

Arkansas Medical Cannabis Amendment of 2024

FULL TEXT OF THE AMENDMENT:

§1 Short Title

This amendment to the Arkansas Constitution shall be known as the "Arkansas Medical Cannabis Amendment of 2024."

§2 Effective Date; Intent

This amendment shall be effective on and after November 15, 2024. The intent of this amendment is to expand access to medical cannabis by qualified patients under the limitations provided in this amendment and to provide that no constitutional amendment may be amended or repealed without a vote of the people.

§3 Effect on Amendment 98

This amendment shall ratify and affirm the Arkansas Medical Marijuana

Amendment of 2016, otherwise known as Amendment 98, as codified on January 12, 2024, in its entirety except for the following amendments:

- a) §2(4)(B) is amended to read: "Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary or processor;"
- b) §2(12) is amended to read: "Health care practitioner" means a doctor of medicine, a doctor of osteopathic medicine, a nurse practitioner, a physician's assistant or a pharmacist who holds a valid, unrestricted license to practice in the state of Arkansas."
- c) §2(13)(C) is amended to read: "Any other condition not otherwise specified that a health care practitioner considers debilitating to the patient and which may be alleviated by the use of usable marijuana; or any other medical condition approved by the Department of Health under § 4 of this amendment."
- d) §2(14)(A) is amended to read: "Qualifying patient" means a person who has been diagnosed by a health care practitioner as having a qualifying medical condition and who has registered with the department under § 5 of this amendment. A person who is not an Arkansas resident may apply for and receive a registry identification card in the same manner as a resident of Arkansas."
- e) §2(17) is amended to read: "Usable marijuana" means cannabis and other substances including any parts of the plant Cannabis sativa, whether growing or not, its seeds and the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, isomer or preparation of the plant, including tetrahydrocannabinol and all other cannabinol derivatives, whether produced directly or indirectly by extraction except that usable marijuana shall not include hemp with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis. Usable cannabis does

not include the weight of any other ingredient that may be combined with cannabis. The terms 'cannabis' and 'marijuana' are used interchangeably throughout this amendment."

f) §2(19) is amended to read: "Written certification' means a document signed by a health care practitioner stating that in the health care practitioner's professional opinion, after having completed an assessment of the qualifying patient in person or via telemedicine, the qualifying patient has a qualifying medical condition, which shall be noted in the health care practitioner's records. A written certification is not a medical prescription."

g) §3(e) is amended to read: "A dispensary may receive, transfer, or sell marijuana seedlings, plants or usable marijuana to and from Arkansas-licensed cultivation facilities, processors or other dispensaries, may accept marijuana seeds, seedlings or clones from any individual or entity authorized under applicable state law to possess marijuana seeds, seedlings or clones and may sell usable marijuana, marijuana seedlings, plants or seeds to qualifying patients and designated caregivers."

h) §3(h) is amended to read: "A health care practitioner 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 any business, professional, or occupational licensing board or bureau for providing written certifications to qualified patients."

i) §3(l) is amended to read: "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 has the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the Department of Health. Visiting qualifying patients shall be permitted to use the equivalent of a registry identification card from their state, district, territory, commonwealth or insular possession of the United States to enter a dispensary and to make purchases of medical marijuana in the same manner and amounts as resident qualifying patients."

j) §4(a)(4)(A) is amended to read: "The parent or guardian of a minor who is a qualifying patient shall not be required to complete a criminal background check in order to become a designated caregiver for that minor. The Department of Health shall require all other applicants for a designated caregiver registry identification card to apply for or authorize the Department of Health to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation."

k) §4(f) is amended to read: "When a patient receives a written certification from a health care practitioner, the health care practitioner may require the patient to consult with a pharmacist consultant of a dispensary."

l) §5(a)(1)-(2) is amended to read: "(1) Written certification issued by a health care practitioner within thirty (30) days of application; (2) The department shall not charge an application fee to qualifying patients and designated caregivers."

m) §5(d) is amended to read: "A registry identification card expires three (3) years from the date of issuance. Upon the effective date of this amendment, the department shall automatically update all current registry identification cards to add two additional years to the expiration date."

n) §5(f)(1) is amended to read: "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 health care practitioner, are considered confidential records that are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq."

