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Popular Name

THE ARKANSAS MEDICAL MARIJUANA ACT

Ballot Title

AN ACT MAKING THE MEDICAL USE OF MARIJUANA LEGAL UNDER ARKANSAS STATE LAW, BUT ACKNOWLEDGING THAT MARIJUANA USE, POSSESSION, AND DISTRIBUTION FOR ANY PURPOSE REMAIN ILLEGAL UNDER FEDERAL LAW; ESTABLISHING A SYSTEM FOR THE CULTIVATION, ACQUISITION AND DISTRIBUTION OF MARIJUANA FOR QUALIFYING PATIENTS THROUGH NONPROFIT MEDICAL MARIJUANA DISPENSARIES AND GRANTING THOSE NONPROFIT DISPENSARIES LIMITED IMMUNITY; ALLOWING LOCALITIES TO LIMIT THE NUMBER OF NONPROFIT DISPENSARIES AND TO ENACT REASONABLE ZONING REGULATIONS GOVERNING THEIR OPERATIONS; PROVIDING THAT QUALIFYING PATIENTS, THEIR DESIGNATED CAREGIVERS AND NONPROFIT DISPENSARY AGENTS SHALL NOT BE SUBJECT TO CRIMINAL OR CIVIL PENALTIES OR OTHER FORMS OF DISCRIMINATION FOR ENGAGING IN OR ASSISTING WITH THE PATIENTS' MEDICAL USE OF MARIJUANA; AUTHORIZING LIMITED CULTIVATION OF MARIJUANA BY QUALIFYING PATIENTS OR DESIGNATED CAREGIVERS IF A QUALIFYING PATIENT LIVES MORE THAN FIVE MILES FROM THE NEAREST NONPROFIT DISPENSARY; AUTHORIZING COMPENSATION FOR DESIGNATED CAREGIVERS; REQUIRING THAT IN ORDER TO BECOME A QUALIFYING PATIENT, A PERSON SUBMIT TO THE STATE A WRITTEN CERTIFICATION FROM A PHYSICIAN THAT HE OR SHE IS

24 SUFFERING FROM A QUALIFYING MEDICAL CONDITION; ESTABLISHING AN
25 INITIAL LIST OF QUALIFYING MEDICAL CONDITIONS; DIRECTING THE
26 DEPARTMENT OF HEALTH TO ESTABLISH RULES RELATED TO THE
27 PROCESSING OF APPLICATIONS FOR REGISTRY IDENTIFICATION CARDS,
28 THE OPERATIONS OF NONPROFIT DISPENSARIES, AND THE ADDITION OF
29 QUALIFYING MEDICAL CONDITIONS IF SUCH ADDITIONS WILL ENABLE
30 PATIENTS TO DERIVE THERAPEUTIC BENEFIT FROM THE MEDICAL USE OF
31 MARIJUANA; SETTING MAXIMUM REGISTRATION FEES FOR NONPROFIT
32 DISPENSARIES; ESTABLISHING QUALIFICATIONS FOR REGISTRY
33 IDENTIFICATION CARDS; ESTABLISHING STANDARDS TO ENSURE THAT
34 QUALIFYING PATIENT AND DESIGNATED CAREGIVER REGISTRATION
35 INFORMATION IS TREATED AS CONFIDENTIAL; DIRECTING THE
36 DEPARTMENT OF HEALTH TO PROVIDE THE LEGISLATURE ANNUAL
37 QUANTITATIVE REPORTS ABOUT THE MEDICAL MARIJUANA PROGRAM;
38 SETTING CERTAIN LIMITATIONS ON THE USE OF MEDICAL MARIJUANA
39 BY QUALIFYING PATIENTS; ESTABLISHING AN AFFIRMATIVE DEFENSE FOR
40 THE MEDICAL USE OF MARIJUANA; ESTABLISHING REGISTRATION AND
41 OPERATION REQUIREMENTS FOR NONPROFIT DISPENSARIES; SETTING
42 LIMITS ON THE AMOUNT OF MARIJUANA A NONPROFIT DISPENSARY MAY
43 CULTIVATE AND THE AMOUNT OF MARIJUANA A NONPROFIT DISPENSARY
44 MAY DISPENSE TO A QUALIFYING PATIENT; PROHIBITING CERTAIN
45 CONDUCT BY AND IMPOSING CERTAIN CONDITIONS AND REQUIREMENTS
46 ON PHYSICIANS, NONPROFIT DISPENSARIES, NONPROFIT DISPENSARY

47 AGENTS, QUALIFYING PATIENTS, AND DESIGNATED CAREGIVERS;
48 ESTABLISHING A LIST OF FELONY OFFENSES WHICH PRECLUDE CERTAIN
49 TYPES OF PARTICIPATION IN THE MEDICAL MARIJUANA PROGRAM; AND
50 ALLOWING VISITING QUALIFYING PATIENTS SUFFERING FROM
51 QUALIFYING MEDICAL CONDITIONS TO UTILIZE THE ARKANSAS MEDICAL
52 MARIJUANA PROGRAM.

53 **“An Act to Establish the Arkansas Medical Marijuana Act”.**

54 Be it enacted by the People of the State of Arkansas as follows:

55 **Amending Title 20, Arkansas Code, by adding new Subtitle 6, Chapter 91, Medical Marijuana**

56 **Section 101. Short title.** This chapter shall be known and cited as "The Arkansas Medical
57 Marijuana Act."

58 **Section 102. Definitions.** As used in this chapter, unless the context otherwise requires:

59 (a) “Acquire” or “Acquisition” means coming to possess marijuana by means of any legal
60 source herein authorized, and not from any unauthorized source; marijuana so acquired must be
61 grown in accordance with this act and any regulations promulgated by The Department.

62 (b) “Assist,” or “Assisting” mean helping a Qualifying Patient make Medical Use of
63 marijuana by physically enabling such Medical Use by any means herein authorized.

64 (c) “Cardholder” means a Qualifying Patient, a Designated Caregiver or a Nonprofit
65 Dispensary Agent.

66 (d) “Qualifying Medical Condition” means one or more of the following:

67 (i) Cancer, Glaucoma, positive status for Human Immunodeficiency Virus/Acquired
68 Immune Deficiency Syndrome (HIV/AIDS), Hepatitis C, Amyotrophic Lateral Sclerosis, Tourette's
69 Disease, Crohn’s Disease, ulcerative colitis, Post Traumatic Stress Disorder (PTSD), Fibromyalgia,
70 agitation of Alzheimer’s Disease or the treatment of these conditions;

71 (ii) A chronic or debilitating disease or medical condition or its treatment that produces one
72 or more of the following: cachexia or Wasting Syndrome; peripheral neuropathy; intractable pain,
73 which is pain that has not responded to ordinary medications, treatment or surgical measures for
74 more than 6 months; severe nausea; seizures, including those characteristic of Epilepsy; or severe
75 and persistent muscle spasms, including those characteristic of Multiple Sclerosis;

76 (iii) Any other medical condition or its treatment approved by The Department as provided
77 for in section 104(e).

