

1 AN ACT relating to medical marijuana.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 21 of this Act:*

6 *(1) "Acquire" or "acquisition" means coming to possess marijuana by means of any*
7 *legal source authorized in Sections 1 to 21 of this Act, not from an unauthorized*
8 *source, and in accordance with Sections 1 to 21 of this Act;*

9 *(2) "Assist" or "assisting" means helping a qualifying patient make medical use of*
10 *marijuana by enabling the medical use by any means authorized pursuant to*
11 *Sections 1 to 21 of this Act.*

12 *(3) "Cardholder" means a qualifying patient, visiting qualifying patient, or*
13 *designated caregiver who has been issued and possesses a valid registry*
14 *identification card;*

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

16 *(a) Has been licensed by the Medical Marijuana Commission pursuant to*
17 *Section 7 of this Act; and*

18 *(b) Cultivates, grows, processes, and delivers medical cannabis to another*
19 *cultivator, processor, producer, distributor, or dispensary in accordance*
20 *with Sections 1 to 21 of this Act;*

21 *(5) "Cultivation facility agent" means a principal officer, board member, employee,*
22 *volunteer, or agent of a cultivator who is twenty-one (21) years of age or older*
23 *and has been registered through the Department of Alcoholic Beverage Control;*

24 *(6) "Current use of marijuana" is presumed when a positive test result for*
25 *marijuana occurs;*

26 *(7) (a) "Designated caregiver" means a person who:*

27 *1. Is at least twenty-one (21) years of age;*

- 1 2. Has agreed to assist with a patient's medical use of cannabis;
2 3. Has not been convicted of a disqualifying felony offense;
3 4. Assists no more than three (3) qualifying patients with their medical
4 use of cannabis; and
5 5. Has been registered through the Department for Public Health.
6 (b) "Designated caregiver" includes without limitation a parent of a qualifying
7 patient who is under the age of eighteen (18) and is required to register as a
8 designated caregiver pursuant to Sections 1 to 21 of this Act.
9 (c) "Designated caregiver" does not include a member of the Kentucky
10 National Guard or the United States military;
11 (8) "Dispensary" means an entity licensed pursuant to Sections 1 to 21 of this Act
12 that acquires, possesses, manufactures, delivers, transfers, transports, sells,
13 supplies, or dispenses medical cannabis, usable medical cannabis, or related
14 supplies and educational materials to registered qualifying patients;
15 (9) "Dispensary agent" means a principal officer, board member, employee,
16 volunteer, or agent of a dispensary who is twenty-one (21) years of age or older,
17 has not been convicted of a disqualifying felony offense, and has been registered
18 through the department;
19 (10) "Employee" means an individual employed by an employer, but does not include:
20 (a) An individual employed by his or her parents, spouse, or child;
21 (b) An individual participating in a specialized employment training program
22 conducted by a nonprofit sheltered workshop or rehabilitation facility;
23 (c) An individual employed outside the state of Kentucky; or
24 (d) An independent contractor;
25 (11) "Enclosed, locked facility" means:
26 (a) A closet, room, greenhouse, building, or other enclosed area that is
27 equipped with locks or other security devices that permit access only by the

1 cardholder allowed to cultivate the plants or, in the case of a cultivator, the
2 cultivator agents working for the cultivator; or

3 (b) A shared enclosed, locked facility used by two (2) or more qualifying
4 patients or designated caregivers who reside in the same dwelling and have
5 a registry identification card that removes state penalties for cannabis
6 cultivation;

7 (12) "Excluding felony offense" means:

8 (a) A felony offense that would qualify the person as a violent offender under
9 KRS 439.3401; or

10 (b) A violation of a state or federal controlled substance law that was classified
11 as a felony in the jurisdiction where the person was convicted, except:

12 1. An offense for which the sentence, including any term of probation,
13 incarceration, or supervised release, was completed five (5) or more
14 years earlier; or

15 2. An offense that consisted of conduct for which Sections 1 to 21 of this
16 Act would likely have prevented a conviction, but the conduct either
17 occurred prior to the enactment of Sections 1 to 21 of this Act or was
18 prosecuted by an authority other than the Commonwealth of
19 Kentucky;

20 (13) (a) "Good faith belief" means reasonable reliance on a fact, or that which is
21 held out to be factual, without intent to deceive or be deceived and without
22 reckless or malicious disregard for the truth.

23 (b) "Good faith belief" does not include a belief formed with gross negligence.

24 (c) "Good faith belief" may be based on any of the following:

25 1. Observed conduct, behavior, or appearance;

26 2. Information reported by a person believed to be reliable, including
27 without limitation a report by a person who witnessed the use or

- 1 possession of marijuana or marijuana paraphernalia by an applicant
2 or employee in the workplace;
- 3 3. Written, electronic, or verbal statements from the employee or other
4 persons;
- 5 4. Lawful video surveillance;
- 6 5. A record of government agencies, law enforcement agencies, or
7 courts;
- 8 6. A positive test result for marijuana;
- 9 7. A warning label, usage standard, or other printed material that
10 accompanies instructions for usable marijuana;
- 11 8. Information from a physician, medical review officer, or a dispensary;
- 12 9. Information from reputable reference sources in print or on the
13 Internet;
- 14 10. Other information reasonably believed to be reliable or accurate; or
- 15 11. Any combination of the items listed in this subsection;
- 16 (14) "Medical use" includes the acquisition, administration, manufacture, delivery,
17 possession, transfer, transportation, or use of cannabis or supplies relating to the
18 administration of cannabis to treat or alleviate a qualifying patient's qualifying
19 medical condition or symptoms associated with the patient's qualifying medical
20 condition;
- 21 (15) "Physician" means a doctor of medicine or doctor of osteopathic medicine who
22 holds a valid, unrestricted, and existing license to practice in the Commonwealth
23 of Kentucky and has been issued a registration from the United States Drug
24 Enforcement Administration to prescribe controlled substances;
- 25 (16) "Positive test result for marijuana" means a result that is at or above the cutoff
26 concentration level established by the United States Department of
27 Transportation or Kentucky law regarding being under the influence or drugged

1 driving, whichever is lower;

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

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

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

16 (c) Any other medical condition or its treatment approved by the Department
17 for Public Health pursuant to Section 3 of this Act;

18 (18) (a) "Qualifying patient" means a person who has been diagnosed by a
19 physician as having a qualifying medical condition and who has registered
20 with the Department for Public Health pursuant to Section 4 of this Act.

21 (b) "Qualifying patient" shall not include a member of the Kentucky National
22 Guard or the United States military;

23 (19) "Registry identification card" means a document issued by the Department for
24 Public Health that identifies a person as a qualifying patient, visiting qualifying
25 patient, registered designated caregiver, dispensary agent, or a cultivation facility
26 agent;

27 (20) (a) "Safety sensitive position" means any position involving a safety sensitive

1 function pursuant to federal regulations governing drug and alcohol testing
2 adopted by the United States Department of Transportation or any other
3 rules, guidelines, or regulations adopted by any other federal or state
4 agency.

5 (b) "Safety sensitive position" also means any position designated in writing by
6 an employer as a safety sensitive position in which a person performing the
7 position while under the influence of marijuana may constitute a threat to
8 health or safety, including without limitation a position:

9 1. That requires any of the following activities:

10 a. Carrying a firearm;

11 b. Performing life-threatening procedures;

12 c. Working with confidential information or documents pertaining
13 to criminal investigations; or

14 d. Working with hazardous or flammable materials, controlled
15 substances, food or medicine; or

16 2. In which a lapse of attention could result in injury, illness, or death,
17 including without limitation a position that includes the operating,
18 repairing, maintaining, or monitoring of heavy equipment,
19 machinery, aircraft, motorized watercraft, or motor vehicles as part of
20 the job duties;

21 (21) (a) "Under the influence" means symptoms of the current use of marijuana
22 that may negatively impact the performance of the job duties or tasks or
23 constitute a threat to health or safety.

24 (b) "Under the influence" includes without limitation:

25 1. Symptoms of the applicant's or employee's speech, walking, standing,
26 physical dexterity, agility, coordination, actions, movement, demeanor,
27 appearance, clothing, odor, or other irrational or unusual behavior

1 that are inconsistent with the usual conduct of the applicant or
2 employee;

3 2. Negligence or carelessness in operating equipment, machinery, or
4 production or manufacturing processes;

5 3. Disregard for safety; and

6 4. Involvement in an accident that results in:

7 a. Damage to equipment, machinery, or property;

8 b. Disruption of a production or manufacturing process;

9 c. An injury; or

10 d. Other symptoms causing a reasonable suspicion that the current
11 use of marijuana may negatively impact the performance of the
12 job duties or tasks or constitute a threat to health or safety;

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

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

19 (23) "Visiting qualifying patient" means a person who:

20 (a) Has been diagnosed with a qualifying medical condition;

21 (b) Possesses a valid registry identification card, or its equivalent, that was
22 issued pursuant to the laws of another state, district, territory,
23 commonwealth, insular possession of the United States, or country
24 recognized by the United States that allows the person to use marijuana for
25 medical purposes for a condition recognized pursuant to this section; and

26 (c) Is not a resident of Kentucky or who has been a resident of Kentucky for
27 less than thirty (30) days and prefers to have a visiting qualifying patient

1 distinction; and

2 (24) "Written certification" means a document dated and signed by a physician, that:

3 (a) States that in the physician's professional opinion, after having completed
 4 an assessment of the qualifying patient's medical history and current
 5 medical condition, the qualifying patient has a qualifying medical
 6 condition;

7 (b) Affirms that it is made in the course of a physician-patient relationship;

8 (c) Specifies the qualifying patient's debilitating medical condition, which shall
 9 also be noted on the physician's records.

