

## Full Text of Proposed Amendment

Be it resolved by the people of the State of Ohio that the Constitution of the State of Ohio be amended by adding a new article to read as follows:

### **ARTICLE ( ): Alternative Medical Treatment**

#### **Section 1: Rights and Protections**

(A) A patient shall have the right to possess:

- (1) No more than three and one-half ounces of usable cannabis.
- (2) No more than twelve cannabis plants if the patient has not specified that a caregiver or safe access center may possess the patient's cannabis plants through the department's registry program.

(B) A caregiver shall have the right to possess:

- (1) No more than three and one-half ounces of usable cannabis for each patient to whom he or she is connected through the department's registry program.
- (2) No more than twelve cannabis plants for each patient who has specified that the caregiver may possess the patient's cannabis plants through the department's registry program, unless the caregiver has specified that a safe access center may possess the patient's plants through the department's registry program.

(C) A visiting patient shall have the right to possess no more than three and one-half ounces of usable cannabis.

(D) A safe access center shall have the right to possess:

- (1) No more than twelve cannabis plants for each patient or patient's caregiver who has specified that the safe access center may possess the patient's cannabis plants through the department's registry program.
- (2) No more than nine and one-half kilograms of usable cannabis.

(E) A safe access center or a cardholder engaging in the medical use of cannabis as allowed under this article shall not be subject to disciplinary action, arrest, face any penalties, or be denied any right or privilege including but not limited to employment or child custody by any court, financial institution, landlord, licensing board, employer, or any other entity for:

- (1) Acquiring usable cannabis or cannabis plants from a (a) cardholder or a (b) safe access center.
- (2) Providing usable cannabis or cannabis plants to a (a) cardholder, (b) safe access center, or (c) any institution for the purpose of federally or state approved testing or clinical trials.
- (3) Possession of cannabis that is incidental to medical use but is not usable cannabis or a cannabis plant.
- (4) Possession of cannabis paraphernalia, usable cannabis, or cannabis plants.
- (5) Possession of a registry card or a registry certificate.

(F) A practitioner shall not be subject to arrest, prosecution, penalty, or denied any right or privilege including but not limited to civil penalty or disciplinary action by an occupational or professional licensing board or bureau for providing written recommendations in good faith to persons diagnosed with a qualifying condition during the course of a bona fide practitioner-patient relationship.

(G) A safe access center or a cardholder may receive compensation for assisting patients with the medical use of cannabis or providing cannabis for the purpose of state or federally approved clinical trials or testing. Any such compensation shall not constitute the sale of a controlled substance.

(H) Any usable cannabis, cannabis plants, cannabis paraphernalia, licit property, or interest in licit property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under this article, or acts incidental to such use, shall not be seized or forfeited.

(I) A person may be simultaneously registered with the department as a patient, caregiver, or safe access center agent.

#### **Section 2: Acts Not Authorized, Not Required, Not Prohibited**

(A) This article shall not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for:

- (1) Providing cannabis to a minor or exposing a minor to second hand cannabis smoke.

(2) Possession of cannabis or otherwise engaging in the medical use of cannabis in a school bus, on the grounds of any school, in any correctional facility, or when doing so would constitute professional negligence or malpractice.

(3) Smoking cannabis on any form of public transportation or in any public place.

(4) Operating, navigating, or controlling any motor vehicle, aircraft, or motorboat while under the influence of cannabis, except that a patient or a visiting patient shall not be considered under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear insufficient in concentration to cause impairment.

(B) Nothing in this article shall require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the use of cannabis.

(2) Any person or establishment in lawful possession of property to allow a guest, client, customer, visitor, or employee to smoke or cultivate cannabis on that property.

(3) An employer to allow an employee to work while under the influence of cannabis or administer cannabis at the workplace, except that a patient must demonstrate impaired behavior as a result of cannabis use to be considered under the influence of cannabis.

(C) Nothing in the article shall prohibit a city, village, or township of this state from:

(1) Prohibiting safe access centers from being physically located within its jurisdiction, except that a zoning ordinance may not obstruct a safe access center agent from delivering usable cannabis to a patient's place of residence.

(2) Limiting the number of safe access centers that may be physically located within its jurisdiction or enacting zoning ordinances applicable to safe access centers, except that a zoning ordinance may not allow for a safe access center to be physically located in a building zoned for residential use.

(3) Enacting zoning ordinances limiting the location of a caregiver's existing cultivation site within its jurisdiction if a safe access center designated to acquire usable cannabis from cardholders and provide usable cannabis to cardholders is physically located within five miles of the caregiver's proposed or existing cultivation site.