78 (e) "The Department" means the Arkansas Department of Health or its successor.

79 (f) "Enclosed, Locked Facility" means a closet, room, greenhouse or other enclosed area
80 equipped with locks or other security devices that permit access only by a Cardholder.

81 (g) "Excluded Felony Offense" means:

82 (i) A felony violent crime or felony crime against a person in the jurisdiction where the
83 person was convicted, provided, an offense which has been expunged by a court or was
84 unadjudicated and the conditions satisfied and the offender released from conditions shall not be
85 considered and Excluded Felony Offense; or

86 (ii) A violation of a state or federal controlled substance law that was classified as a felony
87 in the jurisdiction where the person was convicted but does not include:

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

90 (B) An offense which has been expunged by a court or was unadjudicated and the
91 conditions satisfied and the offender released from conditions; or

92 (C) An offense involving conduct that would be immune from arrest, prosecution or penalty
93 under this chapter except that the conduct occurred before the effective date of this chapter or was
94 prosecuted by an authority other than the State of Arkansas.

95 (h) "Medical Use" means the Acquisition, possession, cultivation, preparation,
96 manufacture, use, delivery, transfer or transportation of marijuana or paraphernalia relating to the
97 administration of marijuana to treat or alleviate a Qualifying Patient's Qualifying Medical Condition
98 or symptoms associated with the Qualifying Patient's Qualifying Medical Condition.

99 (i) "Nonprofit Dispensary" means a not-for-profit entity, that has registered with The
100 Department pursuant to section 108, and performs any combination of the activities therein
101 described.

102 (j) "Nonprofit Dispensary Agent" means:

103 (i) An employee, supervisor, volunteer, or agent of a Nonprofit Dispensary who:

104 (A) Is 21 years of age or older;

105 (B) Works at the Nonprofit Dispensary; and

106 (C) Has registered with The Department pursuant to section 108; or

107 (ii) The owner of a Nonprofit Dispensary who has registered with The Department pursuant
108 to section 108; or

109 (iii) the board members and officers of a Nonprofit Dispensary if the Nonprofit Dispensary
110 has exercised its discretionary right to incorporate pursuant to section 109(b)(i).

111 (k) "Physician" means a doctor of medicine who holds a valid and existing license to
112 practice medicine pursuant to Title 17, Chapter 95 or its successor; or a doctor of osteopathic
113 medicine who holds a valid and existing license pursuant to Title 17, Chapter 91 or its successor;
114 except that in relation to a Visiting Qualifying Patient, 'Physician' means an individual licensed to
115 prescribe drugs to humans in the state of the patient's residence and who possesses certification
116 from the United States Drug Enforcement Administration to prescribe controlled substances.

117 (l) "Designated Caregiver" means a person who is at least 21 years of age who has agreed
118 to Assist with a Qualifying Patient's Medical Use of marijuana, including acquiring marijuana from a

119 Nonprofit Dispensary and delivering it to the Qualifying Patient, who has never been convicted of
120 an Excluded Felony Offense, and who has registered with The Department pursuant to Section
121 105(d). A Designated Caregiver may serve as a Designated Caregiver for no more than five
122 Qualifying Patients at a time.

123 (m) "Qualifying Patient" means a person who has been diagnosed by a Physician as
124 having a Qualifying Medical Condition, and who has registered with The Department pursuant to
125 105(a).

126 (n) "Registry Identification Card" means a document issued by The Department that
127 identifies a person as a Qualifying Patient, Designated Caregiver or a Nonprofit Dispensary Agent.

128 (o) "Usable Marijuana" means the dried leaves and flowers of the marijuana plant and any
129 mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant and
130 does not include the weight of any ingredients other than marijuana that are combined with
131 marijuana and prepared for consumption as food or drink.

132 (p) "Visiting Qualifying Patient" means a patient with a Qualifying Medical Condition who is
133 not a resident of Arkansas or who has been a resident of Arkansas for less than 30 days, and who
134 is in actual possession of a Registry Identification Card, or its equivalent, that is issued under the
135 laws of another state, district, territory, commonwealth or insular possession of the United States,
136 and pertains to a Qualifying Medical Condition under this section.

137 (q) "Written Certification" means a document signed by a physician stating that in the
138 physician's professional opinion, after having completed a full assessment of the Qualifying
139 Patient's medical history and current medical condition made in the course of a bona fide
140 physician-patient relationship, the Qualifying Patient has a Qualifying Medical Condition and the
141 potential benefits of the Medical Use of marijuana would likely outweigh the health risks for the

142 Qualifying Patient. A written certification shall specify the Qualifying Patient's Qualifying Medical
143 Condition, which also shall be noted in the Qualifying Patient's medical records.

144 **Section 103. Protections for the Medical Use of marijuana**

145 (a) Qualifying Patient. A Qualifying Patient in actual possession of a Registry Identification
146 Card may not be subject to arrest, prosecution or penalty in any manner or denied any right or
147 privilege, including but not limited to a civil penalty or disciplinary action by a business or
148 occupational or professional licensing board or bureau, for the Medical Use of marijuana in
149 accordance with this chapter as long as the Qualifying Patient possesses an amount of marijuana
150 that:

151 (i) Is not more than 2 1/2 ounces of Usable Marijuana; and

152 (ii) If the Qualifying Patient lives more than five miles from a Nonprofit Dispensary, and has
153 not specified that a Designated Caregiver or a Nonprofit Dispensary is allowed under state law to
154 cultivate marijuana for the Qualifying Patient, and is in possession of not more than 6 flowering
155 marijuana plants greater than 12 inches in height or diameter, which must be kept in an Enclosed,
156 Locked Facility unless they are being transported because the Qualifying Patient is moving, or they
157 are being transported to the Qualifying Patient's property.