10 A physician shall not issue a written certificate to a patient based on an
 11 assessment performed through telemedicine. A written certification is not a
 12 medical prescription.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) A qualifying patient or designated caregiver in actual possession of a registry
 16 identification card shall not be subject to arrest, prosecution, or denial of any
 17 right or privilege, including but not limited to civil penalty or disciplinary action
 18 by a court or occupational or professional licensing board, for the medical use of
 19 marijuana in accordance with Sections 1 to 21 of this Act if the qualifying patient
 20 or designated caregiver possesses not more than two and one-half (2.5) ounces of
 21 usable marijuana.

22 (2) (a) A qualifying patient or designated caregiver is presumed to be lawfully
 23 engaged in the medical use of marijuana in accordance with Sections 1 to
 24 21 of this Act if the qualifying patient or designated caregiver is in actual
 25 possession of a registry identification card and possesses an amount of
 26 usable marijuana that does not exceed the amount allowed pursuant to this
 27 section.

1 **(b) The presumption made in this section may be rebutted by evidence that**
2 **conduct related to marijuana was not for the purpose of treating or**
3 **alleviating the qualifying patient's qualifying medical condition or**
4 **symptoms associated with the qualifying medical conditions in accordance**
5 **with Sections 1 to 21 of this Act.**

6 **(3) A qualifying patient or designated caregiver shall not be subject to arrest,**
7 **prosecution, or penalty in any manner or denied any right or privilege, including**
8 **without limitation a civil penalty or disciplinary action by a business,**
9 **occupational, or professional licensing board or entity, for giving, or offering to**
10 **give, up to two and one-half (2.5) ounces of usable marijuana to a qualifying**
11 **patient or designated caregiver for the qualifying patient's medical use when**
12 **nothing of value is transferred in return.**

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

16 **(5) A dispensary may:**

17 **(a) Accept marijuana seedlings, plants, or usable marijuana from:**

- 18 **1. Cultivation facilities; and**
19 **2. Other dispensaries in Kentucky;**

20 **(b) Transfer or sell marijuana seedlings, plants, or usable marijuana to:**

- 21 **1. Cultivation facilities; and**
22 **2. Other dispensaries in Kentucky;**
23 **3. If permissible under federal law, out-of-state dispensaries; and**

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

27 **(6) (a) No school or landlord may refuse to enroll or lease to, or otherwise**

1 penalize, a person solely for his or her status as a qualifying patient or a
2 designated caregiver, unless failing to do so would violate federal law or
3 regulations or cause the school or landlord to lose a monetary or licensing-
4 related benefit under federal law or regulations.

5 (b) For the purposes of medical care, including organ transplants, a qualifying
6 patient's authorized use of medical cannabis is the equivalent of the
7 authorized use of any other medication used at the direction of a
8 practitioner, and shall not constitute the use of an illicit substance or
9 otherwise disqualify a qualifying patient from needed medical care.

10 (c) 1. An employer shall not discriminate against an applicant or employee
11 in hiring, termination, or any term or condition of employment, or
12 otherwise penalize an applicant or employee, based upon the
13 applicant's or employee's past or present status as a qualifying patient
14 or designated caregiver.

15 2. A cause of action shall not be established against an employer based
16 upon, and an employer is not prohibited from, any of the following
17 actions:

18 a. Establishing and implementing a substance abuse or drug-free
19 workplace policy that may include a drug testing program that
20 complies with state or federal law and taking action with respect
21 to an applicant or employee under the policy;

22 b. Acting on the employer's good faith belief that a qualifying
23 patient:

24 i. Possessed, smoked, ingested, or otherwise engaged in the
25 use of marijuana while on the premises of the employer or
26 during the hours of employment; or

27 ii. Was under the influence of marijuana while on the

1 premises of the employer or during the hours of
2 employment, provided that a positive test result for
3 marijuana cannot provide the sole basis for the employer's
4 good faith belief; or

5 c. Acting to exclude a qualifying patient from being employed in or
6 performing a safety sensitive position based on the employer's
7 good faith belief that the qualifying patient was engaged in the
8 current use of marijuana.

9 3. The authorized or protected actions of an employer under this
10 subsection include without limitation:

11 a. Implementing, monitoring, or taking measures to assess,
12 supervise, or control the job performance of an employee;

13 b. Reassigning an employee to a different position or job duties;

14 c. Placing an employee on paid or unpaid leave;

15 d. Suspending or terminating an employee;

16 e. Requiring an employee to successfully complete a substance
17 abuse program before returning to work;

18 f. Refusing to hire an applicant; or

19 g. Any combination of the actions listed in this subparagraph.

20 (d) 1. Damages established for an employment discrimination claim based
21 on an applicant's or employee's past or present status as a qualifying
22 patient or designated caregiver in violation of this section shall be
23 limited to the damages available for an employment discrimination
24 claim under Kentucky employment law.

25 2. Liability for back pay shall not accrue from a date more than two (2)
26 years prior to the filing of an action.

27 3. Damages under this subsection shall not duplicate or increase an

1 award for damages over the statutory limit allowed by state or federal
2 law as of January 1, 2017.

3 (e) An action based on employment discrimination in violation of this
4 subsection shall be brought within one (1) year of the occurrence of the
5 alleged discrimination.

6 (f) An individual employee, agent of the employer, or employee of the agent of
7 the employer is not liable for any violation of this subsection that the
8 employer is found to have committed.

9 (g) This section does not waive the sovereign immunity of the Commonwealth.

10 (7) A person otherwise entitled to custody of or visitation or parenting time with a
11 minor shall not be denied such a right, and there shall be no presumption of
12 neglect or child endangerment, or a finding of abuse, solely for conduct allowed
13 under Sections 1 to 21 of this Act unless the person's actions in relation to
14 medical marijuana were such that they created an unreasonable danger to the
15 safety of the minor as established by clear and convincing evidence.

16 (8) A physician shall not be subject to arrest, prosecution, or penalty in any manner,
17 or denied any right or privilege, including but not limited to civil penalty or
18 disciplinary action by the Kentucky Board of Medical Licensure or by any other
19 occupational or professional licensing board, solely for providing a written
20 certification or for otherwise stating that, in the practitioner's professional
21 opinion, a patient is likely to receive therapeutic or palliative benefit from the
22 medical use of marijuana to treat or alleviate the patient's debilitating medical
23 condition or symptoms associated with the debilitating medical condition, except
24 that nothing in Sections 1 to 21 of this Act shall prevent a practitioner from being
25 sanctioned for:

26 (a) Issuing a written certification to a patient with whom the practitioner does
27 not have a bona fide practitioner-patient relationship;

- 1 (b) Failing to properly evaluate a patient's medical condition; or
- 2 (c) Otherwise failing to use good faith in his or her treatment of the patient.
- 3 (9) No person may be subject to arrest, prosecution, or denial of any right or
- 4 privilege, including but not limited to civil penalty or disciplinary action by a
- 5 court or occupational or professional licensing board, for:
- 6 (a) Selling medical cannabis paraphernalia to a cardholder upon presentation
- 7 of a registry identification card in the recipient's name that has not expired
- 8 or to a dispensary agent or safety compliance facility agent upon
- 9 presentation of an unexpired copy of the entity's registration certificate;
- 10 (b) Being in the presence or vicinity of the medical use of cannabis as allowed
- 11 under Sections 1 to 21 of this Act; or
- 12 (c) Assisting a qualifying patient with using or administering medical
- 13 cannabis. For purposes of illustration and not limitation, this includes
- 14 preparing a vaporizer for a registered qualifying patient's use or brewing
- 15 tea for a qualifying patient. It does not include providing medical cannabis
- 16 to a patient that the patient did not already possess.
- 17 (10) (a) A visiting qualifying patient with a valid registry identification card, or its
- 18 equivalent, that was issued pursuant to the laws of another state, district,
- 19 territory, commonwealth, insular possession of the United States, or country
- 20 recognized by the United States that allows the person to use cannabis for
- 21 medical purposes in the jurisdiction of issuance may use that registry
- 22 identification card for all purposes established in Sections 1 to 21 of this Act
- 23 if the same qualifying medical condition exists.
- 24 (b) 1. A visiting qualifying patient may obtain marijuana from a dispensary
- 25 upon producing evidence of his or her registry identification card or
- 26 its equivalent that is issued under the laws of another state, district,
- 27 territory, commonwealth, or insular possession of the United States.

1 2. The Department for Public Health shall promulgate any necessary
 2 administrative regulations concerning a visiting qualifying patient
 3 obtaining marijuana from a dispensary.

4 (11) An attorney shall not be subject to disciplinary action by the Kentucky Bar
 5 Association or other professional licensing association for providing legal
 6 assistance to medical cannabis businesses, including prospective or licensed
 7 cultivators, dispensaries, safety compliance facilities, or others related to activity
 8 that is no longer subject to criminal penalties under state law pursuant to
 9 Sections 1 to 21 of this Act.

10 (12) A pharmacist shall not be subject to arrest, prosecution or penalty in any manner
 11 or denied any right or privilege, including without limitation a civil penalty or
 12 disciplinary action by the Board of Pharmacy or by any other business,
 13 occupational, or professional licensing board or bureau, solely for performing his
 14 or her duties as a pharmacist consultant for a registered dispensary.

15 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) (a) The Department for Public Health shall administer and enforce the
 18 provisions of Sections 1 to 21 of this Act concerning qualifying patients,
 19 qualifying medical conditions, and designated caregivers, including without
 20 limitations the issuance of a registry identification card to a qualifying
 21 patient and designated caregiver.

22 (b) The department shall adopt administrative regulations to:

23 1. Carry out the purposes of Sections 1 to 21 of this Act; and

24 2. Perform its duties under Sections 1 to 21 of this Act.