### **Section 3: Limitations on the Possession of Cannabis Plants**

(A) All cannabis plants possessed pursuant to this article must be kept at cultivation sites disclosed to the department in *enclosed, locked facilities unless*:

(1) The cannabis plants are being transported because the cardholder possessing the cannabis plants is moving.

(2) The cannabis plants are in the process of being transferred to a cardholder or registered safe access center.

(B) A cardholder or a safe access center may utilize only one cultivation site.

### **Section 4: Limitations for Safe Access Centers**

(A) A safe access center shall not:

(1) Be physically located within one thousand feet of the property line of a preexisting school, place of worship, daycare facility, drug or alcohol rehabilitation facility, boys club, girls club, YMCA, YWCA, or any similar community or recreation center.

(2) Be physically located in a building zoned for residential use.

(3) Have more than two physical locations in Ohio.

(4) Provide more than three and one-half ounces of usable cannabis to any one patient in any twenty-one day period, either directly through a safe access center agent or indirectly through a caregiver.

(5) Allow access to its cultivation site by anyone other than (a) safe access center agents working or volunteering for the safe access center, (b) employees of the department, (c) law enforcement officials.

(6) Possess more than ninety-six cannabis plants.

(7) Knowingly allow cannabis to be smoked or ingested on its property.

(8) Display advertisements or signage in public view (a) containing the word "cannabis" or synonyms of the word "cannabis," (b) depicting the medical use of cannabis, (c) depicting cannabis paraphernalia., or (d) depicting a cannabis plant or leaf.

### **Section 5: Requirements for Safe Access Center Agents**

(A) A safe access center must report to the verification system the time, date, and amount of usable cannabis provided to each patient, whether the usable cannabis was provided directly or indirectly through a caregiver, and verify through the verification system that a patient will not obtain more than three and one-half ounces of usable cannabis from safe access centers in the past twenty-one days by obtaining usable cannabis from the safe access center.

(B)A safe access center agent must have documentation when transporting usable cannabis or cannabis plants on behalf of the safe access center specifying (1)the amount of usable cannabis or cannabis plants being transported, (2)the date of transportation, (3) a contact number to verify that the usable cannabis is being transported on behalf of the safe access center for which the safe access center agent works or volunteers, and (4)a valid safe access center agent card.

(C)A safe access center agent may not accept employment from, volunteer for, serve as board member for, or be a principle officer of more than one safe access center in the state of Ohio simultaneously.

### **Section 6: Department Duties and Powers**

(A)Within ninety days of the effective date of this article the department shall establish:

(1)The form and content of registry applications and renewals, the manner in which it shall (a)accept applications and renewals for registry cards and registry certificates, (b)approve or deny applications and renewal for registry cards and registry certificates, (c)update a cardholder's or safe access center's registry information.

(2)The manner in which it shall maintain a confidential list of mailing addresses, cultivation site locations, phone numbers, and registry card numbers of persons and entities that have been issued registry cards and registry certificates.

(3)An internet based verification system available to Ohio law enforcement personnel on a twenty-four hour basis to ascertain the following information when presented with a registry card or a registry certificate: (a)That a person is a patient or a caregiver, or that an entity is a safe access center. (b)That a cultivation site belongs to a specific cardholder or safe access center. (c)The number of cannabis plants that are permitted at a cultivation site. (d)Which safe access center a safe access center agent is associated with as determined through the department's registry program.

(4)An internet based verification system allowing safe access center agents on a twenty-four hour basis to perform the following duties when presented with a registry card. (a)Identify that person is a patient, a caregiver, or a safe access center agent. (b)Determine what amount of usable cannabis the safe access center may legally provide to a specific patient at a specific time. (c)Enter any amount of usable cannabis provided to a patient, either directly or through a caregiver, including the time, date, and amount provided to the patient. (d)Determine which safe access center a safe access center agent is associated with as specified through the department's registry program.

(5)A procedure for notifying cardholders and safe access centers of (a)the loss of the right to possess a patient's cannabis plants and (b)the revocation of a registry card or a registry certificate.

(6)Regulations governing the manner in which the department shall consider petitions from the public to add new conditions to the list of qualifying medical conditions set forth in this article, including public notice of an opportunity to comment in public hearings on the petitions.

(B)Within one hundred and twenty days of effective date of this article, the department shall issue registry cards to applicants who submit an application or renewal including the following:

(1)An application or renewal fee.

(2)Proof of Ohio residency.

(3)The name, mailing address, and date of birth of the applicant.