158 (b) Designated Caregiver. A Designated Caregiver in actual possession of a Registry
159 Identification Card may not be subject to arrest, prosecution or penalty in any manner or denied
160 any right or privilege, including but not limited to a civil penalty or disciplinary action by a business
161 or occupational or professional licensing board or bureau, for Assisting a Qualifying Patient to
162 whom the Designated Caregiver is connected through The Department's registration process with
163 the Medical Use of marijuana in accordance with this chapter, as long as the Designated Caregiver
164 possesses an amount of marijuana that:

165 (i) Is not more than 2 1/2 ounces of Usable Marijuana for each Qualifying Patient to whom
166 the Designated Caregiver is connected through The Department's registration process; and

167 (ii) For each Qualifying Patient who has specified that the Designated Caregiver is allowed
168 under state law to cultivate marijuana for the Qualifying Patient, does not exceed 6 flowering
169 marijuana plants greater than 12 inches in height or diameter, provided in no circumstance shall
170 the total number of flowering plants exceed 20, which must be kept in an Enclosed, Locked Facility
171 unless they are being transported because the Designated Caregiver is moving or they are being
172 transported to a Qualifying Patient's property.

173 (c) Incidental amount of marijuana. Marijuana that is incidental to Medical Use, but is not
174 Usable Marijuana, shall not be counted toward a Qualifying Patient's or Designated Caregiver's
175 allowable amount of marijuana.

176 (d) Presumption.

177 (i) A Qualifying Patient is presumed to be lawfully engaged in the Medical Use of marijuana
178 in accordance with this chapter if the Qualifying Patient is in actual possession of a Registry
179 Identification Card and possesses an amount of marijuana that does not exceed the amount
180 allowed under this chapter.

181 (ii) A Designated Caregiver is presumed to be lawfully engaged in Assisting with the
182 Medical Use of marijuana in accordance with this chapter if the Designated Caregiver is in actual
183 possession of a Registry Identification Card and possesses an amount of marijuana that does not
184 exceed the amount allowed under this chapter.

185 (iii) The presumptions made in sections 103(d)(i) and 103(d)(ii) may be rebutted by
186 evidence that conduct related to marijuana was not for the purpose of treating or alleviating the
187 Qualifying Patient's Qualifying Medical Condition or symptoms associated with the Qualifying
188 Medical Condition, in accordance with this chapter.

189 (e) Cardholder not subject to arrest. A Cardholder may not be subject to arrest,
190 prosecution or penalty in any manner or denied any right or privilege, including but not limited to a
191 civil penalty or disciplinary action by a business or occupational or professional licensing board or
192 bureau, for giving an amount of marijuana the person is allowed to possess under subsections
193 103(a) or 103(b) to a Cardholder for the Qualifying Patient's Medical Use when nothing of value is
194 transferred in return or for offering to do the same.

195 (f) Transfer of seeds and seedlings

196 (i) A Nonprofit Dispensary may accept marijuana seeds, seedlings, plants, or Useable
197 Marijuana from other Nonprofit Dispensaries in Arkansas. A Nonprofit Dispensary may transfer or
198 sell marijuana seeds, seedlings, plants, or useable marijuana to other Nonprofit Dispensaries in
199 Arkansas.

200 (ii) A Nonprofit Dispensary may accept a donation of marijuana seeds or seedlings, without
201 compensation, from individuals and entities from jurisdictions outside of Arkansas who are
202 authorized to cultivate medical marijuana in their home state.

203 (iii) Individuals and entities from jurisdictions outside of Arkansas who are authorized to
204 cultivate medical marijuana in their home state shall not be subject to arrest, prosecution, or
205 penalty, or denied any right or privilege for donating marijuana seeds or seedlings to Nonprofit
206 Dispensaries.

207 (g) Discrimination

208 (i) No school or landlord may refuse to enroll or lease to, or otherwise penalize, an
209 individual solely for his or her status as a Qualifying Patient or a Designated Caregiver, unless
210 failing to do so would put the school or landlord in violation of federal law or regulations.

211 (ii) For the purposes of medical care, including organ transplants, a Qualifying Patient's
212 authorized use of marijuana in accordance with this chapter shall be considered the equivalent of

213 the authorized use of any other medication used at the direction of a Physician, and shall not
214 constitute the use of an illicit substance.

215 (iii) An employer shall not discriminate against an individual in hiring, termination, or any
216 term or condition of employment, or otherwise penalize an individual, based upon the individual's
217 past or present status as a Qualifying Patient or Designated Caregiver.

218 (h) Person may not be denied custody or visitation of minor. A person otherwise entitled to
219 custody of, or visitation or parenting time with, a minor may not be denied custody, visitation or
220 parenting time and there shall be no finding of abuse solely for conduct allowed under this chapter
221 and there shall be no presumption of neglect or child endangerment for conduct allowed under this
222 chapter, unless the individual's behavior is such that it creates an unreasonable danger to the
223 safety or welfare of the minor that can be established by clear and convincing evidence.

224 (i) Designated Caregiver may receive compensation for costs. A Designated Caregiver
225 may receive compensation for costs, including reasonable labor costs, associated with Assisting a
226 Qualifying Patient's Medical Use of marijuana as long as the Designated Caregiver is connected to
227 the Qualifying Patient through The Department's registration process. Any such compensation
228 does not constitute the sale of controlled substances.

229 (j) Physician not subject to penalty. A Physician may not be subject to arrest, prosecution
230 or penalty in any manner or denied any right or privilege, including but not limited to a civil penalty
231 or disciplinary action by the Arkansas State Medical Board or by any other business or
232 occupational or professional licensing board or bureau, solely for providing written certifications
233 that, in the Physician's professional opinion, a patient is likely to receive therapeutic benefit from
234 the Medical Use of marijuana to treat or alleviate the patient's Qualifying Medical Condition or
235 symptoms associated with the Qualifying Medical Condition, provided that nothing shall prevent a

236 professional licensing board from sanctioning a Physician for failing to properly evaluate a patient's
237 medical condition or otherwise violating the standard of care.

238 (k) Person not subject to penalty for providing Qualifying Patient or Designated Caregiver
239 marijuana paraphernalia. A person may not be subject to arrest, prosecution or penalty in any
240 manner or denied any right or privilege, including but not limited to a civil penalty or disciplinary
241 action by a business or occupational or professional licensing board or bureau, for providing a
242 Qualifying Patient or a Designated Caregiver with marijuana paraphernalia for purposes of
243 facilitating a Qualifying Patient's Medical Use of marijuana.

244 (l) Property not subject to forfeiture. Any marijuana, marijuana paraphernalia, licit property
245 or interest in licit property that is possessed, owned or used in connection with the Medical Use of
246 marijuana, as allowed under this chapter, or property incidental to such use, may not be seized or
247 forfeited.