25 (c) 1. The Department for Public Health shall require each applicant for a
 26 designated caregiver registry identification card to apply for or
 27 authorize the Department for Public Health to obtain state and

- 1 *national criminal background checks to be conducted by the Kentucky*
2 *State Police or the Federal Bureau of Investigation.*
- 3 *2. The criminal background checks shall conform to the applicable*
4 *federal standards and shall include the taking of fingerprints.*
- 5 *3. The applicant shall authorize the release of the criminal background*
6 *checks to the Department for Public Health and shall be responsible*
7 *for the payment of any fee associated with the criminal background*
8 *checks.*
- 9 *4. Upon completion of the criminal background checks, the Kentucky*
10 *State Police shall forward to the Department for Public Health all*
11 *information obtained concerning the applicant.*
- 12 *(2) Not later than one hundred and eighty (180) days after the effective date of this*
13 *Act, the Department for Public Health shall adopt administrative regulations*
14 *governing:*
- 15 *(a) The manner in which the department considers applications for and*
16 *renewals of registry identification cards;*
- 17 *(b) Labeling and testing standards for marijuana distributed to qualifying*
18 *patients, including a warning label on all marijuana for medical use that is*
19 *processed or sold for smoking that communicates the health and safety risks*
20 *associated with smoking and a list of places and conditions in which*
21 *smoking marijuana for medical use is illegal in the Commonwealth of*
22 *Kentucky; and*
- 23 *(c) Any other matters necessary for the department's fair, impartial, stringent,*
24 *and comprehensive administration of Sections 1 to 21 of this Act.*
- 25 *(3) Any citizen may petition the Department for Public Health to add conditions to*
26 *the list of qualifying medical conditions defined in Section 1 of this Act. The*
27 *department shall consider petitions in the manner required by administrative*

1 regulations promulgated by the department, including public notice and hearing.
 2 The department shall approve or deny a petition within one hundred (100) days
 3 of its submission. The approval or denial of any petition is a final decision of the
 4 department subject to judicial review. Jurisdiction and venue are vested in the
 5 Franklin Circuit Court.

6 (4) The Department for Public Health shall adopt rules within one hundred and
 7 eighty (180) days of the effective date of this Act that govern the manner in which
 8 a designated caregiver assists a physically disabled qualifying patient or a
 9 qualifying patient under the age of eighteen (18) with the medical use of
 10 marijuana.

11 (5) The Department for Public Health may collect fines or fees for any violation of a
 12 rule adopted under this section.

13 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 14 READ AS FOLLOWS:

15 (1) The Department for Pubic Health shall issue registry identification cards to
 16 qualifying patients and designated caregivers who submit the following, in
 17 accordance with administrative regulations promulgated by the department:

18 (a) A written certification issued by a practitioner within ninety (90) days
 19 immediately preceding the date of an application;

20 (b) If the patient is not a visiting qualifying patient, documentation required to
 21 reasonably establish proof of residency in Kentucky;

22 (c) If the patient is a visiting qualifying patient, a copy of his or her registry
 23 identification card or its equivalent that was issued pursuant to the laws of
 24 the jurisdiction of the person's residence;

25 (d) The application or renewal fee;

26 (e) The name, address, and date of birth of the qualifying patient or designated
 27 caregiver, except that if the applicant is homeless an address where the

- 1 applicant may be reached shall be provided to the department;
- 2 (f) The name, address, and telephone number of the qualifying patient's
3 physician;
- 4 (g) The name, address, and date of birth of the designated caregiver, if any,
5 chosen by the qualifying patient, except that a visiting qualifying patient
6 may not have a designated caregiver;
- 7 (h) A statement, signed by the qualifying patient, pledging not to divert
8 cannabis to anyone who is prohibited from possessing medical cannabis
9 pursuant to Sections 1 to 21 of this Act. The statement shall contain a
10 listing of potential penalties for diverting cannabis; and
- 11 (i) A signed statement from the designated caregiver, if any, agreeing to be
12 designated as the patient's designated caregiver and pledging not to divert
13 cannabis to anyone who is prohibited from possessing medical cannabis
14 pursuant to Sections 1 to 21 of this Act.
- 15 (2) For a designated caregiver application, the following information shall be
16 supplied:
- 17 (a) The name of the physically disabled qualifying patient or qualifying patient
18 under the age of eighteen (18) whom the applicant will be assisting; and
- 19 (b) Documentation from the qualifying patient's physician indicating that the
20 qualifying patient is physically disabled or under the age of eighteen (18).
- 21 (3) The department shall not issue a registry identification card to a qualifying
22 patient who is under eighteen (18) years of age unless:
- 23 (a) The qualifying patient's physician has explained the potential risks and
24 benefits of the medical use of marijuana to the qualifying patient and to a
25 parent, guardian, or person having legal custody of the qualifying patient;
26 and
- 27 (b) A parent, guardian, or person having legal custody:

- 1 1. Consents in writing to:
- 2 a. Allow the qualifying patient's medical use of marijuana;
- 3 b. Assist the qualifying patient in the medical use of marijuana;
- 4 and
- 5 c. Control the acquisition of the marijuana, the dosage, and the
- 6 frequency of the medical use of marijuana by the qualifying
- 7 patient; and
- 8 2. Registers as a designated caregiver under this section.
- 9 (4) The department shall:
- 10 (a) Verify the information contained in an application or renewal submitted
- 11 pursuant to this section, and acknowledge receipt of an application within
- 12 fifteen (15) days of receipt, and approve or deny an application or renewal
- 13 within thirty (30) days of receiving a completed application or renewal
- 14 application; and
- 15 (b) Issue registry identification cards to a qualifying patient and his or her
- 16 designated caregiver, if any, within five (5) days of approving the
- 17 application or renewal. A designated caregiver shall have a registry
- 18 identification card for each of his or her qualifying patients;
- 19 (5) The department may deny an application or renewal of a qualifying patient's
- 20 registry identification card only if the applicant:
- 21 (a) Did not provide the required information or materials;
- 22 (b) Previously had a registry identification card revoked; or
- 23 (c) Provided false or falsified information.
- 24 (6) The department may deny an application or renewal for a designated caregiver
- 25 chosen by a qualifying patient whose registry identification card was granted only
- 26 if:
- 27 (a) The designated caregiver does not meet the requirements of Sections 1 and

1 2 of this Act;

2 (b) The applicant did not provide the information required;

3 (c) The designated caregiver previously had a registry identification card
4 revoked; or

5 (d) The applicant or the designated caregiver provides false or falsified
6 information.

7 (7) The department shall notify the qualifying patient who has designated someone
8 to serve as his or her designated caregiver if the designated caregiver is denied a
9 registry identification card.

10 (8) Denial of an application or renewal is considered a final department action,
11 subject to judicial review. Jurisdiction and venue for judicial review are vested in
12 the Franklin Circuit Court.

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

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

19 (10) The following information received and records kept pursuant to the
20 department's administrative regulations for purposes of administering Sections 1
21 to 21 of this Act shall be confidential and exempt from the Open Records Act,
22 KRS 61.870 to 61.884, and shall not be subject to disclosure to any individual or
23 public or private entity, except as necessary for authorized employees of the
24 department to perform official duties pursuant to Sections 1 to 21 of this Act:

25 (a) Applications and renewals, their contents, and supporting information
26 submitted by qualifying patients and designated caregivers, including
27 information regarding their designated caregivers and practitioners;

1 (b) Applications and renewals, their contents, and supporting information
2 submitted by or on behalf of cannabis businesses in compliance with
3 Sections 1 to 21 of this Act, including their physical addresses;

4 (c) The individual names and other information identifying persons to whom
5 the department has issued registry identification cards;

6 (d) Any dispensing information required to be kept, which shall only identify
7 cardholders, designated caregivers, and cannabis businesses by their
8 registry identification numbers and shall not contain names or other
9 personal identifying information; and

10 (e) Any department hard drives or other data-recording media that are no
11 longer in use and that contain cardholder information. These hard drives
12 and other media shall be destroyed after a reasonable time or after the data
13 is otherwise stored.

14 Data subject to this section shall not be combined or linked in any manner with
15 any other list or database and shall not be used for any purpose not provided for
16 in Sections 1 to 21 of this Act.

17 (11) Nothing in this section shall preclude the following:

18 (a) Notification by the department's employees to state or local law enforcement
19 about falsified or fraudulent information submitted to the department or of
20 other apparently criminal violations of Sections 1 to 21 of this Act if the
21 employee who suspects that falsified or fraudulent information has been
22 submitted conferred with his or her supervisor, and both agree that
23 circumstances exist that warrant reporting;

24 (b) Notification by the department's employees to the Kentucky Board of
25 Medical Licensure or other appropriate licensure board if the department
26 has reasonable suspicion to believe a physician did not have a bona fide
27 physician-patient relationship with a patient for whom he or she signed a

1 written certification, if the department has reasonable suspicion to believe
2 the physician violated the standard of care, or for other suspected violations
3 of Sections 1 to 21 of this Act by a physician;

4 (c) Notification by dispensary agents to the department of a suspected violation
5 or attempted violation of Sections 1 to 21 of this Act or the administrative
6 regulations issued thereunder;

7 (d) Verification by the department of registry identification cards; or

8 (e) Other communications with governmental agencies necessary to administer
9 Sections 1 to 21 of this Act.

10 (12) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in
11 jail and a one thousand dollar (\$1,000) fine for any person, including an
12 employee or official of the department or another state agency or local
13 government, to breach the confidentiality of information obtained pursuant to
14 Sections 1 to 21 of this Act.

15 (13) (a) Except as provided in Section 2 of this Act, a cardholder who transfers
16 marijuana to a person who is not a qualifying patient or designated
17 caregiver under Sections 1 to 21 of this Act shall have his or her registry
18 identification card revoked and shall be subject to any other penalties
19 established by law.

20 (b) The department may revoke the registry identification card of any
21 cardholder who knowingly violates any provision of Sections 1 to 21 of this
22 Act, and the cardholder is subject to any other penalties established by law.

