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Chapter 17.37. MEDICAL USES OF MARIJUANA

Sec. 17.37.010. Registry of Patients.

(a) The department shall create and maintain a confidential registry of patients who have applied for and are entitled to receive a registry identification card according to the criteria set forth in this chapter. Authorized employees of state or local law enforcement agencies shall be granted access to the information contained within the department's confidential registry only for the purpose of verifying that an individual who has presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card.

(b) No person shall be permitted to gain access to names of patients, physicians, primary care-givers or any information related to such persons maintained in connection with the department's confidential registry, except for authorized employees of the department in the course of their official duties and authorized employees of state or local law enforcement agencies who have stopped or arrested a person who claims to be engaged in the medical use of marijuana and in the possession of a registry identification card or its functional equivalent pursuant to (e) of this section.

(c) In order to be placed on the state's confidential registry for the medical uses of marijuana, a patient shall provide to the department

(1) the original or a copy of written documentation stating that the patient has been diagnosed with a debilitating medical condition and the physician's conclusion that the patient might benefit from the medical use of marijuana;

(2) the name, address, date of birth, and social security number of the patient;

(3) the name, address, and telephone number of the patient's physician; and

(4) the name and address of the patient's primary care-giver, if one is designated at the time of application.

(d) The department shall verify all information submitted under (c) of this section within 30 days of receiving it. The department shall notify the applicant that his or her application for a registry identification card has been denied if its review of the information which the patient has provided discloses that the information required pursuant to (c) of this section has not been provided or has been falsified. Otherwise, not more than five days after verifying such information, the department shall issue a serially numbered registry identification card to the patient stating

(1) the patient's name, address, date of birth, and social security number;

(2) that the patient's name has been certified to the state health agency as a person who has a debilitating medical condition which the patient may address with the medical use of marijuana;

(3) the dates of issuance and expiration of the registry identification card; and

(4) the name and address of the patient's primary care-giver, if any is designated at the time of application.

(e) If the department fails to issue a registry identification card within 35 days of receipt of an application, the patient's application for such card will be deemed to have been approved. Receipt of an application shall be deemed to have occurred upon delivery to the department or deposit in the United States mails. Notwithstanding the foregoing, no application shall be deemed received prior to June 1, 1999. A patient who is questioned by any state or local law enforcement official about his or her medical use of marijuana shall provide a copy of the written documentation submitted to the department and proof of the date of mailing or other transmission of the written documentation for delivery to the department, which shall be accorded the same legal effect as a registry identification card, until the patient receives actual notice that the application has been denied. No person shall apply for a registry identification card more than once every six months.

(f) The denial of a registry identification card shall be considered a final agency action subject to judicial review. Only the patient whose application has been denied shall have standing to contest the final agency action.

(g) When there has been a change in the name, address, physician, or primary care-giver of a patient who has qualified for a registry identification card, that patient must notify the state health agency of any such change within 10 days. To maintain an effective registry identification card, a patient must annually resubmit updated written documentation to the state health agency, as well as the name and address of the patient's primary care-giver, if any.

(h) A patient who no longer has a debilitating medical condition shall return his or her registry identification card to the department within 24 hours of receiving such diagnosis by his or her physician.

(i) The department may determine and levy reasonable fees to pay for any administrative costs associated with their role in this program.

Sec. 17.37.020. Medical Use of Marijuana.

(a) A patient may not engage in the medical use of marijuana with more marijuana than is medically justified to address a debilitating medical condition. A patient's medical use of marijuana within the following limits is lawful:

(1) no more than one ounce of marijuana in usable form; and

(2) no more than six marijuana plants, with no more than three mature and flowering plants producing usable marijuana at any one time.

(b) For quantities of marijuana in excess of the amounts in (a) of this section, a patient or his or her primary care-giver must prove by a preponderance of the evidence that any greater amount was medically justified to address the patient's debilitating medical condition.

Sec. 17.37.030. Privileged medical use of marijuana.

(a) Except as otherwise provided in [AS 17.37.040](#), no patient or primary care-giver may be found guilty of, or penalized in any manner for, a violation of any provision of law related to the medical use of marijuana, where it is proved by a preponderance of the evidence that

(1) the patient was diagnosed by a physician as having a debilitating medical condition;

(2) the patient was advised by his or her physician, in the context of a bona fide physician-patient relationship, that the patient might benefit from the medical use of marijuana in connection with a debilitating medical condition; and

(3) the patient and his or her primary care-giver were collectively in possession of amounts of marijuana only as permitted under this section.

(b) Except as otherwise provided in [AS 17.37.040](#), no patient or primary care-giver in lawful possession of a registry identification card shall be subject to arrest, prosecution, or penalty in any manner for medical use of marijuana or for applying to have his or her name placed on the confidential register maintained by the department.

(c) No physician shall be subject to any penalty, including arrest, prosecution, disciplinary proceeding, or be denied any right or privilege, for

(1) advising a patient whom the physician has diagnosed as having a debilitating medical condition, about the risks and benefits of medical use of marijuana or that he or she might benefit from the medical use of marijuana, provided that such advice is based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship; or

(2) providing a patient with written documentation, based upon the physician's contemporaneous assessment of the patient's medical history and current medical condition and a bona fide physician-patient relationship, stating that the patient has a debilitating medical condition and might benefit from the medical use of marijuana.