248 (m) Person not subject to penalty for being in presence of Medical Use of marijuana. A
249 person may not be subject to arrest, prosecution or penalty in any manner or denied any right or
250 privilege, including but not limited to a civil penalty or disciplinary action by a business or
251 occupational or professional licensing board or bureau, simply for being in the presence or vicinity
252 of the Medical Use of marijuana as allowed under this chapter or for directly Assisting a physically
253 disabled Qualifying Patient with using or administering marijuana.

254 (n) Effect of Registry Identification Card issued by another jurisdiction. A Registry
255 Identification Card, or its equivalent, that is issued under the laws of another state, district, territory,
256 commonwealth or insular possession of the United States that allows, in the jurisdiction of
257 issuance, a Visiting Qualifying Patient to possess marijuana for medical purposes, shall have the
258 same force and effect as a Registry Identification Card issued by The Department, provided that
259 the same Qualifying Medical Condition as defined in section 102(d) exists.

260 **Section 104. Rules**

261 (a) Rule making power. The Department may adopt rules to carry out the purposes of this
262 chapter. Rules adopted pursuant to this subsection are Rules as defined in Ark.Code Ann. § 25-15-
263 201 et seq., the Arkansas Administrative Procedure Act.

264 (b) Registry Identification Cards. Not later than 90 days after the effective date of this
265 chapter, The Department shall adopt rules governing the manner in which it considers applications
266 for and renewals of Registry Identification Cards. The Department's rules must establish
267 application and renewal fees that generate revenues sufficient to offset all expenses of
268 implementing and administering this chapter. The Department may establish a sliding scale of
269 application and renewal fees based upon a Qualifying Patient's family income. The Department
270 may accept donations from private sources in order to reduce the application and renewal fees.

271 (c) Nonprofit Dispensaries. Not later than 90 days after the effective date of this chapter,
272 The Department shall adopt rules with the goal of protecting against diversion and theft, without
273 imposing an undue burden on the registered Nonprofit Dispensaries or compromising the
274 confidentiality of Qualifying Patients or their Designated Caregivers, including rules governing:

275 (i) The manner in which it considers applications for and renewals of registration
276 certificates for Nonprofit Dispensaries;

277 (ii) The form and content of registration and renewal applications;

278 (iii) Oversight requirements for Nonprofit Dispensaries;

279 (iv) Record-keeping requirements for Nonprofit Dispensaries;

280 (v) Security requirements for Nonprofit Dispensaries which shall include lighting, physical
281 security, alarm requirements, and measures to prevent loitering;

282 (vi) Sanitary requirements for Nonprofit Dispensaries;

283 (vii) Electrical safety requirements for Nonprofit Dispensaries;

284 (viii) The specification of acceptable forms of picture identification that a Nonprofit
285 Dispensary may accept;

286 (ix) Personnel requirements including how many volunteers a Nonprofit Dispensary is
287 permitted to have and requirements for supervision;

288 (x) Labeling standards for marijuana distributed to Qualifying Patients;

289 (xi) Procedures for suspending or terminating the registration of Nonprofit Dispensaries
290 that violate the provisions of this section or the rules adopted pursuant to this section, procedures
291 for appealing penalties, and a schedule of penalties;

292 (xii) Procedures for inspections and investigations of Nonprofit Dispensaries;

293 (xiii) Advertising restrictions for Nonprofit Dispensaries;

294 (xiv) Permissible hours of operation for Nonprofit Dispensary sales; and

295 (xv) Such other matters as are necessary for the fair, impartial, stringent, and
296 comprehensive administration of this chapter.

297 (d) Application and renewal fees for Nonprofit Dispensaries. Not later than 90 days after
298 the effective date of this chapter, The Department shall adopt rules establishing application and
299 renewal fees for Nonprofit Dispensary registration certificates, according to the following:

300 (i) The total amount of all fees shall generate revenues sufficient to implement and
301 administer this chapter except that fee revenue may be offset or supplemented by private
302 donations.

303 (ii) Nonprofit medical marijuana dispensary application fees may not exceed \$5,000.

304 (iii) Nonprofit medical marijuana dispensary renewal fees may not exceed \$1,000.

305 (iv) The total amount of revenue from Nonprofit Dispensary application and renewal fees
306 and Registry Identification Card fees for Nonprofit Dispensary Agents shall be sufficient to

307 implement and administer the Nonprofit Dispensary provisions of this chapter, except that the fee
308 revenue may be offset or supplemented by private donations.

309 (e) Adding Qualifying Medical Conditions.

310 (i) Not later than 90 days after the effective date of this chapter, The Department shall
311 adopt rules that govern the manner in which The Department shall consider petitions from the
312 public to add medical conditions or treatments to the list of Qualifying Medical Conditions set forth
313 in section 102(d).

314 (ii) In considering such petitions, The Department shall include public notice of, and an
315 opportunity to comment in a public hearing upon, such petitions.

316 (iii) In considering such petitions, The Department shall add medical conditions or
317 treatments to the list of Qualifying Medical Conditions set forth in section 102(d) if patients suffering
318 from the medical conditions or undergoing the treatments in question would derive therapeutic
319 benefit from the use of marijuana, taking into account the positive and negative health effects of
320 such use. The Department may consider published studies in peer-reviewed journals, Physician
321 testimony, and public comments made pursuant to 104(e)(ii) in making such determination.

322 (iv) The Department shall, after hearing, approve or deny such petitions within 60 days of
323 their submission. The approval or denial of such a petition constitutes final agency action, subject
324 to judicial review, and jurisdiction for judicial review is vested in the Circuit Court of Pulaski County.

325 **Section 105. Registry Identification Cards**

326 (a) Application for Registry Identification Card; qualifications. The Department shall issue
327 Registry Identification Cards to Qualifying Patients who submit, in accordance with The
328 Department's rules:

329 (i) Written certification;

330 (ii) Application or renewal fee;

331 (iii) Name, address and date of birth of the Qualifying Patient, except that if the applicant is
332 homeless, no address is required;

333 (iv) Name, address and telephone number of the Qualifying Patient's Physician;

334 (v) Name, street address and date of birth of the Qualifying Patient's Designated
335 Caregiver, if any.

336 (vi) Name and address of the Nonprofit Dispensary that the Qualifying Patient designates,
337 if any. A Qualifying Patient may designate only one Nonprofit Dispensary at a time.

338 (vii) A designation as to which Nonprofit Dispensary or Designated Caregiver will be
339 allowed under state law to cultivate marijuana plants for the Qualifying Patient's Medical Use, or, if
340 a Nonprofit Dispensary is not operating within five miles of the Qualifying Patient's home, a
341 designation that the Qualifying Patient will grow his or her own marijuana. Only one Nonprofit
342 Dispensary or, if a Nonprofit Dispensary is not operating within five miles of the Qualifying Patient's
343 home, one Designated Caregiver may be allowed to cultivate marijuana plants for a Qualifying
344 Patient at a time.