23 (c) This subsection does not prohibit:

24 1. A qualifying patient or designated caregiver from giving up to two and
25 one-half (2.5) ounces of usable marijuana to another qualifying
26 patient or designated caregiver as set forth in Section 2 of this Act; or

27 2. The transfer of marijuana seedlings, plants, or usable marijuana as

1 set forth in Section 2 of this Act.

- 2 (14) The department shall submit to the Legislative Research Commission an annual
3 report that does not disclose any identifying information about cardholders,
4 dispensaries, cultivators, processors, producers, distributors, caregivers, or
5 practitioners. The report shall include the following information:
- 6 (a) The number of applications and renewals filed for registry identification
7 cards;
- 8 (b) The number of qualifying patients who are residents of Kentucky at the time
9 of the report;
- 10 (c) The number of registry identification cards that were issued to visiting
11 qualifying patients at the time of the report;
- 12 (d) The nature of the debilitating medical conditions of the qualifying patients;
- 13 (e) The number of registry identification cards revoked for misconduct;
- 14 (f) The number of practitioners providing written certifications for qualifying
15 patients;
- 16 (g) The number of dispensaries and their agents at the time of the report;
- 17 (h) The number of cultivators and their agents at the time of the report;
- 18 (i) The number of caregivers and their agents at the time of the report;
- 19 (j) The number of safety compliance facilities and their agents at the time of
20 the report;
- 21 (k) The number of producers and their agents at the time of the report;
- 22 (l) The number of distributors and their agents at the time of the report;
- 23 (m) The number of processors and their agents at the time of the report;
- 24 (n) The profits and expenditures by cannabis business, individually and overall;
- 25 (o) The amount of cannabis sold and consumed per month;
- 26 (p) The amount of revenue generated from cannabis businesses and qualifying
27 patient fees, permits, and licenses for each calendar year and aggregated by

1 prior years;

2 (q) The total cost of cannabis program enforcement at the time of the report, by
 3 county and overall; and

4 (r) Any other data requested by the Legislative Research Commission relating
 5 to the medical cannabis program and Sections 1 to 21 of this Act.

6 (15) As used in this section, "department" means the Department for Public Health.

7 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) Sections 1 to 21 of this Act shall not authorize any person to engage in, and shall
 10 not prevent the imposition of any civil, criminal, or other penalties for engaging
 11 in, the following conduct:

12 (a) Undertaking any task under the influence of medical marijuana, when
 13 doing so would constitute negligence or professional malpractice;

14 (b) Possessing marijuana, or otherwise engaging in the medical use of
 15 marijuana:

16 1. In a school bus;

17 2. On the grounds of any preschool, primary or secondary school,
 18 college, or university;

19 3. At a drug or alcohol treatment facility;

20 4. At a community or recreation center;

21 5. On any form of public transportation;

22 6. In a public place;

23 7. In any correctional facility; or

24 8. On any property of the federal government, the United States military,
 25 or the Kentucky National Guard;

26 (c) Possessing medical cannabis that is within the operator's arm's reach or
 27 requires less than a two (2) step process to access while operating a motor

1 vehicle, aircraft, motorboat, or personal watercraft. The Department for
2 Medical Cannabis Administration shall promulgate administrative
3 regulations to enforce this paragraph and establish acceptable standards for
4 carrying and packaging medical cannabis;

5 (d) Smoking medical cannabis;

6 1. On any form of public transportation;

7 2. In any public place;

8 3. In a place where the smoking of tobacco is prohibited by state, local,
9 or federal law;

10 4. In the presence of a person who is under fourteen (14) years of age;

11 5. Knowingly in the presence of a pregnant woman; or

12 6. In a place where the smoking of marijuana for medical use is likely to
13 cause another person not authorized to use marijuana to be under the
14 influence of marijuana;

15 (e) Operating, navigating, or being in actual physical control of any motor
16 vehicle, aircraft, or motorboat or personal watercraft while under the
17 influence of medical cannabis, except that a qualifying patient or visiting
18 qualifying patient shall not be considered to be under the influence of
19 cannabis solely because of the presence of metabolites or components of
20 cannabis that appear in insufficient concentration to cause impairment; or

21 (f) Using medical cannabis, if that person does not have a debilitating medical
22 condition, unless the use is otherwise in compliance with state or federal
23 law.

24 (2) Nothing in Sections 1 to 21 of this Act requires:

25 (a) A government medical assistance program or private insurer to reimburse a
26 person for costs associated with the medical use of cannabis;

27 (b) Any person or establishment in lawful possession of property to allow a

1 guest, client, customer, or other visitor to consume medical cannabis on or
2 in that property;

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

7 (d) A public school to permit a qualifying patient who is a student to be present
8 on school grounds, to attend a school event, or to participate in
9 extracurricular activities in violation of the public school's student
10 discipline policies when a school office has a good faith belief that the
11 behavior of the qualifying patient is impaired.

12 (3) Nothing in Sections 1 to 21 of this Act prohibits an employer from disciplining an
13 employee for being impaired in the workplace from the use of medical cannabis
14 or working while intoxicated from the use of medical cannabis.

15 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
16 READ AS FOLLOWS:

17 (1) An individual may assert a medical purpose for using cannabis as a defense to
18 any prosecution of an offense involving cannabis intended for the patient's
19 medical use, and this defense shall be presumed valid and the prosecution shall
20 be dismissed if the evidence shows that:

21 (a) A practitioner states that, in the practitioner's professional opinion, after
22 having completed a full assessment of the individual's medical history and
23 current medical condition made in the course of a bona fide practitioner-
24 patient relationship, the patient is likely to receive therapeutic or palliative
25 benefit from medical cannabis to treat or alleviate the individual's
26 debilitating medical condition or symptoms associated with the individual's
27 debilitating medical condition;

1 **(b) The individual and the individual's designated caregiver, if any, were**
2 **collectively in possession of a quantity of medical cannabis that was not**
3 **more than was reasonably necessary to ensure the uninterrupted**
4 **availability of medical cannabis for the purpose of treating or alleviating**
5 **the individual's debilitating medical condition or symptoms associated with**
6 **the individual's debilitating medical condition;**

7 **(c) The individual was engaged in the acquisition, possession, cultivation,**
8 **manufacture, use, or transportation of medical cannabis, supplies, or both**
9 **medical cannabis and supplies, relating to the administration of cannabis to**
10 **treat or alleviate the individual's debilitating medical condition or symptoms**
11 **associated with the individual's debilitating medical condition; and**

12 **(d) Any cultivation of medical cannabis occurred in an enclosed, locked area**
13 **that only the person asserting the defense could access.**

14 **(2) The defense and motion to dismiss shall not prevail if either of the following are**
15 **proven by a preponderance of the evidence:**

16 **(a) The individual had a registry identification card revoked for misconduct; or**

17 **(b) The purposes for the possession or cultivation of medical cannabis were not**
18 **solely for palliative or therapeutic use by the individual with a debilitating**
19 **medical condition who raised the defense.**

20 **(3) An individual is not required to possess a registry identification card to raise the**
21 **affirmative defense set forth in this section.**

22 **(4) If an individual demonstrates the individual's medical purpose for using**
23 **cannabis pursuant to this section, the individual shall not be subject to the**
24 **following for the individual's use of cannabis for medical purposes:**

25 **(a) Disciplinary action by an occupational or professional licensing board; or**

26 **(b) Forfeiture of any interest in or right to non-cannabis, lawful property.**

27 **➔SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO**

1 READ AS FOLLOWS:

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

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

6 1. License to operate a dispensary; and

7 2. License to operate a cultivation facility.

8 (c) The Department of Alcoholic Beverage Control shall administer and
9 enforce the provisions of Sections 1 to 21 of this Act relating to dispensaries
10 and cultivation facilities.

11 (2) The commission and Department of Alcoholic Beverage Control shall each adopt
12 necessary administrative regulations to:

13 (a) Carry out the purposes of Sections 1 to 21 of this Act; and

14 (b) Perform their duties under Sections 1 to 21 of this Act.

15 (3) At least sixty percent (60%) of the board of each medical cannabis business
16 licensed pursuant to Sections 1 to 21 of this Act shall be composed of individuals
17 who can demonstrate continuous residency in Kentucky for the previous seven (7)
18 years.

19 (4) The person submitting an application to license a dispensary or cultivation
20 facility shall be a current resident of Kentucky and shall be able to demonstrate
21 continuous residence in Kentucky for the previous seven (7) years.

22 (5) Not later than one hundred eighty (180) days after the effective date of this Act,
23 the commission shall adopt rules governing:

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

26 (b) The form and content of registration and renewal applications for
27 dispensaries and cultivation facilities; and

1 (c) Any other matters necessary for the commission's fair, impartial, stringent,
2 and comprehensive administration of its duties under Sections 1 to 21 of
3 this Act.