o) §5(h) is amended to read: "The department, division, and commission shall submit to the General Assembly an annual report that does not disclose any identifying information about cardholders or health care practitioners 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 health care practitioners 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."

p) §8 (e)(8) is amended to read: "Advertising restrictions for dispensaries, processors and cultivation facilities narrowly tailored to avoid making the advertising and packaging by a dispensary, processor or a cultivation facility appealing to children. The rules of the Alcoholic Beverage Control Division shall also require packaging that cannot be opened by a child or that prevents ready access of toxic or harmful amount of the product."

q) §8(m)(1)(A) is amended to read: "A dispensary licensed under this section may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana plants and seeds, marijuana paraphernalia, and related supplies and educational materials to a qualifying patient or designated caregiver."

r) §8(m)(4)(A)(ii) is amended to read: "A cultivation facility may sell marijuana in any form to a dispensary, processor or other cultivation facility."

s) §15 is amended to read: "Prohibited conduct for health care practitioners.

A health care practitioner shall not:

- (1) Accept, solicit, or offer any form of pecuniary remuneration from or to a dispensary or cultivation facility in exchange for providing written certifications for patients;

- (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 health care professional certifies the qualifying medical condition of a patient for medical use of marijuana."

t) §16 is amended to read: "If the state of Arkansas fails to establish and enforce the provisions of this amendment as written, sovereign immunity is hereby waived to the extent necessary to allow any person or any entity licensed under this amendment to seek and obtain injunctive relief."

u) §21 is amended to read: "This amendment authorizes the growing of marijuana at a dispensary or cultivation facility that is properly licensed with the state or by a qualifying patient or designated caregiver when grown in compliance with this amendment."

v) §23 is repealed in its entirety.

w) §26 is repealed in its entirety.

§4 Cultivation by certain qualifying patients for personal use.

- a) A qualifying patient or a designated caregiver who is at least twenty- one (21) years old and in possession of a valid registry identification card may possess, plant, cultivate, dry and process up to seven (7) marijuana plants fourteen (14) or more inches tall and up to seven (7) or fewer marijuana plants, clones or seedlings which are each less than fourteen (14) inches tall at their domicile solely for the personal use of the qualifying patient or the qualifying patient who has designated the caregiver.
- b) No more than fourteen (14) marijuana plants of any size may be planted or cultivated at one residence at any one time, regardless of the number of persons at the residence holding a registry identification card
- c) In no event may any marijuana cultivated or processed at the domicile of a qualifying patient be sold, bartered or traded for anything of value.
- d) The cultivation of marijuana plants under this section shall be regulated under rules to be enacted and administered by the Alcohol Beverage Control Division

§5 Effect of future federal classification of marijuana

- a) If and when marijuana is no longer scheduled as a controlled substance as defined under the Federal Controlled Substance Act, 21 U.S.C. §801 et seq. or, if and when possession of marijuana under 21 U.S.C. §844 is no longer a criminal offense:
- b) Adults are authorized under Arkansas state law to possess up to 1 ounce of usable marijuana acknowledging that as of January 12, 2024, possession and sale of marijuana is illegal under federal law;

- c) All types of usable marijuana produced pursuant to this Amendment shall be authorized for wholesale and retail sale for adult use by cultivation facilities and dispensaries licensed under this Amendment under rules to be enacted and administered by the Alcohol Beverage Control Division; and
- d) The cultivation and sale of marijuana in this state shall only be allowed as provided under this Amendment.

§6 Effect on Article 5, §1

Article 5, §1 is amended to add at the end of the provision headed "Amendment and Repeal": "Unless expressly allowed in such constitutional amendment, no constitutional amendment shall be amended or repealed unless approved by a vote of the people under this Constitution."

§7 Severability; Inconsistent Provisions Inapplicable

- a) If any part or subpart of this amendment or the application 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.
- b) All provisions of the Constitution, statutes, regulations, and common law of this state, to the extent inconsistent or in conflict with any provision of this amendment, are expressly declared null and void as to, and do not apply to, any activities allowed under this amendment.

§8 Self-Executing

This amendment shall be self-executing, and all its provisions shall be treated as mandatory, but laws may be enacted to facilitate its operation. No legislation shall be enacted nor rules promulgated to restrict, hamper, or impair the intent of this amendment.