345 (viii) A signed statement from the Qualifying Patient pledging not to divert marijuana to
346 anyone who is not allowed to possess marijuana pursuant to this chapter.

347 (ix) A signed statement from the Designated Caregiver, if any, agreeing to be the
348 Qualifying Patient's Designated Caregiver and pledging not to divert marijuana to anyone who is
349 not allowed to possess marijuana pursuant to this chapter.

350 (b) Issuing Registry Identification Card to minor. The Department may not issue a Registry
351 Identification Card to a Qualifying Patient who is under 18 years of age unless:

352 (i) The Qualifying Patient's Physician has explained the potential risks and benefits of the
353 Medical Use of marijuana to the Qualifying Patient and to a parent, guardian or person having legal
354 custody of the Qualifying Patient; and

355 (ii) A parent, guardian or person having legal custody consents in writing to:
356 (A) Allow the Qualifying Patient's Medical Use of marijuana;
357 (B) Serve as one of the Qualifying Patient's Designated Caregivers; and
358 (C) Control the Acquisition of the marijuana, the dosage and the frequency of the Medical
359 Use of marijuana by the Qualifying Patient.

360 (c) Department approval or denial. The Department shall verify the information contained
361 in an application or renewal submitted pursuant to this section and shall approve or deny an
362 application or renewal within 14 days of receiving it. The Department may deny an application or
363 renewal only if the applicant did not provide the information required pursuant to this section, the
364 applicant previously had a Registry Identification Card revoked, The Department determines that
365 the information provided was falsified, or The Department determines the written certification was
366 not made in the context of a bona fide Physician-patient relationship. Rejection of an application or
367 renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in
368 the Circuit Court of Pulaski County.

369 (d) Designated Caregiver Registry Identification Card. The Department shall issue a
370 Registry Identification Card to the Designated Caregiver, if any, who is named in a Qualifying
371 Patient's approved application pursuant to section 105(a).

372 (e) Registry Identification Card issuance. The Department shall issue Registry
373 Identification Cards to Qualifying Patients and Designated Caregivers within 5 days of approving
374 an application or renewal under this section. Registry Identification Cards expire one year after the
375 date of issuance, unless the Physician states in the written certification that he believes the
376 Qualifying Patient would benefit from medical marijuana only until a specified earlier date, then the
377 Registry Identification Card shall expire on that date.

378 (i) In the case of qualified patients and Designated Caregivers, Registry Identification

379 Cards shall contain:

380 (A) The name, address and date of birth of the Qualifying Patient or Designated Caregiver;

381 (B) The name, address and date of birth of the Qualifying Patient's Designated Caregiver,

382 if any;

383 (C) The date of issuance and expiration date of the Registry Identification Card;

384 (D) A random, 10-digit alphanumeric identification number that is unique to the Cardholder;

385 (E) A photograph, if The Department decides to require one; and

386 (F) A clear designation showing whether the Cardholder will be allowed under state law to

387 cultivate marijuana plants for the Qualifying Patient's Medical Use.

388 (f) Notification of changes in status or loss of card. This subsection governs notification of

389 changes in status or the loss of a Registry Identification Card.

390 (i) A Qualifying Patient shall notify The Department within 15 days of any change in the

391 Qualifying Patient's name, address, Designated Caregiver or preference regarding who may

392 cultivate marijuana for the Qualifying Patient or if the Qualifying Patient ceases to have a Qualifying

393 Medical Condition.

394 (ii) A Nonprofit Dispensary shall notify The Department within 15 days of any change in the

395 name or address of an agent of the Nonprofit Dispensary issued a Registry Identification Card in

396 accordance with section 108(h).

397 (iii) A Qualifying Patient or a Nonprofit Dispensary who fails to notify The Department as

398 required under sections 105(f)(i) or 105(f)(ii) commits a civil violation for which a penalty of not

399 more than \$150 may be adjudged and collected by The Department.

400 (iv) If the Qualifying Patient's certifying Physician notifies The Department in writing that

401 the Qualifying Patient has ceased to suffer from a Qualifying Medical Condition, the Qualifying

402 Patient's Registry Identification Card becomes void upon notification by The Department to the
403 Qualifying Patient.

404 (v) A Designated Caregiver or Nonprofit Dispensary shall notify The Department of any
405 change in the caregiver's or Nonprofit Dispensary's name or address within 10 days of such
406 change. A Designated Caregiver or Nonprofit Dispensary who fails to notify The Department of any
407 of these changes commits a civil violation for which a penalty of not more than \$150 may be
408 adjudged and collected by The Department

409 (vi) When a Qualifying Patient or Designated Caregiver notifies The Department of any
410 changes listed in this subsection, The Department shall issue the Qualifying Patient and the
411 Designated Caregiver a new Registry Identification Card within 10 days of receiving the updated
412 information and a \$10 fee.

413 (vii) When a Qualifying Patient changes the patient's Designated Caregiver, The
414 Department shall notify the previous Designated Caregiver within 10 days. The previous
415 Designated Caregiver's protections as provided in this chapter expire 10 days after notification by
416 The Department.

417 (viii) If a Cardholder loses the Cardholder's Registry Identification Card, the Cardholder
418 shall notify The Department and submit a \$10 fee within 10 days of losing the card. Within 5 days
419 after such notification, The Department shall issue a new Registry Identification Card with a new
420 random identification number.

421 (g) Confidentiality.

422 (i) Applications and supporting information submitted by Qualifying Patients and
423 Designated Caregivers under this chapter, including information regarding their Designated
424 Caregivers and Physicians and the physical address of a Nonprofit Dispensary, are confidential as

425 a medical record under The Health Insurance Portability and Accountability Act (HIPAA) of 1996
426 (P.L.104-191).

427 (ii) The Department shall maintain a confidential list of the persons to whom The
428 Department has issued Registry Identification Cards. Individual names and other identifying
429 information on the list are confidential, exempt from the Arkansas Freedom of Information Act, and
430 not subject to disclosure except to authorized employees of The Department as necessary to
431 perform official duties of The Department.

432 (iii) The Department shall verify to law enforcement personnel whether a Registry
433 Identification Card is valid without disclosing more information than is reasonably necessary to
434 verify the authenticity of the Registry Identification Card.

435 (iv) A person, including an employee or official of The Department or another state agency
436 or local government, who breaches the confidentiality of information obtained pursuant to this
437 chapter commits a Class A misdemeanor. However, department employees may notify law
438 enforcement about falsified or fraudulent information submitted to The Department as long as the
439 employee who suspects that falsified or fraudulent information has been submitted confers with the
440 employee's supervisor and both agree that circumstances exist that warrant reporting.