4 (6) Not later than one hundred eighty (180) days after the effective date of this Act,
5 the Department of Alcoholic Beverage Control shall adopt administrative
6 regulations governing:

7 (a) Oversight requirements for dispensaries and cultivation facilities;

8 (b) Recordkeeping requirements for dispensaries and cultivation facilities;

9 (c) Security requirements for dispensaries and cultivation facilities;

10 (d) Personnel requirements for dispensaries and cultivation facilities;

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

13 (f) Procedures for suspending or terminating the licenses of dispensaries and
14 cultivation facilities that violate the provisions of Sections 1 to 21 of this
15 Act;

16 (g) Procedures for appealing penalties;

17 (h) A schedule of penalties;

18 (i) Advertising restrictions for dispensaries and cultivation facilities, including
19 without limitation the advertising, marketing, packaging, and promotion of
20 dispensaries and cultivation facilities with the purpose to avoid making the
21 product of a dispensary or a cultivation facility appealing to children,
22 including without limitation:

23 1. Artwork;

24 2. Building signage;

25 3. Product design, including without limitation shapes and flavors;

26 4. Child-proof packaging that cannot be opened by a child or that
27 prevents ready access to toxic or harmful amount of the product, and

- 1 that meets the testing requirements in accordance with the method
2 described in 16 C.F.R. Section 1700.20, as existing on January 1,
3 2018;
- 4 5. Indoor displays that can be seen from outside the dispensary or
5 cultivation facility; and
- 6 6. Other forms of marketing related to medical marijuana;
- 7 (j) Procedures for the disposal or other use of marijuana not dispensed to a
8 qualifying patient; and
- 9 (k) Any other matters necessary for the Department of Alcoholic Beverage
10 Control fair, impartial, stringent, and comprehensive administration of its
11 duties pursuant to Sections 1 to 21 of this Act.
- 12 (7) (a) Not later than one hundred eighty (180) days after the effective date of this
13 Act, the commission shall adopt administrative regulations establishing
14 license application and license renewal fees for dispensary and cultivation
15 facility licenses;
- 16 (b) 1. The initial dispensary application fee shall be a maximum of seven
17 thousand five hundred dollars (\$7,500);
- 18 2. The initial cultivation facility application fee shall be a maximum of
19 fifteen thousand dollars (\$15,000); and
- 20 3. A license that is initially issued between January 1 and July 1 may
21 have the licensing fees up to fifty percent (50%) prorated and refunded
22 as determined by the commission.
- 23 (8) (a) Not later than June 1, 2018, the commission shall begin accepting
24 applications for licenses to operate a dispensary and cultivation facility.
- 25 (b) The application shall include without limitation the following:
- 26 1. The application fee;
- 27 2. The legal name of the dispensary or cultivation facility;

- 1 3. The physical address of the dispensary or cultivation facility;
- 2 4. The name, address, and date of birth of each dispensary agent or
- 3 cultivation facility agent; and
- 4 5. If the city, town, or county in which the dispensary or cultivation
- 5 facility would be located has enacted zoning restrictions, a sworn
- 6 statement certifying that the dispensary or cultivation facility will
- 7 operate in compliance with the restrictions.
- 8 (c) None of the owners, board members, or officers of the dispensary or
- 9 cultivation facility:
- 10 1. Shall have been convicted of an excluded felony offense;
- 11 2. Shall have previously been an owner of a dispensary or cultivation
- 12 facility that has had its license revoked; or
- 13 3. Shall be under twenty-one (21) years of age.
- 14 (d) 1. The commission may issue a temporary license to another natural
- 15 person in conjunction with a dispensary or a cultivation facility when
- 16 the natural person whose name is on the license for the dispensary or
- 17 cultivation facility ceases to be in actual control of the dispensary or
- 18 cultivation facility.
- 19 2. The commission shall adopt rules as necessary to provide temporary
- 20 licenses.
- 21 (9) The commission shall issue at least twenty (20) but no more than forty (40)
- 22 dispensary licenses.
- 23 (10) The commission shall issue at least four (4) but no more than eight (8)
- 24 cultivation facility licenses.
- 25 (11) (a) The commission shall conduct a criminal background check in order to
- 26 carry out this section.
- 27 (b) The commission shall require each applicant for a dispensary license or

1 cultivation facility license to apply for or authorize the commission to obtain
2 state and national criminal background checks to be conducted by the
3 Kentucky State Police or the Federal Bureau of Investigation.

4 (c) The criminal background checks shall conform to the applicable federal
5 standards and shall include the taking of fingerprints.

6 (d) The applicant shall authorize the release of the criminal background checks
7 to the commission and shall be responsible for the payment of any fee
8 associated with the criminal background checks.

9 (e) Upon completion of the criminal background checks, the Kentucky State
10 Police shall forward to the commission all information obtained concerning
11 the applicant.

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

13 (a) One (1) cultivation facility; and

14 (b) One (1) dispensary.

15 (13) A dispensary licensed pursuant to this section may acquire, possess,
16 manufacture, process, prepare, deliver, transfer, transport, supply, and dispense
17 marijuana, marijuana paraphernalia, and related supplies and educational
18 materials to a qualifying patient or designated caregiver, but shall not supply,
19 possess, manufacture, deliver, transfer, or sell marijuana paraphernalia that
20 requires the combustion of marijuana to be properly utilized, including pipes,
21 water pipers, bongs, chillums, rolling papers, and roach clips.

22 (14) A dispensary licensed pursuant to this section shall:

23 (a) Make marijuana vaporizers available for sale to qualifying patients; and

24 (b) Provide educational materials about medical marijuana methods of
25 ingestion to qualifying patients and designated caregivers, including
26 without limitation:

27 1. Warnings on the potential health risks of smoking or combusting

1 marijuana; and

2 2. Information on potential health benefits of vaporizing marijuana
3 compared to smoking or combusting.

4 A dispensary may receive compensation for providing any goods or services
5 allowed pursuant to Sections 1 to 21 of this Act.

6 (15) A dispensary may grow or possess:

7 (a) Fifty (50) mature marijuana plants at any one (1) time plus seedlings; and

8 (b) All usable marijuana derived from those plants or predecessor plants.

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

11 (17) (a) A cultivation facility may cultivate and possess usable marijuana in an
12 amount reasonably necessary to meet the demand for the needs of
13 qualifying patients as determined by the commission with the assistance of
14 the Department for Public Health.

15 (b) The amount of usable marijuana that is determined to be reasonably
16 necessary shall be determined by the commission, in consultation with the
17 Department for Public Health, the medical cannabis business community,
18 and the size and needs of the medical marijuana patient community
19 including anticipated qualifying patients and visiting qualifying patients.

20 (18) A cultivation facility shall not sell marijuana in any form except to a dispensary
21 or other cultivation facility.

22 (19) A cultivation facility may:

23 (a) Possess marijuana seeds;

24 (b) Receive compensation for providing goods and services allowed pursuant to
25 Sections 1 to 21 of this Act; and

26 (c) Contract with a transporter, distributor, or processor, to the extent of the
27 license of the transporter, distributor, or processor.

- 1 (20) The commission shall issue a renewal dispensary license or a renewal cultivation
2 facility license within ten (10) days to any entity who complies with the
3 requirements contained in Sections 1 to 21 of this Act, including without
4 limitation the payment of a renewal fee.
- 5 (21) (a) A license for a dispensary or cultivation facility shall only be issued to a
6 natural person.
- 7 (b) A license issued for a dispensary or cultivation facility shall be transferable
8 only to a natural person upon approval of the commission.
- 9 (22) Data or records submitted to the Department of Alcoholic Beverage Control or
10 the commission may be shared with the Department for Public Health.
- 11 (23) (a) A dispensary shall appoint a pharmacy consultant who is a pharmacist
12 licensed with the Board of Pharmacy.
- 13 (b) A pharmacist consultant shall:
- 14 1. Register as a dispensary agent pursuant to Sections 1 to 21 of this Act;
15 2. Develop and provide training to other dispensary agents at least one
16 (1) time every twelve (12) months from the initial date of the opening
17 of the dispensary on the following subjects:
- 18 a. Guidelines for providing information to qualifying patients
19 related to risks, benefits, and side effects associated with medical
20 marijuana;
- 21 b. Recognizing the signs and symptoms of substance abuse; and
22 c. Guidelines for refusing to provide medical marijuana to an
23 individual who appears to be impaired or abusing medical
24 marijuana;
- 25 3. Assist in the development and implementation of review and
26 improvement processes for patient education and support provided by
27 the dispensary;

1 4. Provide oversight for the development and dissemination of:

2 a. Education materials for qualifying patients and designated
3 caregivers that include:

4 i. Information about possible side effects and
5 contraindications of medical marijuana;

6 ii. Guidelines for notifying the physician who provided the
7 written certification for medical marijuana if side effects or
8 contraindications occur;

9 iii. A description of the potential effects of differing strengths
10 of medical marijuana strains and products;

11 iv. Information about potential drug-to-drug interactions,
12 including interactions with alcohol, prescription drugs,
13 nonprescription drugs, and supplements;

14 v. Techniques for the use of medical marijuana and
15 marijuana paraphernalia; and

16 vi. Information about different methods, forms, and routes of
17 medical marijuana administration;

18 b. Systems for documentation by a qualifying patient or designated
19 caregiver of the symptoms of a qualifying patient that includes a
20 logbook, rating scale for pain and symptoms, and guidelines for
21 a patient's self-assessment; and

22 c. Policies and procedures for refusing to provide medical
23 marijuana to an individual who appears to be impaired or
24 abusing medical marijuana; and

25 5. Be accessible to the dispensary or dispensary agent through:

26 a. Telephonic means at all times during operating hours; and

27 b. Telephone or video conference for a patient consultation during

1 operating hours.