(d) Notwithstanding the foregoing provisions, no person, including a patient or primary care-giver, shall be entitled to the protection of this section for his or her acquisition, possession, cultivation, use, sale, distribution, and/or transportation of marijuana for non-medical use.

(e) Any property interest that is possessed, owned, or used in connection with the medical use of marijuana, or acts incidental to such use, shall not be harmed, neglected, injured, or destroyed while in the possession of state or local law enforcement officials where such property has been seized in connection with the claimed medical use of marijuana. Any such property interest shall not be forfeited under any provision of state or local law providing for the forfeiture of property other than as a sentence imposed after conviction of a criminal offense or entry of a plea of guilty to such offense. Marijuana and paraphernalia seized by state or local law enforcement officials from a patient or primary care-giver in connection with the claimed medical use of marijuana shall be returned immediately upon the determination that the patient or primary care-giver is entitled to the protection contained in this section as may be evidenced, for example, by a decision not to prosecute, the dismissal of charges, or acquittal.

Sec. 17.37.040. Restrictions on medical use of marijuana.

(a) No patient in lawful possession of a registry identification card shall

(1) engage in the medical use of marijuana in a way that endangers the health or well-being of any person;

(2) engage in the medical use of marijuana in plain view of, or in a place open to, the general public; or

(3) sell or distribute marijuana to any person who is known to the patient not to be either in lawful possession of a registry identification card or eligible for such card.

(b) Any patient found by a preponderance of the evidence to have willfully violated the provisions of this chapter shall be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of one year.

(c) No governmental, private, or any other health insurance provider shall be required to be liable for any

claim for reimbursement for the medical use of marijuana.

(d) Nothing in this section shall require any accommodation of any medical use of marijuana

(1) in any place of employment;

(2) in any correctional facility;

(3) on or within 500 feet of school grounds;

(4) at or within 500 feet of a recreation or youth center; or

(5) on a school bus.

Sec. 17.37.050. Medical use of marijuana by a minor.

Notwithstanding [AS 17.37.030](#) (a), no patient who has not reached the age of majority under AS 25.20 or who has not had the disabilities of a minor removed under [AS 09.55.590](#) shall engage in the medical use of marijuana unless

(1) his or her physician has diagnosed the patient as having a debilitating medical condition;

(2) the physician has explained the possible risks and benefits of medical use of marijuana to the patient and one of the patient's parents or legal guardians residing in Alaska, if any;

(3) the physician has provided the patient with the written documentation specified in [AS 17.37.010](#) (c)(1);

(4) the patient's parent or legal guardian referred to in (2) of this section, consents to the department in writing to serve as the patient's primary care-giver and to permit the patient to engage in the medical use of marijuana;

(5) the patient completes and submits an application for a registry identification card and the written consent referred to in (4) of this section to the department and receives a registry identification card;

(6) the patient and the primary care-giver collectively possess amounts of marijuana no greater than those specified in AS 17.37.020(a)(1) and (2); and

(7) the primary care-giver controls the acquisition of such marijuana and the dosage and frequency of its use by the patient.

Sec. 17.37.060. Addition of debilitating medical conditions.

Not later than June 1, 1999, the department shall promulgate regulations under AS 44.62 (Administrative Procedure Act) governing the manner in which it may consider adding debilitating medical conditions to the list provided in this section. After June 1, 1999, the department shall also accept for consideration physician or patient initiated petitions to add debilitating medical conditions to the list provided in this section and, after hearing, shall approve or deny such petitions within 180 days of submission. The denial of such a petition shall be considered a final agency action subject to judicial review.

Sec. 17.37.070. Definitions.

In this chapter, unless the context clearly requires otherwise,

(1) "correctional facility" means a state prison institution operated and managed by employees of the Department of Corrections or provided to the Department of Corrections by agreement under [AS 33.30.031](#) for the care, confinement or discipline of prisoners;

(2) "debilitating medical condition" means

(A) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, or treatment for any of these conditions;

(B) any chronic or debilitating disease or treatment for such diseases, which produces, for a specific patient, one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions reasonably may be alleviated by the medical use of marijuana: cachexia; severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis; or

(C) any other medical condition, or treatment for such condition, approved by the department, pursuant to its authority to promulgate regulations or its approval of any petition submitted by a patient or physician under [AS 17.37.060](#) ;

(3) "department" means the Department of Health and Social Services;

(4) "medical use" means the acquisition, possession, cultivation, use and/or transportation of marijuana and/or paraphernalia related to the administration of such marijuana to address the symptoms or effects of a debilitating medical condition only after a physician has authorized such medical use by a diagnosis of the patient's debilitating medical condition;

(5) "patient" means a person who has a debilitating medical condition;

(6) "physician" means a person licensed to practice medicine in this state or an officer in the regular medical service of the armed forces of the United States or the United States Public Health Service while in the discharge of their official duties, or while volunteering services without pay or other remuneration to a hospital, clinic, medical office, or other medical facility in this state;

(7) "primary care-giver" means a person, other than the patient's physician, who is 18 years of age or older and has significant responsibility for managing the well-being of a patient who has a debilitating medical condition;

(8) "prisoner" means a person detained or confined in a correctional facility, whether by arrest, conviction, or court order, or a person held as a witness or otherwise, including municipal prisoners held under contract and juveniles held under the authority of AS 47.10;

(9) "registry identification card" means a document issued by the department which identifies a patient authorized to engage in the medical use of marijuana and the patient's primary care-giver, if any;

(10) "usable form" and "usable marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) Cannabis, but does not include the stalks or roots;

(11) "written documentation" means a statement signed by a patient's physician or copies of the patient's pertinent medical records.