441 (h) Cardholder who sells marijuana to person not allowed to possess. Any Cardholder who
442 transfers marijuana to a person who is not a Cardholder under this chapter shall have his Registry
443 Identification Card revoked and shall be subject to any other penalties established by law for
444 unlawful transfer of a controlled substance. The Department may revoke the Registry Identification
445 Card of any Cardholder who violates any provision of this chapter, and the Cardholder is subject to
446 any other penalties established in law for the violation.

447 (i) Annual report. The Department shall submit to the Legislature an annual report that
448 does not disclose any identifying information about Cardholders or Physicians, but does contain, at
449 a minimum:

450 (i) The number of applications and renewals filed for Registry Identification Cards;

451 (ii) The number of Qualifying Patients and Designated Caregivers approved in each
452 county;

453 (iii) The nature of the Qualifying Medical Conditions of the Qualifying Patients;

454 (iv) The number of Registry Identification Cards revoked;

455 (v) The number of Physicians providing written certifications for Qualifying Patients;

456 (vi) The number of registered Nonprofit Dispensaries; and

457 (vii) The number of Nonprofit Dispensary Agents.

458 **Section 106. Scope**

459 (a) Limitations. This chapter does not permit any person to:

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

462 (ii) Possess, smoke, or otherwise engage in the Medical Use of marijuana:

463 (A) In a school bus;

464 (B) On the grounds of any day care center, preschool, or primary or secondary school;

465 (C) At a drug or alcohol treatment facility;

466 (D) At a skating rink, Boys Club, Girls Club, YMCA, YWCA, or any similar community or
467 recreation center;

468 (E) In any correctional facility;

469 (F) On any form of public transportation; or

470 (G) In any public place;

471 ii) Operate, navigate or be in actual physical control of any motor vehicle, aircraft,
472 motorized watercraft or any other vehicle drawn by power other than muscular power while under
473 the influence of marijuana; or

474 (iii) Use marijuana if that person does not have a Qualifying Medical Condition.

475 (b) Construction. This chapter may not be construed to require:

476 (i) A government medical assistance program or private health insurer to reimburse a
477 person for costs associated with the Medical Use of marijuana;

478 (ii) An employer to accommodate the ingestion of marijuana in any workplace or any
479 employee working while under the influence of marijuana;

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

482 (iv) A landlord to permit a qualified patient to smoke marijuana on any or in any leased
483 property, except that a landlord may not prohibit the Medical Use of marijuana on leased property
484 by a qualified patient through means other than smoking, including but not limited to the ingestion
485 of medical marijuana or the inhalation through vaporization, as long as the tenant in possession of
486 the property provides permission to the qualified patient to use medical marijuana in the rented
487 property.

488 (c) Penalty for fraudulent representation. Fraudulent representation to a law enforcement
489 official of any fact or circumstance relating to the Medical Use of marijuana to avoid arrest or
490 prosecution is a civil violation punishable by a fine of \$500 payable to The Department, which is in
491 addition to any other penalties that may apply for making a false statement to law enforcement or
492 for the use of marijuana other than use undertaken pursuant to this chapter.

493 **Section 107. Affirmative defense and dismissal for medical marijuana**

494 (a) Except as provided in section 106(a) and this section, an individual may assert a
495 medical purpose for using marijuana as an affirmative defense to any prosecution for an offense
496 involving marijuana intended for the individual's Medical Use, and this defense shall be presumed
497 valid and the prosecution shall be dismissed where the evidence demonstrates that:

498 (i) The individual is a Qualifying Patient, Nonprofit Dispensary Agent, or Designated
499 Caregiver; and

500 (ii) The individual is in compliance with the requirements imposed by this act in section
501 103; or

502 (iii) The Department has delayed the review of the individual's application, the issuance of
503 the individual's Registry Identification Card, or both for a period of greater than thirty days; and

504 (iv) The individual's application meets the requirements of a Qualifying Patient or
505 Designated Caregiver; and

506 (v) The individual is in compliance with the requirements imposed by this act in section
507 103.

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

509 (i) The individual's Registry Identification Card has been revoked for misconduct; or

510 (ii) The purposes for the possession or cultivation of marijuana were not solely for Medical
511 Use.

512 (c) An individual is not required to be in actual, physical possession of a Registry
513 Identification Card to raise the affirmative defense set forth in this section.

514 (d) If an individual demonstrates a Medical Use of marijuana pursuant to this section,
515 except as provided in section 106(a), the individual shall not be subject to the following:

516 (i) Disciplinary action by an occupational or professional licensing board or bureau; or

517 (ii) Forfeiture of any interest in or right to non-marijuana, licit property.

518 **Section 108. Registration, certification of Nonprofit Dispensaries**

519 (a) Nonprofit Dispensaries shall register with The Department.

520 (b) Not later than sixty days after receiving an application for a Nonprofit Dispensary, The
521 Department shall register the Nonprofit Dispensary and issue a registration certificate and a
522 random 20-digit alphanumeric identification number if:

523 (i) The prospective Nonprofit Dispensary had submitted the following:

524 (A) The application fee;

525 (B) An application, including:

526 (1) The legal name of the Nonprofit Dispensary;

527 (2) The physical address of the Nonprofit Dispensary and the physical address of one
528 additional location, if any, where marijuana will be cultivated, neither of which may be within five
529 hundred feet of a public or private school existing before the date of the Nonprofit Dispensary
530 application;

531 (3) The name, address and date of birth of each Nonprofit Dispensary Agent;

532 (C) Operating procedures consistent with department rules for oversight of the Nonprofit
533 Dispensary, including procedures to ensure accurate record-keeping and adequate security
534 measures; and

535 (D) If the city, town or county in which the Nonprofit Dispensary would be located has
536 enacted zoning restrictions, a sworn statement certifying that the Nonprofit Dispensary will operate
537 in compliance with the restrictions;

538 (ii) None of the owners, board members or officers has been convicted of an Excluded
539 Felony Offense;

540 (iii) None of the owners, board members or officers has previously been an owner, board
541 member or officer of a Nonprofit Dispensary that has had its registration certificate revoked; and

542 (iv) None of the Nonprofit Dispensary Agents is under twenty-one years of age.

543 (c) The Department may not issue more than one Nonprofit Dispensary registration
544 certificate for every twenty-five pharmacies that have obtained a pharmacy permit from the
545 Arkansas Board of Pharmacy and operate within the state, except that The Department may issue
546 Nonprofit Dispensary registration certificates in excess of this limit if The Department determines
547 that additional Nonprofit Dispensaries are necessary to provide convenient access to patients in all
548 parts of the state.

