with its policy and purposes.

(b) The General Assembly shall not amend the following provisions of this amendment:

(1) Subsections (a), (b), and (c) of § 3;

(2) Subsection (h), (i), and (j) of § 8; and

(3) Section 23.

SECTION 2. EFFECTIVE DATE. This amendment shall be effective on and after November 9, 2016.