Sec. 17.37.080. Short title.

[AS 17.37.010](#) - 17.37.070 may be cited as the Medical Uses of Marijuana for Persons Suffering from

Debilitating Medical Conditions Act.

Title 18. HEALTH, SAFETY, AND HOUSING

Chapter 18.05. ADMINISTRATION OF PUBLIC HEALTH AND RELATED LAWS

Sec. 18.05.010. Administration of laws by department.

The Department of Health and Social Services shall administer the laws and regulations relating to the promotion and protection of the public health, control of communicable diseases, programs for the improvement of maternal and child health, care of crippled children, and hospitalization of the tuberculous and shall discharge other duties provided by law.

Sec. 18.05.020. Department to report activities.

The department shall prepare an annual report of its activities and notify the legislature not later than 10 days after it convenes that the report is available.

Sec. 18.05.030. Cooperation with federal government.

The department shall

(1) cooperate with the federal government in matters of mutual concern pertaining to public health, the control of communicable diseases, maternal and child health and crippled children, and other matters within the scope of this title;

(2) make reports, in the form and containing the information the federal government requires;

(3) cooperate with the federal government, its agencies or instrumentalities in establishing, extending, and strengthening services for the protection of the public health, and receive and expend funds and receive, utilize, and maintain equipment and facilities made available to the department by a department or agency of the federal government, the government of the state or its political subdivisions, and a person or nonofficial agency.

Sec. 18.05.031. Program planning for developmental disability. [Repealed, Sec. 5 ch 165 SLA 1978. For current law, see AS 47.80].

Repealed or Renumbered

Sec. 18.05.035. Planned parenthood information.

The department shall prepare information regarding planned parenthood. The department shall place the information in public hospitals, clinics, or other health facilities throughout the state, and upon request of its administrator, in a private hospital, clinic, or health facility, so that members of the public may obtain the information voluntarily, without request. The department shall also advertise the availability of the information and distribute it to any person upon written request.

Sec. 18.05.037. Fetal health effects information.

The department shall prepare or obtain distributable information on fetal alcohol effects and the fetal health effects of chemical abuse and battering during pregnancy. The department shall make this information available to public hospitals, clinics, and other health facilities in the state for distribution to their patients.

Sec. 18.05.040. Regulations.

(a) The commissioner shall adopt regulations consistent with existing law for

(1) the definition, reporting, and control of diseases of public health significance;

(2) cooperation with local boards of health and health officers;

(3) protection and promotion of the public health and prevention of disability and mortality;

(4) the transportation of dead bodies;

(5) carrying out the purposes of this chapter;

(6) the conduct of its business and for carrying out the provisions of laws of the United States and the state relating to public health;

(7) establishing the divisions and local offices and advisory groups necessary or considered expedient to carry out or assist in carrying out a duty or power assigned to it;

(8) the voluntary certification of laboratories to perform diagnostic, quality control, or enforcement analyses or examinations based on recognized or tentative standards of performance relating to analysis and examination of food to include seafood, milk, water, and specimens from human beings submitted by licensed physicians and nurses for analysis;

(9) the regulation of quality and purity of commercially compressed oxygen sold for human respiration;

(10) the registration of midwifery birth centers, except that the commissioner may not require the presence of a physician or nurse midwife at a birth resulting from a low risk pregnancy attended by a direct-entry midwife certified in this state.

(b) A regulation may not be adopted under (a) of this section that duplicates, conflicts with, or is inconsistent with [AS 18.60.705](#) - 18.60.740.

Sec. 18.05.042. Access to health care records.

(a) The department may, during reasonable business hours, inspect health care records maintained by physicians and other health care professionals, hospitals, out-patient clinics, nursing homes, and other facilities or agencies providing health care services to patients that would identify patients or establish characteristics of an identified patient with cancer required to be reported under 42 U.S.C. 280e - 280e-4, or a birth defect or infectious disease required to be reported to protect the public health under this chapter and regulations adopted under this chapter. Disclosure of these health care records to the department does not constitute a breach of patient confidentiality.

(b) The department may conduct research using health care data reported under (a) of this section. The department may provide data obtained under (a) of this section to other persons for clinical, epidemiological, or other public health research.

(c) Data obtained or a record inspected under this section that identifies a particular individual

(1) is confidential;

(2) may not be further disclosed to other persons except by the department under (b) of this section; and

(3) is not subject to inspection or copying under [AS 09.25.110](#) - 09.25.125.