549 (d) The Department may conduct a criminal records check in order to carry out this
550 section.

551 (e) A Nonprofit Dispensary registered under this section may Acquire, possess, cultivate,
552 manufacture, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana
553 paraphernalia, and related supplies and educational materials, to Qualifying Patients who have
554 designated it as their Nonprofit Dispensary and to their Designated Caregivers for the Qualifying
555 Patients' Medical Use. A Nonprofit Dispensary may receive compensation for providing the goods
556 and services allowed by this section. A Nonprofit Dispensary may cultivate and possess whichever
557 of the following quantities is greater:

558 (i) 95 flowering marijuana plants and all useable marijuana derived from such plants; or

559 (ii) six flowering plants and all Usable Marijuana derived from such plants for each
560 Qualifying Patient who has designated the Nonprofit Dispensary to provide him with marijuana for
561 Medical Use. A Nonprofit Dispensary may also possess marijuana seeds, stalks, and unusable
562 roots.

563 (f) The Department shall track the number of Qualifying Patients who have designated
564 each Nonprofit Dispensary to cultivate marijuana for them and issue a monthly written statement to
565 the Nonprofit Dispensary identifying the number of Qualifying Patients who have designated that

566 Nonprofit Dispensary along with the registry identification numbers of each Qualifying Patient and
567 each Qualifying Patient's Designated Caregivers. This statement must be updated each time a new
568 Qualifying Patient designates the Nonprofit Dispensary or ceases to designate the Nonprofit
569 Dispensary and may be transmitted electronically if The Department's rules so provide. The
570 Department may provide by rule that the updated written statements may not be issued more
571 frequently than once each week.

572 (g) The Department shall issue each Nonprofit Dispensary Agent a Registry Identification
573 Card within 10 days of receipt of the person's name, address and date of birth under section
574 108(b)(i)(B)(3), 109(b)(iv) or 105(f), and a fee in an amount established by The Department. Each
575 card must specify that the Cardholder is an agent of the Nonprofit Dispensary and must contain:

- 576 (i) The name, address and date of birth of the Nonprofit Dispensary Agent;
- 577 (ii) The legal name of the Nonprofit Dispensary with which the Nonprofit Dispensary Agent
578 is affiliated;
- 579 (iii) A random identification number that is unique to the Cardholder;
- 580 (iv) The date of issuance and expiration date of the Registry Identification Card; and
- 581 (v) A photograph, if The Department decides to require one.

582 (h) The Department may not issue a Registry Identification Card to any Nonprofit
583 Dispensary Agent who has been convicted of an Excluded Felony Offense. The Department may
584 conduct a background check of each Nonprofit Dispensary Agent in order to carry out this
585 provision. The Department shall notify the Nonprofit Dispensary in writing of the purpose for
586 denying the Registry Identification Card.

587 (i) Expiration. A Nonprofit Dispensary registration certificate and the Registry Identification
588 Card for each Nonprofit Dispensary Agent expire one year after the date of issuance. The
589 Department shall issue renewal Nonprofit Dispensary registration certificates and renewal Registry

590 Identification Cards within 10 days to any person or entity who complies with the requirements
591 contained in this section. A Registry Identification Card of a Nonprofit Dispensary Agent expires
592 upon notification by a Nonprofit Dispensary that such person ceases to work at the Nonprofit
593 Dispensary.

594 **Section 109. Nonprofit Dispensary inspections and requirements**

595 (a) Inspection. Nonprofit Dispensaries are highly regulated by the state, and a Nonprofit
596 Dispensary therefore is subject to reasonable inspection by The Department. The Department shall
597 give reasonable notice of an inspection under this subsection.

598 (b) Nonprofit Dispensary requirements. This subsection governs the operations of
599 Nonprofit Dispensaries.

600 (i). A Nonprofit Dispensary must be operated on a not-for-profit basis for the mutual benefit
601 of its members and patrons. A Nonprofit Dispensary need not be recognized as a tax-exempt
602 organization under 26 United States Code, Section 501(c)(3) and is not required to, but may,
603 incorporate pursuant to Title 4, Chapter 28.

604 (ii) A Nonprofit Dispensary may not be located in a residential district or within 500 feet of
605 the property line of a preexisting public or private school.

606 (iii) A Nonprofit Dispensary shall notify The Department within 10 days of when a Nonprofit
607 Dispensary Agent ceases to work at the Nonprofit Dispensary.

608 (iv) A Nonprofit Dispensary shall notify The Department in writing of the name, address
609 and date of birth of any new Nonprofit Dispensary Agent and shall submit a fee in an amount
610 established by The Department for a new Registry Identification Card before the new Nonprofit
611 Dispensary Agent begins working at the Nonprofit Dispensary.

612 (v) A Nonprofit Dispensary shall implement appropriate security measures to deter and
613 prevent unauthorized entrance into areas containing marijuana and the theft of marijuana.

614 (vi) The operating documents of a Nonprofit Dispensary must include procedures for the
615 oversight of the Nonprofit Dispensary and procedures to ensure accurate record keeping.

616 (vii) Each Nonprofit Dispensary shall keep the following records, dating back at least one
617 year:

618 (A) Records of the disposal of marijuana that is not distributed by the Nonprofit Dispensary
619 to Qualifying Patients who have designated the Nonprofit Dispensary to cultivate for them.

620 (B) A record of each transaction, including the amount of marijuana dispensed, the amount
621 of compensation, and the registry identification number of the Qualifying Patient or Designated
622 Caregiver.

623 (viii) Each Nonprofit Dispensary shall:

624 (A) Conduct an initial comprehensive inventory of all medical marijuana, including Usable
625 Marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized
626 location on the date the Nonprofit Dispensary first dispenses medical marijuana.

627 (B) Conduct a monthly comprehensive inventory of all medical marijuana, including Usable
628 Marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized
629 location.

630 (ix) A Nonprofit Dispensary is prohibited from acquiring, possessing, cultivating, preparing,
631 manufacturing, delivering, transferring, transporting, supplying or dispensing marijuana for any
632 purpose except to Assist Qualifying Patients with the Medical Use of marijuana directly or through
633 the Qualifying Patients' other Designated Caregiver.

634 (x) All cultivation of marijuana must take place in an Enclosed, Locked Facility.