2 (24) A cultivation facility shall meet the following security requirements:

3 (a) The physical security controls set forth in 2119 C.F.R. Section 1301.72 to
4 1301.74, as existing on January 1, 2017;

5 (b) All cultivation of marijuana occurs within a building, greenhouse, or other
6 structure that:

7 1. Has a complete roof enclosure supported by connecting walls that are
8 constructed of solid material extending from the ground to the roof;

9 2. Is secure against unauthorized entry;

10 3. Has a foundation, slab, or equivalent base to which the floor is
11 securely attached;

12 4. Meets performance standards ensuring that cultivation and processing
13 activities cannot be and are not perceptible from the structure in terms
14 of:

15 a. Common visual observation;

16 b. Odors, smells, fragrances, or other olfactory stimuli;

17 c. Light pollution, glare, or brightness, lockable doors;

18 d. Adequate ventilation to prevent mold; and

19 e. Noise;

20 5. Provides complete visual screening; and

21 6. Is accessible only through one (1) or more lockable doors;

22 (c) Current detailed and elevation plans of all operational areas involved with
23 the production of medical marijuana shall be maintained on the premises of
24 the cultivation facility, including:

25 1. All storage areas, ventilation systems, and equipment used for
26 production;

27 2. All entrances and exits to the cultivation facility;

- 1 3. All windows, skylights, and retractable mechanisms built into the roof;
- 2 4. The location of all required security cameras;
- 3 5. The location of all alarm inputs, detectors, and sirens;
- 4 6. All video and alarm system surveillance areas;
- 5 7. All production areas labeled according to the specific activity
- 6 occurring within the area;
- 7 8. All restricted and limited access areas identified; and
- 8 9. All nonproduction areas labeled according to purpose;
- 9 (d) Access to areas where marijuana is grown, harvested, processed, and stored
- 10 is limited to authorized personnel and:
- 11 1. Designated by clearly marked signage; and
- 12 2. Locked and accessible only by authorized personnel on a current
- 13 roster of authorized personnel;
- 14 (e) 1. Written policies regarding any nonregistered agent who may visit the
- 15 premises and a log of all visitors to the premises are developed and
- 16 maintained.
- 17 2. The log shall consist of the visitor's name, purpose of visit, time of
- 18 arrival, and time of departure.
- 19 3. Visitors to a cultivation facility shall be:
- 20 a. Issued a visitor identification tag containing the visitor's name
- 21 that shall be worn for the duration of the visit on the premises;
- 22 and
- 23 b. Escorted by a cultivation facility agent at all times while present
- 24 on the premises.
- 25 4. Contractors conducting repairs, maintenance, or other specific duties
- 26 may be escorted to their work site and left unaccompanied while
- 27 completing a job. However, cultivation facility agents shall ensure that

1 the contractor and area under repair are under video surveillance for
2 the duration of the time spent on the premises by the contractor; and

3 (f) An alarm system is equipped that, upon attempted unauthorized entry,
4 transmits a signal directly to a central protection company for a local or
5 state police agency and a designated cultivation facility agent. The alarm
6 system shall:

7 1. Provide coverage for all points of ingress and egress to the cultivation
8 facility, including without limitation doorways, windows, loading bays,
9 skylights, and retractable roof mechanisms;

10 2. Provide coverage of any room with an exterior wall, any room
11 containing a safe, and any room used to grow or store medical
12 marijuana;

13 3. Be equipped with a panic drive that upon activation will not only
14 sound any audible alarm components but will also notify law
15 enforcement;

16 4. Have duress and hold-up features to enable a cultivation facility agent
17 to activate a silent alarm notifying law enforcement of an emergency;

18 5. Be equipped with failure notification systems to notify cultivation
19 facilities and law enforcement of any failure in the alarm system; and

20 6. Have the ability to remain operational during a power outage.

21 (25) A cultivation facility shall maintain compliance with applicable city or county
22 building or structure rules, regulations, or ordinances, and any other applicable
23 state laws or rules regarding buildings or structures.

24 (26) A cultivation facility may receive compensation for providing goods and services
25 allowed by this section.

26 (27) A cultivation facility may cultivate and possess usable marijuana in an amount
27 reasonably necessary to meet the demand for and needs of qualifying patients as

1 determined by the commission in consultation with the Department for Public
2 Health, the medical cannabis business community, and the size and needs of the
3 medical marijuana patient community including anticipated qualifying patients
4 and visiting qualifying patients.

5 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
6 READ AS FOLLOWS:

7 (1) Cultivation facility agents and dispensary agents shall register with the
8 Department of Alcoholic Beverage Control.

9 (2) The Department of Alcoholic Beverage Control shall administer and enforce the
10 provisions of Sections 1 to 21 of this Act relating to cultivation facility agents and
11 dispensary agents, including issuing registry identification cards to dispensary
12 agents and cultivation facility agents.

13 (3) The Department of Alcoholic Beverage Control shall promulgate administrative
14 regulations within one hundred eighty (180) days of the effective date of this Act
15 to:

16 (a) Carry out the purposes of Sections 1 to 21 of this Act;

17 (b) Establish a process for application and renewal of registry identification
18 cards for dispensary agents and cultivation facility agents;

19 (c) Establish the form and content of registration and renewal applications for
20 dispensary agents and cultivation facility agents;

21 (d) Establish procedures for suspending or terminating the registration of
22 dispensary agents and cultivation facility agents who violate the provisions
23 of Sections 1 to 21 of this Act, a schedule of penalties, and an appeal
24 process; and

25 (e) Any other matters necessary for the department's fair, impartial, stringent,
26 and comprehensive administration of its duties under Sections 1 to 21 of
27 this Act.

- 1 (4) The Department of Alcoholic Beverage Control shall promulgate administrative
2 regulations to implement criminal background checks for dispensary agents and
3 cultivation facility agents. These criminal background checks shall conform to
4 the applicable federal standards and shall include the taking of fingerprints.
- 5 (5) The Department of Alcoholic Beverage Control shall forward all information
6 obtained from the background check to the Medical Marijuana Commission.
- 7 (6) Except as provided in subsection (7) of this section, the Department of Alcoholic
8 Beverage Control shall issue each dispensary agent and cultivation facility agent
9 a registry identification card within ten (10) days of receipt of the completed
10 application that contains the person's name, address, and date of birth, and a
11 reasonable fee as established by the Department of Alcoholic Beverage Control
12 pursuant to administrative regulations.
- 13 (7) The Department of Alcoholic Beverage Control shall review the criminal
14 background check conducted pursuant to this section and shall not issue a
15 registry identification card to a dispensary agent or cultivation facility agent who
16 has been convicted of an excluded felony offense. A dispensary or cultivation
17 facility shall be notified in writing of the reason for denial of a registry
18 identification card pursuant to this subsection.
- 19 (8) A registry identification card for a dispensary agent or cultivation facility agent
20 shall expire on June 30 of each calendar year and is renewable on or before June
21 30 of each calendar year for the fiscal year beginning July 1 or upon notification
22 that the agent has ceased to work at the dispensary or cultivation facility.
- 23 (9) The Department of Alcoholic Beverage Control may revoke or suspend the
24 dispensary license or cultivation facility license of a dispensary or cultivation
25 facility that is determined to have knowingly aided or facilitated a violation of any
26 provision of Sections 1 to 21 of this Act, and the license holder may be subject to
27 any other penalties established in law for the violation.

1 (10) The Department of Alcoholic Beverage Control may collect fines or fees for any
2 violation of a rule adopted under this section.

3 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
4 READ AS FOLLOWS:

5 (1) A dispensary and cultivation facility is subject to reasonable inspection by the
6 Department of Alcoholic Beverage Control.

7 (2) A dispensary and a cultivation facility shall be an entity incorporated in the
8 Commonwealth of Kentucky.

9 (3) A dispensary and a cultivation facility shall have procedures in place to deter and
10 prevent unauthorized entrance into areas containing marijuana and the theft of
11 marijuana.

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

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

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

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

21 (6) Each dispensary and cultivation facility shall:

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

- 1 (b) Conduct a biannual comprehensive inventory of all marijuana, including
2 without limitation usable marijuana available for dispensing, mature
3 marijuana plants, and seedlings at each authorized location.
- 4 (7) All cultivation of marijuana shall take place in an enclosed, locked facility.
- 5 (8) (a) A qualifying patient or designated caregiver acting on behalf of a qualifying
6 patient shall not be dispensed more than a total of two and one-half (2.5)
7 ounces of usable marijuana during a fourteen (14) day period.
- 8 (b) A dispensary or a dispensary agent may not dispense more than a total of
9 two and one-half (2.5) ounces of usable marijuana to either a qualifying
10 patient or designated caregiver acting on behalf of a qualifying patient
11 during a fourteen (14) day period.
- 12 (c) Each time a dispensary agent dispenses usable marijuana to a qualifying
13 patient or designated caregiver, he or she shall verify that the dispensing of
14 usable marijuana would not cause the qualifying patient or designated
15 caregiver to receive more usable marijuana than is permitted in a fourteen
16 (14) day period.
- 17 (d) Each time usable marijuana is dispensed, the dispensary agent shall:
- 18 1. Record the date the usable marijuana was dispensed and the amount
19 dispensed; and
- 20 2. Notify the Department of Public Health in the manner required by the
21 Department of Public Health.
- 22 (e) The department shall maintain a database that enables a dispensary to
23 verify that dispensing usable marijuana to a qualifying patient or
24 designated caregiver will not cause the qualifying patient or designated
25 caregiver to exceed the amount allowed by law.
- 26 (f) All records shall be kept according to the registry identification number of
27 the qualifying patient or designated caregiver.

1 (g) It is the specific intent of Sections 1 to 21 of this Act that no qualifying
2 patient or designated caregiver acting on behalf of a qualifying patient be
3 dispensed more than a total of two and one-half (2.5) ounces of usable
4 marijuana during a fourteen (14) day period whether the usable marijuana
5 is dispensed from one (1) or any combination of dispensaries.

6 (9) The dispensary records with patient information shall be treated as confidential
7 records not subject to disclosure pursuant to KRS 61.870 to 61.884.

8 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
9 TO READ AS FOLLOWS:

10 (1) A dispensary, cultivation facility, transporter, distributor, or processor is not
11 subject to the following:

12 (a) Prosecution for the acquisition, possession, cultivation, processing,
13 preparation, manufacture, delivery, transfer, transport, sale, supply, or
14 dispensing of marijuana and related supplies in accordance with the
15 provisions of Sections 1 to 21 of this Act or any administrative regulations
16 promulgated thereto;

17 (b) Inspection, except pursuant to Section 9 of this Act or upon a search
18 warrant issued by a court or judicial officer;

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

21 (d) Imposition of a penalty or denial of a right or privilege, including without
22 limitation imposition of a civil penalty or disciplinary action by a business,
23 occupational, or professional licensing board or entity, solely for acting in
24 accordance with Sections 1 to 21 of this Act.