(4)Permission from the applicant allowing the department to perform a criminal background check.

(5)The physical address of the cultivation site where the applicant will cultivate cannabis plants, if any.

(6)A two inch by two inch photo of the applicant.

(7)If the application is for a patient registry card, (a)a written recommendation issued by a practitioner within ninety days immediately preceding the date of an application, and (b)a designation as to whether the patient, a caregiver, or a safe access center will be allowed to possess the patient's cannabis plants.

(8)If the application is for a safe access center agent registry card, a written statement from the safe access center accepting the applicant as a volunteer, employee, principal officer, or board member.

(9)If the application is for a caregiver registry card, a designation as to whether the caregiver or safe access center will be allowed to possess the patient's cannabis plants.

(C)Within one hundred and twenty days of the effective date of this article, the department shall issue registry certificates to applicants who submit an application or renewal including the following:

(1)An application fee or renewal fee.

(2)The legal name of the proposed or existing safe access center.

(3)The physical address or addresses of the proposed or existing safe access center location or locations, if any, where usable cannabis will be provided to and acquired from cardholders.

(4)The physical address of the safe access center's proposed or existing cultivation site, if any.

(5)The name, mailing address, and date of birth of each principal officer and board member.

(6)Written approval for the location or locations from the city, township, or village zoning department with jurisdiction over the proposed safe access center's location or locations.

(7)Permission from each principal officer and board member allowing the department to perform a criminal background check.

(D) If at any time after the one hundred and twenty days following the effective date of this article the department fails to:

(1) Govern the manner in which it shall accept applications and renewals for patient registry cards and registry certificates, a written recommendation by a practitioner within the past year shall be deemed a valid registry card.

(2) Respond to an application for a patient registry card within thirty days of receipt, a copy of the application along with a written recommendation by a practitioner within the past year shall be deemed a valid registry card.

(3) Respond to an application or renewal for a safe access center registry certificate within thirty days of receipt, a copy of the application or renewal along with written approval from the local zoning board with jurisdiction over the safe access center's location shall be deemed a valid registry certificate.

(E) The department may:

(1) Confirm a cardholder's status with his or her permission as a patient, caregiver, or safe access center agent to a landlord, employer, school, medical professional, court, or Ohio law enforcement official.

(2) Inspect a safe access center location.

(3) Enter into contract with a third party to process registry cards.

(4) Suspend or revoke a registry certificate or registry card for serious or multiple acts outside of the limitations, requirements, or rights and protections within this article, or for acts not authorized by this article.

(5) Revoke a registry card if the cardholder is convicted of a disqualifying offense.

(6) Deny a registry application if (a) the applicant has been convicted of a disqualifying offense, (b) the application contains incomplete or inaccurate information, or (c) if the applicant previously had a registry card revoked.

#### **Section 7: Judicial Review**

(F) The suspension, revocation, or denial of a registry card or a registry certificate is a final department action, subject to judicial review vested in the Franklin County Court of Common Pleas.

#### **Section 8: Registry Fees**

(A) The fee for registry application or renewals shall be as follows:

(1) The fee for a registry card is not refundable and shall be \$150.00, unless the patient can prove financial hardship, in which case the fee shall be \$25.00

(2) The fee for a registry certificate shall be \$1,500.00, and must be refunded within thirty days if denied.

(3) The fee for updating a cardholder's registry information shall be \$25.00

(B) The state of Ohio shall reallocate registry fees generated through the department's registry program in excess of the funds required to administer this article toward the funding of public education, law enforcement, and public safety resources within the state.

#### **Section 9: Confidentiality**

All information received and records kept by any person or entity for purposes of administering this article are confidential and exempt from the Freedom of Information Act, and are not subject to disclosure to any individual or entity without the cardholder's or safe access center's permission, except as necessary for an authorized employee of the department or an Ohio law enforcement official to perform official duties pursuant to this article, and it shall be a misdemeanor punishable by up to six months in jail and a \$5,000 fine for any person to breach the confidentiality of information obtained pursuant to this article.

#### **Section 10: Severability**

If any section or subsection of this article is held invalid, the remainder of this article shall not be affected by that holding and shall continue in full force and effect.

#### **Section 11: Definitions**

(A) For the purpose of this article, the following definitions shall be applied:

(1) "Bona fide practitioner-patient relationship" means a full assessment of the person's medical history and current medical condition made in the course of an examination of the person by a practitioner.

(2) "Cannabis paraphernalia" means an instrument used for the purpose of administering usable cannabis such as a vaporizer, pipe, or rolling papers.