635 (xi) A Nonprofit Dispensary or a Nonprofit Dispensary Agent may not dispense more than 2
636 1/2 ounces of Usable Marijuana to a Qualifying Patient or to a Designated Caregiver on behalf of a
637 Qualifying Patient during a 15-day period. Each time a Nonprofit Dispensary Agent dispenses

638 marijuana to a Qualifying Patient directly or through the Qualifying Patient's Designated Caregiver,
639 he must consult the Nonprofit Dispensary's records to verify that the records do not indicate that
640 the dispensing of marijuana would cause the Qualifying Patient to receive more marijuana than is
641 permitted in a 15-day period. Each time marijuana is dispensed, the Nonprofit Dispensary Agent
642 shall record the date the marijuana was dispensed and the amount dispensed. All records must be
643 kept according to the registry identification number of the Qualifying Patient and Designated
644 Caregiver, if any.

645 (xii) The dispensary records with patient information shall be treated as confidential
646 medical record under The Health Insurance Portability and Accountability Act (HIPAA) of 1996
647 (P.L.104-191).

648 **Section 110. Immunity for Nonprofit Dispensaries**

649 (a) No Nonprofit Dispensary shall be subject to the following:

650 (i) Prosecution for the Acquisition, possession, cultivation, preparation, manufacture,
651 delivery, transfer, transport, sale, supply, or dispensing of marijuana and related supplies for
652 medical purposes in accordance with the provisions of this chapter and any rule adopted by The
653 Department pursuant to this chapter.

654 (ii) Inspection and search, except pursuant to section 109(a), or upon a search warrant
655 issued by a court or judicial officer.

656 (iii) Seizure of marijuana, except upon any order issued by a court or judicial officer and
657 with due process of law.

658 (iv) Imposition of any penalty or denied any right or privilege including, but not limited to,
659 imposition of a civil penalty or disciplinary action by an occupational or professional licensing board
660 or entity, solely for acting in accordance with this chapter to Assist Qualifying Patients or
661 Designated Caregivers with the Medical Use of marijuana.

662 (b) No Nonprofit Dispensary Agents shall be subject to arrest, prosecution, search,
663 seizure, or penalty in any manner, or denied any right or privilege including, but not limited to, civil
664 penalty or disciplinary action by a business, occupational, or professional licensing board or entity,
665 solely for working for or with a Nonprofit Dispensary to engage in acts permitted by this chapter.

666 (i) Except when transporting marijuana in accordance with section 110(b)(ii), Nonprofit
667 Dispensary Agents who are not volunteers are only allowed to possess and manufacture marijuana
668 at the Nonprofit Dispensary location or locations for which the Nonprofit Dispensary Agent is
669 registered. Nonprofit Dispensary Agents who are volunteers are only allowed to possess and
670 manufacture marijuana at a Nonprofit Dispensary location. Nonprofit Dispensary Agents who are
671 volunteers may not dispense marijuana.

672 (ii) A Nonprofit Dispensary with a growing location in addition to the location of the
673 Nonprofit Dispensary must label the marijuana that is being moved between the growing location
674 and Nonprofit Dispensary with a trip ticket that identifies the Nonprofit Dispensary by identification
675 number, the time, date, origin, and destination of the material being transported, and the amount
676 and form of marijuana and marijuana material that is being transported. Marijuana can only be
677 transported by a Nonprofit Dispensary Agent who is not a volunteer.

678 **Section 111. Prohibitions for Nonprofit Dispensaries.**

679 (a) A Nonprofit Dispensary may not dispense, deliver or otherwise transfer marijuana to a
680 person other than a Qualifying Patient who has designated the Nonprofit Dispensary to cultivate
681 marijuana for them or to the patient's Designated Caregiver.

682 (b) The Department shall immediately revoke the Registry Identification Card of a Nonprofit
683 Dispensary Agent who is found to have violated section 111(1), and such a person shall be
684 disqualified from serving as a Nonprofit Dispensary Agent.

685 (c) A person who has been convicted of an Excluded Felony Offense may not be a
686 Nonprofit Dispensary Agent. A Nonprofit Dispensary Agent in violation of this paragraph commits a
687 civil violation for which a fine of not more than \$1,000 may be adjudged and collected by The
688 Department. A Nonprofit Dispensary Agent in violation of this paragraph and who at the time of the
689 violation has been previously found to have violated this paragraph commits a Class C
690 misdemeanor.

691 **Section 112. Local regulation.** This chapter does not prohibit a city, incorporated town or
692 county of this State from limiting the number of Nonprofit Dispensaries that may operate in the
693 political subdivision or from enacting reasonable zoning regulations applicable to Nonprofit
694 Dispensaries.

695 **Section 113. Prohibited conduct for Physicians.** A Physician shall not:

696 (a) Accept, solicit, or offer any form of pecuniary remuneration from or to a Nonprofit
697 Dispensary or other provider of medical marijuana.

698 (b) Offer a discount or other thing of value to a patient who uses or agrees to use a
699 particular Nonprofit Dispensary.

700 (c) Examine a patient for purposes of diagnosing a Qualifying Medical Condition at a
701 location where medical marijuana is sold or distributed.

702 (d) Hold an economic interest in a Nonprofit Dispensary if the Physician certifies the
703 Qualifying Medical Condition of a patient for participation in the medical marijuana program.

704 **Section 114. Enforcement**

705 (a) Department failure to adopt rules. If The Department fails to adopt rules to implement
706 this chapter within the time prescribed, any person who would be a Qualifying Patient under this
707 chapter may commence a mandamus action in Pulaski County Circuit Court to compel The
708 Department to perform the actions mandated pursuant to the provisions of this chapter.

709 (b) Department failure to issue a valid Registry Identification Card. If The Department fails
710 to issue a valid Registry Identification Card or a registration certificate in response to a valid
711 application or renewal submitted pursuant to this chapter within 45 days of its submission, the
712 Registry Identification Card or registration certificate is deemed granted, and a copy of the registry
713 identification application or renewal is deemed a valid Registry Identification Card.

714 (c) Department failure to accept applications. If at any time after the effective date of this
715 chapter, allowing time for adoption of rules, The Department is not accepting applications, a
716 notarized statement by a Qualifying Patient containing the information required in an application,
717 pursuant to section 105(a), is deemed a valid Registry Identification Card.

718 **Section 115. No implied repeal.** By adoption of this Act, there is no implied repeal of the
719 existing Arkansas laws criminalizing possession of marijuana for purposes not specified in this act.
720 This act also acknowledges that marijuana use, possession, and distribution for any purpose
721 remain illegal under Federal law.

722 **Section 116. Severability.** If any provision or section of this Act or the application thereof
723 to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or
724 application of the Act which can be given effect without the invalid provisions or applications, and to
725 this end the provisions of the Act are declared to be severable.

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