25 (2) A dispensary agent, cultivation facility agent, transporter agent, distributor agent,
26 or processor agent shall not be subject to arrest, prosecution, search, seizure, or
27 penalty in any manner or denied any right or privilege, including without

1 limitation civil penalty or disciplinary action by a business, occupational, or
2 professional licensing board or entity, solely for working for or with a dispensary,
3 cultivation facility, transporter, distributor, or processor to engage in acts
4 permitted by Sections 1 to 21 of this Act;

5 (3) A dispensary agent, cultivation facility agent, or processor agent may possess and
6 manufacture marijuana at the dispensary, cultivation facility location or
7 processor location or locations for which the dispensary agent, cultivation facility
8 agent, or processor agent is registered or when transferring marijuana under this
9 section.

10 (4) A dispensary agent who is a volunteer may possess and manufacture marijuana
11 at a dispensary location.

12 (5) A dispensary agent who is a volunteer may not dispense or transport marijuana.

13 (6) Importation of seeds, cuttings, clones, or plants by a dispensary or cultivation
14 facility shall not be prosecuted in the courts of this state.

15 (7) A cultivation facility and processor shall label the marijuana that is moved
16 between the cultivation facility or other cultivation facility or processor with a trip
17 ticket that identifies the cultivation facility by identification number, the time,
18 date, origin, and destination of the marijuana being transported, and the amount
19 and form of marijuana that is being transported.

20 (8) A transporter agent or distributor agent may possess marijuana at any location
21 while the transporter agent or distributor agent is transferring marijuana from a
22 dispensary, cultivation facility, or processor to another dispensary, cultivation
23 facility, or processor.

24 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
25 TO READ AS FOLLOWS:

26 (1) (a) Except as provided in this subsection and in Section 2 of this Act, a
27 dispensary may not dispense, deliver, or otherwise transfer marijuana to a

1 person other than a qualifying patient or designated caregiver.

2 (b) A dispensary may transfer marijuana to a transporter, distributor, or
3 processor to operate to the extent of the license of the transporter,
4 distributor, or processor.

5 (2) (a) Except as provided in Section 2 of this Act, the Department of Alcoholic
6 Beverage Control shall immediately revoke the registry identification card
7 of a dispensary agent who has dispensed, delivered, or otherwise transferred
8 marijuana to a person other than a qualifying patient or designated
9 caregiver, and that dispensary agent shall be disqualified from serving as a
10 dispensary agent.

11 (b) A dispensary employing a dispensary agent found to violate this subsection
12 is not subject to penalties, including the revocation of its license, for the
13 actions of a dispensary agent unless the dispensary knowingly aided or
14 facilitated the violation.

15 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
16 TO READ AS FOLLOWS:

17 (1) A cultivation facility may sell marijuana plants, seeds, and usable marijuana only
18 to a dispensary facility.

19 (2) A cultivation facility may employ a transporter or a distributor to transfer
20 marijuana from the cultivation facility to a dispensary, other cultivation facility,
21 or processor.

22 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
23 TO READ AS FOLLOWS:

24 (1) Nothing in Sections 1 to 21 of this Act shall prohibit a city, county, urban-county
25 government, consolidated local government, charter county government, or
26 unified local government from enacting reasonable zoning regulations applicable
27 to dispensaries or cultivation facilities, provided that those zoning regulations are

1 the same as those for a licensed retail pharmacy.

2 (2) This section, however, shall not allow a city, county, urban-county government,
 3 consolidated local government, charter county government, or unified local
 4 government to prohibit the operation of any dispensaries or cultivation facilities
 5 in the city, county, urban-county government, consolidated local government,
 6 charter county government, or unified local government unless such a
 7 prohibition is approved by the voters of the affected territory.

8 (3) Any approval or disapproval by the voters of an affected territory shall be
 9 conducted at the next regular election after legislative approval of the public
 10 question submitted to the voters.

11 (4) The provisions of general election law shall apply to public questions submitted to
 12 voters under this section.

13 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 14 TO READ AS FOLLOWS:

15 (1) The Medical Marijuana Commission shall license transporters, distributors, and
 16 processors.

17 (2) The Department of Alcoholic Beverage Control shall administer and enforce the
 18 provisions of this section concerning transporters, distributors, and processors.

19 (3) The owners, board members, or officers of a transporter, distributor, or processor
 20 shall not:

21 (a) Have been convicted of an excluded felony offense;

22 (b) Have previously been an owner of a dispensary, cultivation facility,
 23 transporter, distributor, or processor that has had a license revoked; or

24 (c) Be under twenty-one (21) years of age.

25 (4) The commission may conduct a criminal background check in order to carry out
 26 the purposes of this section.

27 (5) A transporter license, distributor license, and processor license shall expire one

- 1 (1) year after the date of issuance.
- 2 (6) The commission shall issue a renewal license within ten (10) days to any entity
3 who complies with the requirements contained in Sections 1 to 21 of this Act,
4 including the payment of a renewal fee.
- 5 (7) The commission may charge a reasonable fee as established by rule for the
6 issuance of an initial license and a renewal license.
- 7 (8) A transporter or distributor licensed under this section may:
- 8 (a) Acquire, possess, deliver, transfer, transport, or distribute marijuana to a
9 dispensary, cultivation facility, or processor; and
- 10 (b) Receive compensation for providing services allowed by this section.
- 11 (9) A transporter or distributor licensed under this section shall not grow,
12 manufacture, process, prepare, supply, or dispense marijuana.
- 13 (10) A processor licensed under this section may:
- 14 (a) Acquire, possess, manufacture, process, prepare, deliver, transport, and
15 supply marijuana to a dispensary or cultivation facility; and
- 16 (b) Receive compensation for providing services pursuant to this section.
- 17 (11) A processor licensed pursuant to this section shall not grow or dispense
18 marijuana;
- 19 (12) The Department of Alcoholic Beverage Control may make reasonable inspections
20 on a transporter, distributor, and processor to ensure that the transporter,
21 distributor, and processor:
- 22 (a) Is an entity incorporated in the state of Kentucky;
- 23 (b) Has implemented appropriate security measures to deter and prevent
24 unauthorized entrance into areas containing marijuana and the theft of
25 marijuana;
- 26 (c) Conducts an initial comprehensive inventory of all marijuana and a
27 biannual comprehensive inventory of all marijuana;

1 (d) Records each transaction between the transporter, distributor, or processor
 2 and a dispensary, cultivation facility, or other processor and maintains the
 3 records for three (3) years; and

4 (e) Has adopted procedures to ensure accurate recordkeeping.

5 (13) The commission shall promulgate administrative regulations governing the
 6 applications for a transporter license, distributor license, or processor license.

7 (14) The Department of Alcoholic Beverage Control shall promulgate administrative
 8 regulations governing:

9 (a) Oversight requirements for transporters, distributors, and processors;

10 (b) Recordkeeping requirements for transporters, distributors, and processors;

11 (c) Security requirements for transporters, distributors, and processors;

12 (d) Personnel requirements for transporters, distributors, and processors;

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

15 (f) Procedures for suspending or terminating the licenses of transporters,
 16 distributors, and processors that violate the provisions of Sections 1 to 21 of
 17 this Act, procedures for appealing penalties, and a schedule of penalties;

18 (g) Procedures for inspections and investigations of transporters, distributors,
 19 and processors;

20 (h) Advertising restrictions for transporters, distributors, and processors; and

21 (i) Any other matters necessary to the fair, impartial, stringent, and
 22 comprehensive administration of the duties of the Department of Alcoholic
 23 Beverage Control pursuant to this section.

24 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 25 TO READ AS FOLLOWS:

26 (1) The Department of Alcoholic Beverage Control shall:

27 (a) License transporter agents, distributor agents, and processor agents; and

- 1 (b) Administer and enforce the provisions of this section concerning
2 transporter agents, distributor agents, and processor agents.
- 3 (2) The Department of Alcoholic Beverage Control may conduct criminal records
4 background checks in order to carry out this section.
- 5 (3) Except as prohibited by this section, the Department of Alcoholic Beverage
6 Control shall issue each transporter agent, distributor agent, and processor agent
7 a registry identification card within ten (10) days of receipt of:
- 8 (a) The person's name, address, and date of birth under Sections 1 to 21 of this
9 Act; and
- 10 (b) A reasonable fee.
- 11 (4) The Department of Alcoholic Beverage Control shall not issue a registry
12 identification card to a transporter agent, distributor agent, or processor agent
13 who has been convicted of an excluded felony offense and shall notify the
14 transporter, distributor, or processor in writing of the reason for denying the
15 registry identification card.
- 16 (5) A registry identification card for a transporter agent, distributor agent, or
17 processor agent shall expire one (1) year after the date of issuance or upon
18 notification to the Department of Alcoholic Beverage Control that the person
19 ceases to work at the transporter distributor, or processor, whichever is earlier.
- 20 (6) The Department of Alcoholic Beverage Control may charge a reasonable fee as
21 established by administrative regulation for the issuance of a new, renewal, or
22 replacement registry identification card.
- 23 (7) The Department of Alcoholic Beverage Control may revoke the registry
24 identification card of a transporter agent, distributor agent, or processor agent
25 who knowingly violates any provision of Sections 1 to 21 of this Act, and the
26 cardholder may be subject to any other penalties established by Kentucky law for
27 the violation.

1 (8) The Department of Alcoholic Beverage Control may revoke or suspend the
 2 transporter license, distributor license, or processor license of a transporter,
 3 distributor, or processor that is determined to have knowingly aided or facilitated
 4 a violation of any provision of Sections 1 to 21 of this Act, and the cardholder
 5 may be subject to any other penalties established by Kentucky law for the
 6 violation.