Sec. 18.05.044. Registry of persons with impairments.

(a) The department shall, for the purposes of case findings, improvement of services, and assisting in research, keep a case registry of persons who have impairments.

(b) The information shall be furnished on forms prescribed by the department, but a person with an impairment or the parent or guardian of a person with an impairment may not be compelled to furnish or consent to furnishing information requested for the case registry. A private or governmental organization, institution, or individual may not furnish information to the registry without the written consent of the person with the impairment or the parent or guardian of that person.

(c) In this section "impairment" means a physical or mental condition that materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning.



HOUSE CS FOR CS FOR SS FOR SENATE BILL NO. 94(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 5/16/99

Referred: Today's Calendar

Sponsor(s): SENATOR LEMAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the medical use of marijuana; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 11.71 is amended by adding a new section to article 1 to read:

5 **Sec. 11.71.090. Affirmative defense to a prosecution under AS 11.71.030 -**

6 **11.71.060; medical use of marijuana.** (a) In a prosecution under AS 11.71.030 -

7 11.71.060 charging the manufacture, delivery, possession, possession with intent to

8 manufacture or deliver, use, or display of a schedule VIA controlled substance, it is

9 an affirmative defense that the defendant is a patient, or the primary caregiver or

10 alternate caregiver for a patient, and

11 (1) at the time of the manufacture, delivery, possession, possession

12 with intent to manufacture or deliver, use, or display, the patient was registered under

13 AS 17.37;

14 (2) the manufacture, delivery, possession, possession with intent to

1 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

2 (3) if the defendant is the

3 (A) primary caregiver of the patient, the defendant was in
4 physical possession of the caregiver registry identification card at the time of
5 the manufacture, delivery, possession, possession with intent to manufacture or
6 deliver, use, or display; or

7 (B) alternate caregiver of the patient, the defendant was in
8 physical possession of the caregiver registry identification card at the time of
9 the manufacture, delivery, possession, possession with intent to manufacture or
10 deliver, use, or display.

11 (b) In this section,

12 (1) "alternate caregiver" has the meaning given in AS 17.37.070;

13 (2) "patient" has the meaning given in AS 17.37.070;

14 (3) "primary caregiver" has the meaning given in AS 17.37.070.

15 * **Sec. 2.** AS 11.71.190(b) is amended to read:

16 (b) Marijuana is a schedule VIA controlled substance [EXCEPT FOR
17 MARIJUANA POSSESSED FOR MEDICAL PURPOSES UNDER AS 17.37].

18 * **Sec. 3.** AS 17.37.010 is amended to read:

19 **Sec. 17.37.010. Registry of patients and listing of caregivers [PATIENTS].**

20 (a) The department shall create and maintain a confidential registry of patients who
21 have applied for and are entitled to receive a registry identification card according to
22 the criteria set out [FORTH] in this chapter. The registry must also contain the
23 name of the primary caregiver and the name of the alternate caregiver of a
24 patient, if either is designated by the patient. Only one primary caregiver and
25 one alternate caregiver may be listed in the registry for a patient. The registry
26 and the information contained within it are not a public record under
27 AS 09.25.100 - 09.25.220. Peace officers and authorized employees of state or
28 municipal [LOCAL] law enforcement agencies shall be granted access to the
29 information contained within the department's confidential registry only

30 (1) for the purpose of verifying that an individual who [THAT] has
31 presented a registry identification card to a state or municipal [LOCAL] law

1 enforcement official is lawfully in possession of such card; or

2 (2) for the purpose of determining that an individual who claims
 3 to be lawfully engaged in the medical use of marijuana is registered or listed with
 4 the department or is considered to be registered or listed under (g) of this section.

5 (b) Except as provided in (a) of this section, a [NO] person, other than
 6 authorized employees of the department in the course of their official duties, may
 7 not [SHALL] be permitted to gain access to names of patients, physicians, primary or
 8 alternate caregivers, [CARE-GIVERS] or any information related to such persons
 9 maintained in connection with the department's confidential registry [, EXCEPT FOR
 10 AUTHORIZED EMPLOYEES OF THE DEPARTMENT IN THE COURSE OF
 11 THEIR OFFICIAL DUTIES AND AUTHORIZED EMPLOYEES OF STATE OR
 12 LOCAL LAW ENFORCEMENT AGENCIES WHO HAVE STOPPED OR
 13 ARRESTED A PERSON WHO CLAIMS TO BE ENGAGED IN THE MEDICAL
 14 USE OF MARIJUANA AND IN THE POSSESSION OF A REGISTRY
 15 IDENTIFICATION CARD OR ITS FUNCTIONAL EQUIVALENT PURSUANT TO
 16 (e) OF THIS SECTION].