(3) "Cannabis Plant" means a living plant of the genus cannabis with a root system at three inches in length.

(4)"Cardholder" means a patient, a caregiver, or a safe access center agent who possesses a valid registry card and has not been convicted of a disqualifying offense.

(5)"Caregiver" means a person who is (a)at least twenty-one years of age, (b)has agreed to possess no more than five patients' cannabis plants as determined through the department's registry program, (c)possesses a valid caregiver registry card, and (d) has not been convicted of a disqualifying offense.

(6)"Cultivation site" is the location of the enclosed, locked facility disclosed to the department through the department's registry program at which only one cardholder may cultivate cannabis plants, or, if a safe access center registry certificate has also been issued for the location, at which multiple safe access center agents may cultivate cannabis plants.

(7)"Department" means the Ohio Department of Health or its successor agency.

(8)"Disqualifying offense" means a violent crime that was classified as a felony in the jurisdiction where the person was convicted, or a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that an offense (a)for which the sentence, term of probation, incarceration, and supervised release was completed 10 or more years earlier, or (b)an offense that consisted of conduct for which this article would likely have prevented a conviction shall not be considered disqualifying offenses.

(9)"Enclosed, locked facility" means an enclosed area such as a closet, room, greenhouse, or any other building equipped with locks or other security devices designed to permit access only by cardholders.

(10)"Medical use" means the acquisition, possession, administration, cultivation in an enclosed and locked facility, delivery, transportation, transfer, or use of cannabis or cannabis paraphernalia relating to the administration of cannabis to treat or alleviate a patient's qualifying medical condition.

(11)"Patient" means a person who has been diagnosed by a practitioner as having (a)a qualifying medical condition, (b)possesses a valid patient registry card, and (c)has not been convicted of a disqualifying offense.

(12)"Practitioner" means a person who is licensed MD, DO, or other person authorized by law to prescribe drugs to humans in Ohio. If the qualifying patient's qualifying medical condition is post-traumatic stress disorder, the practitioner must be a licensed psychiatrist, psychologist, or psychotherapist.

(13)"Registry card" means a document issued by the department that (a)identifies a person as a patient, a caregiver, or a safe access center agent, (b)displays a picture of the cardholder, (c)displays the cardholder's name, and (d)displays a registry number unique to the cardholder.

(14)"Registry certificate" means a document issued by the department identifying a safe access center as approved through the department's registry program.

(15)"Safe access center" means an entity (a)possessing a valid registry certificate from the department that (b)has agreed to possess no more than eight patients' cannabis plants, if any, as determined through the department's registration process.

(16)"Safe access center agent" means a principal officer, board member, employee, volunteer, or agent of a safe access center who is (a)at least twenty-one years of age, (b)possesses a valid safe access center agent registry card, and (c)has not been convicted of a disqualifying offense

(17)"Qualifying medical condition" means a disease or a condition or its treatment that produces one or more of the following: (a)cachexia or wasting syndrome, (b)severe nausea, (c)severe pain, or (d)severe and persistent muscle spasms including but not limited to those characteristic of multiple sclerosis, or, the following diseases and conditions: (e)posttraumatic stress disorder, (f)glaucoma, (g)Parkinson's disease, (h)sickle cell anemia, (i)cancer, (j)HIV or AIDS, (k)Crohn's disease, or, (l)any additional disease or condition added by the department.

(18)"Qualifying patient" means a person who is (a)at least eighteen years of age and (b)has been diagnosed with a qualifying medical condition.

(19)"Usable cannabis" means the dried, cured, and usable flowers of the cannabis plant and any mixture or preparation thereof, but does not include (a)the seeds, stalks, and roots of the plant,(b)the weight of

any non-cannabis ingredients combined with usable cannabis, such as ingredients added to prepare a topical administration, food, or drink, (c)cannabis in the process of drying and curing.

(20) "Verification system" means a secure, password-protected, internet based system established and maintained by the department that rejects any connection not sent from an encrypted server.

(21) "Visiting patient" means a person who (a)has been diagnosed with a qualifying medical condition and (b)has been issued a valid patient registry card, or its equivalent, issued pursuant to the laws of another state, district, territory, commonwealth, insular possession of the United States or country recognized by the United States and is not a resident of Ohio.

(22) "Written recommendation" means a document dated and signed by a practitioner during the course of a bona fide practitioner-patient relationship stating that, in the practitioner's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat the patient's qualifying medical condition.

**Section 12: Date of Effect.**

This Amendment shall take effect upon the first day of January immediately following its approval by the electors of Ohio.