7 (9) The Department of Alcoholic Beverage Control shall promulgate administrative
 8 regulations governing:

9 (a) The manner in which the Department of Alcoholic Beverage Control
 10 considers applications for and renewals of registry identification cards for
 11 transporter agents, distributor agents, and processor agents;

12 (b) The form and content of registration and renewal applications for
 13 transporter agents, distributor agents, and processor agents;

14 (c) Procedures for suspending or terminating the registration of transporter
 15 agents, distributor agents, and processor agents who violate the provisions
 16 of this section, procedures for appealing penalties, and a schedule of
 17 penalties; and

18 (d) Any other matters necessary for the fair, impartial, stringent, and
 19 comprehensive administration of the duties of the Department of Alcoholic
 20 Beverage Control pursuant to this section.

21 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 22 TO READ AS FOLLOWS:

23 A physician shall not:

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

27 (2) Offer a discount or other thing of value to a qualifying patient who uses or agrees

1 to use a particular dispensary;

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

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

7 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
8 TO READ AS FOLLOWS:

9 (1) If the Department of Alcoholic Beverage Control, the Department for Public
10 Health, or the Medical Marijuana Commission fail to promulgate administrative
11 regulations to implement Sections 1 to 21 of this Act within the times provided for
12 in Sections 1 to 21 of this Act, any citizen may commence an action in the
13 Franklin Circuit Court to compel the Department of Alcoholic Beverage Control,
14 the Department of Public Health, or the Medical Marijuana Commission to
15 perform the actions mandated pursuant to the provisions of Sections 1 to 21 of
16 this Act.

17 (2) If the Department of Public Health fails to issue a valid registry identification
18 card in response to a valid application or renewal submitted pursuant to Sections
19 1 to 21 of this Act within sixty (60) days of its submission, the registry
20 identification card shall be deemed granted, and a copy of the registry
21 identification application or renewal and proof of receipt of the mailing shall be
22 deemed a valid registry identification card.

23 (3) If, at any time after one hundred forty (140) days following the effective date of
24 this Act, the Department of Public Health has not established a process for
25 accepting and approving or denying applications, a notarized statement by a
26 qualifying patient containing the information required in an application
27 pursuant to Section 4 of this Act, together with a written certification issued by a

1 practitioner within ninety (90) days immediately preceding the notarized
2 statement, shall be deemed a valid registry identification card for all purposes
3 under Sections 1 to 21 of this Act.

4 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
5 TO READ AS FOLLOWS:

6 (1) There is created a Medical Marijuana Commission within the Finance and
7 Administration Cabinet to determine the qualifications for receiving a license to
8 operate a dispensary or a license to operate a cultivation facility and the awarding
9 of licenses.

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

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

12 (a) Two (2) members appointed by the President of the Senate;

13 (b) Two (2) members appointed by the Speaker of the House of Representatives;

14 and

15 (c) One (1) member appointed by the Governor.

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

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

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

21 (7) (a) One (1) of the initial members appointed by the President of the Senate
22 shall serve a term of two (2) years and one (1) of the initial members
23 appointed by the President of the Senate shall serve a term of four (4) years.
24 The members appointed by the President of the Senate shall draw lots to
25 determine which member shall serve a term of two (2) years.

26 (b) One (1) of the initial members appointed by the Speaker of the House of
27 Representatives shall serve a term of two (2) years and one (1) of the initial

1 members appointed by the Speaker of the House of Representatives shall
2 serve a term of four (4) years. The members appointed by the Speaker of the
3 House of Representatives shall draw lots to determine which member shall
4 serve a term of two (2) years.

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

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

9 (8) A member of the commission shall be:

10 (a) A citizen of the United States;

11 (b) A resident of the Commonwealth of Kentucky for at least the ten (10) years
12 preceding his or her appointment;

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

14 (d) A person having no economic interest in a dispensary or cultivation facility.

15 (9) The commission, by a majority vote of the total membership of the commission
16 cast during its first regularly scheduled meeting of each calendar year, may
17 authorize payment to its members of a stipend not to exceed eighty-five dollars
18 (\$85) per day for each meeting attended or for any day while performing any
19 proper business of the commission. Members of the commission shall receive no
20 other compensation, expense reimbursement, or in-lieu-of payments.

21 (10) The commission may employ staff necessary to assist in the performance of its
22 duties under Sections 1 to 21 of this Act. The Department of Alcoholic Beverage
23 Control shall provide staff for the commission if the commission does not have
24 employees available for that purpose.

25 (11) The initial members shall be appointed within thirty (30) days of the effective date
26 of this Act.

27 (12) The President of the Senate shall call the first meeting of the commission, which

1 shall occur within forty-five (45) days of the effective date of this Act.

2 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
3 TO READ AS FOLLOWS:

4 (1) By adoption of Sections 1 to 21 of this Act, there is no implied repeal of the
5 existing Kentucky laws criminalizing possession of marijuana for purposes not
6 specified in Sections 1 to 21 of this Act.

7 (2) Sections 1 to 21 of this Act acknowledge that marijuana use, possession, and
8 distribution for any purpose remains illegal under federal law.

9 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
10 TO READ AS FOLLOWS:

11 Sections 1 to 21 of this Act:

12 (1) Authorize the growing of marijuana at a dispensary or cultivation facility that is
13 properly licensed within the Commonwealth; and

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

16 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
17 TO READ AS FOLLOWS:

18 (1) The retail sale of usable marijuana is subject to state sales and excise taxes at the
19 same rate as other tangible personal property pursuant to KRS 139.200 and
20 139.310.

21 (2) Usable marijuana shall not be exempt from taxation as a medicine pursuant to
22 KRS 139.472.

23 ➔Section 22. KRS 218A.1421 is amended to read as follows:

24 (1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully
25 traffics in marijuana, and the trafficking is not in compliance with, or otherwise
26 authorized by, Sections 1 to 21 of this Act.

27 (2) Unless authorized by Sections 1 to 21 of this Act, trafficking in less than eight (8)

1 ounces of marijuana is:

2 (a) For a first offense a Class A misdemeanor.

3 (b) For a second or subsequent offense a Class D felony.

4 (3) **Unless authorized by Sections 1 to 21 of this Act,** trafficking in eight (8) or more
5 ounces but less than five (5) pounds of marijuana is:

6 (a) For a first offense a Class D felony.

7 (b) For a second or subsequent offense a Class C felony.

8 (4) **Unless authorized by Sections 1 to 21 of this Act,** trafficking in five (5) or more
9 pounds of marijuana is:

10 (a) For a first offense a Class C felony.

11 (b) For a second or subsequent offense a Class B felony.

12 (5) **Unless authorized by Sections 1 to 21 of this Act,** the unlawful possession by any
13 person of eight (8) or more ounces of marijuana shall be prima facie evidence that
14 the person possessed the marijuana with the intent to sell or transfer it.

15 **(6) This section shall not apply to:**

16 **(a) A dispensary, cultivation facility, transporter, distributor, or processor, or**
17 **an agent of a dispensary, cultivation facility, transporter, distributor, or**
18 **processor, when acting in compliance with a license issued pursuant to**
19 **Sections 1 to 21 of this Act; or**

20 **(b) A cardholder, qualifying patient, or caregiver whose medical use of medical**
21 **cannabis is in compliance with Sections 1 to 21 of this Act.**

22 ➔Section 23. KRS 218A.1422 is amended to read as follows:

23 (1) A person is guilty of possession of marijuana when he or she knowingly and
24 unlawfully possesses marijuana, **and the possession is not in compliance with, or**
25 **otherwise authorized by, Sections 1 to 21 of this Act.**

26 (2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532
27 to the contrary notwithstanding, the maximum term of incarceration shall be no

1 greater than forty-five (45) days.

2 **(3) This section shall not apply to:**

3 **(a) A dispensary, cultivation facility, transporter, distributor, or processor, or**
 4 **an agent of a dispensary, cultivation facility, transporter, distributor, or**
 5 **processor, when acting in compliance with a license issued pursuant to**
 6 **Sections 1 to 21 of this Act; or**

7 **(b) A cardholder, qualifying patient, or caregiver whose medical use of medical**
 8 **cannabis is in compliance with Sections 1 to 21 of this Act.**

9 ➔Section 24. KRS 218A.1423 is amended to read as follows:

10 (1) A person is guilty of marijuana cultivation when he knowingly and unlawfully
 11 plants, cultivates, or harvests marijuana with the intent to sell or transfer it, **and the**
 12 **cultivation is not in compliance with, or otherwise authorized by, Sections 1 to 21**
 13 **of this Act.**

14 (2) **Unless authorized by Sections 1 to 21 of this Act,** marijuana cultivation of five (5)
 15 or more plants of marijuana is:

16 (a) For a first offense a Class D felony.

17 (b) For a second or subsequent offense a Class C felony.

18 (3) **Unless authorized by Sections 1 to 21 of this Act,** marijuana cultivation of fewer
 19 than five (5) plants is:

20 (a) For a first offense a Class A misdemeanor;~~and~~[-]

21 (b) For a second or subsequent offense a Class D felony.

22 (4) **Unless authorized by Sections 1 to 21 of this Act,** the planting, cultivating, or
 23 harvesting of five (5) or more marijuana plants shall be prima facie evidence that
 24 the marijuana plants were planted, cultivated, or harvested for the purpose of sale or
 25 transfer.

26 **(5) This section shall not apply to:**

27 **(a) A dispensary, cultivation facility, transporter, distributor, or processor, or**

1 *an agent of a dispensary, cultivation facility, transporter, distributor, or*
2 *processor, when acting in compliance with a license issued pursuant to*
3 *Sections 1 to 21 of this Act; or*
4 *(b) A cardholder, qualifying patient, or caregiver whose medical use of medical*
5 *cannabis is in compliance with Sections 1 to 21 of this Act.*

6 ➔Section 25. This Act may be known and cited as the Kentucky Medical
7 Marijuana Act.