17 (c) In order to be placed on the state's confidential registry for the medical use
 18 [USES] of marijuana, an adult [A] patient or a parent or guardian of a minor
 19 patient shall provide to the department

20 (1) a statement signed by the patient's physician

21 (A) stating that the physician personally examined the
 22 patient and that the examination took place in the context of a bona fide
 23 physician-patient relationship and setting out the date the examination
 24 occurred;

25 (B) [THE ORIGINAL OR A COPY OF WRITTEN
 26 DOCUMENTATION] stating that the patient has been diagnosed with a
 27 debilitating medical condition; and

28 (C) stating that the physician has considered other approved
 29 medications and treatments that might provide relief, [AND THE
 30 PHYSICIAN'S CONCLUSION] that are reasonably available to the patient,
 31 and that can be tolerated by the patient, and that the physician has

1 concluded that the patient might benefit from the medical use of marijuana;

2 (2) a sworn application on a form provided by the department
3 containing the following information:

4 (A) the name, address, date of birth, and Alaska driver's
5 license or identification card [SOCIAL SECURITY] number of the patient;

6 (B) [(3)] the name, address, and telephone number of the
7 patient's physician; and

8 (C) [(4)] the name, [AND] address, date of birth, and Alaska
9 driver's license or identification card number of the patient's primary
10 caregiver and alternate caregiver [CARE-GIVER,] if either [ONE] is
11 designated at the time of application, along with the statements required
12 under (d) of this section; and

13 (3) if the patient is a minor, a statement by the minor's parent or
14 guardian that the patient's physician has explained the possible risks and benefits
15 of medical use of marijuana and that the parent or guardian consents to serve as
16 the primary caregiver for the patient and to control the acquisition, possession,
17 dosage, and frequency of use of marijuana by the patient.

18 (d) A person may be listed under this section as the primary caregiver or
19 alternate caregiver for a patient if the person submits a sworn statement on a
20 form provided by the department that the person

21 (1) is at least 21 years of age;

22 (2) has never been convicted of a felony offense under AS 11.71 or
23 AS 11.73 or a law or ordinance of another jurisdiction with elements similar to
24 an offense under AS 11.71 or AS 11.73; and

25 (3) is not currently on probation or parole from this or another
26 jurisdiction.

27 (e) A person may be a primary caregiver or alternate caregiver for only
28 one patient at a time unless the primary caregiver or alternate caregiver is
29 simultaneously caring for two or more patients who are related to the caregiver
30 by at least the fourth degree of kinship by blood or marriage.

31 (f) The department shall review the application and [VERIFY] all

1 information submitted under (c) **and (d)** of this section within 30 days of receiving it.
 2 The department shall notify the **patient** [APPLICANT] that **the patient's** [HIS OR
 3 HER] application for a registry identification card has been denied if **the department's**
 4 [ITS] review of the information **that** [WHICH] the patient has provided discloses that
 5 the information required **under** [PURSUANT TO] (c) of this section has not been
 6 provided or has been falsified **or that the patient is not otherwise qualified to be**
 7 **registered. If the department determines that the primary caregiver or alternate**
 8 **caregiver is not qualified under this section to be a primary caregiver or alternate**
 9 **caregiver, or if the information required under this section has not been provided**
 10 **or has been falsified, the department shall notify the patient of that determination**
 11 **and shall proceed to review the patient's application as if a primary caregiver or**
 12 **alternate caregiver was not designated. The patient may amend the application**
 13 **and designate a new primary caregiver or alternate caregiver at any time. The**
 14 **department may not list a newly designated primary caregiver or alternate**
 15 **caregiver until it determines that the newly designated primary caregiver or**
 16 **alternate caregiver is qualified under this section and that the information**
 17 **required under this section has been provided.** Otherwise, not more than five days
 18 after verifying **the** [SUCH] information, the department shall issue a [SERIALLY
 19 NUMBERED] registry identification card to the patient, **and, if a primary caregiver**
 20 **for a patient has been listed in the registry, the department shall issue to the**
 21 **patient a duplicate of the patient's card clearly identified as the caregiver registry**
 22 **identification card,** stating

23 (1) the patient's name, address, date of birth, and **Alaska driver's**
 24 **license or identification card** [SOCIAL SECURITY] number;

25 (2) that the **patient is registered with the department** [PATIENT'S
 26 NAME HAS BEEN CERTIFIED TO THE STATE HEALTH AGENCY] as a person
 27 who has a debilitating medical condition **that** [WHICH] the patient may address with
 28 the medical use of marijuana;

29 (3) the dates of issuance and expiration of the registry identification
 30 card; and

31 (4) the name, [AND] address, **date of birth, and Alaska driver's**

1 license or identification card number of the patient's primary caregiver and
 2 alternate caregiver [CARE-GIVER], if either [ANY] is designated [AT THE TIME
 3 OF APPLICATION].

4 (g) [(e)] If the department fails to deny the application and issue a registry
 5 identification card within 35 days of receipt of an application, the patient's application
 6 for the [SUCH] card is considered [WILL BE DEEMED] to have been approved.
 7 Receipt of an application shall be considered [DEEMED] to have occurred upon
 8 delivery to the department [OR DEPOSIT IN THE UNITED STATES MAIL].
 9 Notwithstanding this subsection, an [THE FOREGOING, NO] application may not
 10 [SHALL] be considered to have been [DEEMED] received before [PRIOR TO]
 11 June 1, 1999. If the department subsequently registers a patient or lists a primary
 12 caregiver or alternate caregiver, if either is designated, or denies the application
 13 or listing, that registration or listing or denial revokes the approval that is
 14 considered to have occurred under this subsection.

15 (h) A patient or a primary caregiver who is questioned by a [ANY] state or
 16 municipal [LOCAL] law enforcement official about the patient's or primary
 17 caregiver's [HIS OR HER] medical use of marijuana shall immediately show proper
 18 identification to the official and inform the official that the person is a registered
 19 patient or listed primary caregiver for a registered patient and either show the
 20 official (1) the person's registry identification card, or (2) [PROVIDE] a copy of
 21 an application that has been pending without registration or denial for over 35
 22 days since received by [THE WRITTEN DOCUMENTATION SUBMITTED TO] the
 23 department and proof of the date of [MAILING OR OTHER TRANSMISSION OF
 24 THE WRITTEN DOCUMENTATION FOR] delivery to the department, which shall
 25 be accorded the same legal effect as a registry identification card [,] until the patient
 26 receives actual notice that the application has been denied.

27 (i) A [NO] person may not [SHALL] apply for a registry identification card
 28 more than once every six months.

29 (j) [(f)] The denial or revocation of a registry identification card or the
 30 removal of a patient from the registry or the listing of a caregiver shall be
 31 considered a final agency action subject to judicial review. Only the patient, or the

1 **parent or guardian of a patient who is a minor, has** [WHOSE APPLICATION HAS
2 BEEN DENIED SHALL HAVE] standing to contest the final agency action.

3 (k) [(g)] When there has been a change in the name, address, **or** physician [,
4 OR PRIMARY CARE-GIVER] of a patient who has qualified for a registry
5 identification card, **or a change in the name or address of the patient's primary**
6 **caregiver or alternate caregiver**, that patient must notify the **department** [STATE
7 HEALTH AGENCY] of **the** [ANY SUCH] change within 10 days. To maintain an
8 effective registry identification card, a patient must annually resubmit updated written
9 documentation, **including a statement signed by the patient's physician containing**
10 **the information required to be submitted under (c)(1) of this section**, to the
11 **department** [STATE HEALTH AGENCY], as well as the name and address of the
12 patient's primary **caregiver or alternate caregiver** [CARE-GIVER], if any.

13 (l) [(h)] A patient who no longer has a debilitating medical condition **and the**
14 **patient's primary caregiver, if any**, shall return **all** [HIS OR HER] registry
15 identification **cards** [CARD] to the department within 24 hours of receiving **the**
16 [SUCH] diagnosis by **the patient's** [HIS OR HER] physician.

17 (m) **A copy of a registry identification card is not valid. A registry**
18 **identification card is not valid if the card has been altered, mutilated in a way**
19 **that impairs its legibility, or laminated.**

20 (n) **The department may revoke a patient's registration if the department**
21 **determines that the patient has violated a provision of this chapter or AS 11.71.**

22 (o) **The department may remove a primary caregiver or alternate**
23 **caregiver from the registry if the department determines that the primary**
24 **caregiver or alternate caregiver is not qualified to be listed or has violated a**
25 **provision of this chapter or AS 11.71.**

26 (p) [(i)] The department may determine and levy reasonable fees to pay for
27 any administrative costs associated with **its** [THEIR] role in **administering this**
28 **chapter** [THIS PROGRAM].

29 (q) **A primary caregiver may only act as the primary caregiver for the**
30 **patient when the primary caregiver is in physical possession of the caregiver**
31 **registry identification card. An alternate caregiver may only act as the primary**

1 caregiver for the patient when the alternate caregiver is in physical possession of
 2 the caregiver registry identification card.

3 (r) The department may not register a patient under this section unless
 4 the statement of the patient's physician discloses that the patient was personally
 5 examined by the physician within the 16-month period immediately preceding the
 6 patient's application. The department shall cancel, suspend, revoke or not renew
 7 the registration of a patient whose annual resubmission of updated written
 8 documentation to the department under (k) of this section does not disclose that
 9 the patient was personally examined by the patient's physician within the 16-
 10 month period immediately preceding the date by which the patient is required to
 11 annually resubmit written documentation.

12 * Sec. 4. AS 17.37.030 is amended to read:

13 Sec. 17.37.030. Privileged medical use of marijuana. (a) A patient,
 14 primary caregiver, or alternate caregiver registered with the department under
 15 this chapter has an affirmative defense to a criminal prosecution related to
 16 marijuana to the extent provided in AS 11.71.090 [EXCEPT AS OTHERWISE
 17 PROVIDED IN AS 17.37.040, NO PATIENT OR PRIMARY CARE-GIVER MAY
 18 BE FOUND GUILTY OF, OR PENALIZED IN ANY MANNER FOR, A
 19 VIOLATION OF ANY PROVISION OF LAW RELATED TO THE MEDICAL USE
 20 OF MARIJUANA, WHERE IT IS PROVED BY A PREPONDERANCE OF THE
 21 EVIDENCE THAT

22 (1) THE PATIENT WAS DIAGNOSED BY A PHYSICIAN
 23 AS HAVING A DEBILITATING MEDICAL CONDITION;

24 (2) THE PATIENT WAS ADVISED BY HIS OR HER PHYSICIAN,
 25 IN THE CONTEXT OF A BONA FIDE PHYSICIAN-PATIENT RELATIONSHIP,
 26 THAT THE PATIENT MIGHT BENEFIT FROM THE MEDICAL USE OF
 27 MARIJUANA IN CONNECTION WITH A DEBILITATING MEDICAL
 28 CONDITION; AND

29 (3) THE PATIENT AND HIS OR HER PRIMARY CARE-GIVER
 30 WERE COLLECTIVELY IN POSSESSION OF AMOUNTS OF MARIJUANA ONLY
 31 AS PERMITTED UNDER THIS SECTION].

1 (b) Except as otherwise provided **by law, a person is not** [IN AS 17.37.040,
 2 NO PATIENT OR PRIMARY CARE-GIVER IN LAWFUL POSSESSION OF A
 3 REGISTRY IDENTIFICATION CARD SHALL BE] subject to arrest, prosecution, or
 4 penalty in any manner for [MEDICAL USE OF MARIJUANA OR FOR] applying to
 5 have **the person's** [HIS OR HER] name placed on the confidential **registry**
 6 [REGISTER] maintained by the department **under AS 17.37.010**.

7 (c) **A** [NO] physician **is not** [SHALL BE] subject to any penalty, including
 8 arrest, prosecution, **or** disciplinary proceeding, or **denial of** [BE DENIED] any right
 9 or privilege, for

10 (1) advising a patient whom the physician has diagnosed as having a
 11 debilitating medical condition [,] about the risks and benefits of medical use of
 12 marijuana or that **the patient** [HE OR SHE] might benefit from the medical use of
 13 marijuana [,] provided that **the** [SUCH] advice is based upon the physician's
 14 contemporaneous assessment **in the context of a bona fide physician-patient**
 15 **relationship** of

16 (A) the patient's medical history and current medical condition;

17 **and**

18 (B) **other approved medications and treatments that might**
 19 **provide relief and that are reasonably available to the patient and that can**
 20 **be tolerated by the patient** [AND A BONA FIDE PHYSICIAN-PATIENT
 21 RELATIONSHIP]; or

22 (2) providing a patient with **a written statement in an application for**
 23 **registration under AS 17.37.010** [WRITTEN DOCUMENTATION, BASED UPON
 24 THE PHYSICIAN'S CONTEMPORANEOUS ASSESSMENT OF THE PATIENT'S
 25 MEDICAL HISTORY AND CURRENT MEDICAL CONDITION AND A BONA
 26 FIDE PHYSICIAN-PATIENT RELATIONSHIP, STATING THAT THE PATIENT
 27 HAS A DEBILITATING MEDICAL CONDITION AND MIGHT BENEFIT FROM
 28 THE MEDICAL USE OF MARIJUANA].

29 (d) Notwithstanding the [FOREGOING] provisions **of this section, a** [, NO]
 30 person, including a patient, [OR] primary **caregiver, or alternate caregiver, is not**
 31 [CARE-GIVER, SHALL BE] entitled to the protection of this **chapter** [SECTION] for

1 **the person's** [HIS OR HER] acquisition, possession, cultivation, use, sale, distribution,
 2 **or** [AND/OR] transportation of marijuana for **nonmedical** [NON-MEDICAL] use.

3 [(e) ANY PROPERTY INTEREST THAT IS POSSESSED, OWNED, OR
 4 USED IN CONNECTION WITH THE MEDICAL USE OF MARIJUANA, OR ACTS
 5 INCIDENTAL TO SUCH USE, SHALL NOT BE HARMED, NEGLECTED,
 6 INJURED, OR DESTROYED WHILE IN THE POSSESSION OF STATE OR
 7 LOCAL LAW ENFORCEMENT OFFICIALS WHERE SUCH PROPERTY HAS
 8 BEEN SEIZED IN CONNECTION WITH THE CLAIMED MEDICAL USE OF
 9 MARIJUANA. ANY SUCH PROPERTY INTEREST SHALL NOT BE FORFEITED
 10 UNDER ANY PROVISION OF STATE OR LOCAL LAW PROVIDING FOR THE
 11 FORFEITURE OF PROPERTY OTHER THAN AS A SENTENCE IMPOSED
 12 AFTER CONVICTION OF A CRIMINAL OFFENSE OR ENTRY OF A PLEA OF
 13 GUILTY TO SUCH OFFENSE. MARIJUANA AND PARAPHERNALIA SEIZED
 14 BY STATE OR LOCAL LAW ENFORCEMENT OFFICIALS FROM A PATIENT
 15 OR PRIMARY CARE-GIVER IN CONNECTION WITH THE CLAIMED MEDICAL
 16 USE OF MARIJUANA SHALL BE RETURNED IMMEDIATELY UPON THE
 17 DETERMINATION THAT THE PATIENT OR PRIMARY CARE-GIVER IS
 18 ENTITLED TO THE PROTECTION CONTAINED IN THIS SECTION AS MAY BE
 19 EVIDENCED, FOR EXAMPLE, BY A DECISION NOT TO PROSECUTE, THE
 20 DISMISSAL OF CHARGES, OR ACQUITTAL.]

21 * **Sec. 5.** AS 17.37.040 is amended to read:

22 **Sec. 17.37.040. Restrictions on medical use of marijuana.** (a) **A** [NO]
 23 patient, **primary caregiver, or alternate caregiver may not** [IN LAWFUL
 24 POSSESSION OF A REGISTRY IDENTIFICATION CARD SHALL]

25 (1) engage in the medical use of marijuana in a way that endangers the
 26 health or well-being of any person;

27 (2) engage in the medical use of marijuana in plain view of, or in a
 28 place open to, the general public; **this paragraph does not prohibit a patient or**
 29 **primary caregiver from possessing marijuana in a place open to the general**
 30 **public if**

31 **(A) the person possesses, in a closed container carried on the**

1 person, one ounce or less of marijuana in usable form;

2 (B) the marijuana is not visible to anyone other than the
3 patient or primary caregiver; and

4 (C) the possession is limited to that necessary to transport
5 the marijuana directly to the patient or primary caregiver or directly to
6 a place where the patient or primary caregiver may lawfully possess or use
7 the marijuana; [OR]

8 (3) sell or distribute marijuana to any person, except that a patient
9 may deliver marijuana to the patient's primary caregiver and a primary caregiver
10 may deliver marijuana to the patient for whom the caregiver is listed; or

11 (4) possess in the aggregate more than

12 (A) one ounce of marijuana in usable form; and

13 (B) six marijuana plants, with no more than three mature
14 and flowering plants producing usable marijuana at any one time [WHO
15 IS KNOWN TO THE PATIENT NOT TO BE EITHER IN LAWFUL
16 POSSESSION OF A REGISTRY IDENTIFICATION CARD OR ELIGIBLE
17 FOR SUCH CARD].

18 (b) Any patient found by a preponderance of the evidence to have knowingly
19 [WILLFULLY] violated the provisions of this chapter shall be precluded from
20 obtaining or using a registry identification card for the medical use of marijuana for
21 a period of one year. In this subsection, "knowingly" has the meaning given in
22 AS 11.81.900.

23 (c) A [NO] governmental, private, or [ANY] other health insurance provider
24 is not [SHALL BE REQUIRED TO BE] liable for any claim for reimbursement for
25 expenses associated with [THE] medical use of marijuana.

26 (d) Nothing in this chapter requires [SECTION SHALL REQUIRE] any
27 accommodation of any medical use of marijuana

28 (1) in any place of employment;

29 (2) in any correctional facility, medical facility, or facility monitored
30 by the department or the Department of Administration;

31 (3) on or within 500 feet of school grounds;

1 (4) at or within 500 feet of a recreation or youth center; or

2 (5) on a school bus.

3 * **Sec. 6.** AS 17.37.060 is amended to read:

4 **Sec. 17.37.060. Addition of debilitating medical conditions.** Not later than
 5 **90 days after the effective date of this Act** [JUNE 1, 1999], the department shall
 6 **adopt** [PROMULGATE] regulations under AS 44.62 (Administrative Procedure Act)
 7 governing the manner in which it may consider adding debilitating medical conditions
 8 to the list provided in **AS 17.37.070** [THIS SECTION]. After **the adoption of the**
 9 **regulations** [JUNE 1, 1999], the department shall also accept for consideration
 10 physician or patient initiated petitions to add debilitating medical conditions to the list
 11 provided in **AS 17.37.070** [THIS SECTION] and, after hearing, shall approve or deny
 12 **the** [SUCH] petitions within 180 days of submission. The denial of [SUCH] a petition
 13 shall be considered a final agency action subject to judicial review.

14 * **Sec. 7.** AS 17.37.070 is amended to read:

15 **Sec. 17.37.070. Definitions.** In this chapter, unless the context clearly requires
 16 otherwise,

17 (1) **"alternate caregiver" means a person who is listed as an**
 18 **alternate caregiver under AS 17.37.010;**

19 (2) **"bona fide physician-patient relationship" means that the**
 20 **physician obtained a patient history, performed an in-person physical examination**
 21 **of the patient, and documented written findings, diagnoses, recommendations, and**
 22 **prescriptions in written patient medical records maintained by the physician;**

23 (3) **"correctional facility" has the meaning given in AS 33.30.901**
 24 [MEANS A STATE PRISON INSTITUTION OPERATED AND MANAGED BY
 25 EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS OR PROVIDED TO
 26 THE DEPARTMENT OF CORRECTIONS BY AGREEMENT UNDER AS 33.30.031
 27 FOR THE CARE, CONFINEMENT OR DISCIPLINE OF PRISONERS];

28 (4) [(2)] **"debilitating medical condition" means**

29 (A) cancer, glaucoma, positive status for human
 30 immunodeficiency virus, or acquired immune deficiency syndrome, or treatment
 31 for any of these conditions;

1 (B) any chronic or debilitating disease or treatment for such
 2 diseases, which produces, for a specific patient, one or more of the following,
 3 and for which, in the professional opinion of the patient's physician, such
 4 condition or conditions reasonably may be alleviated by the medical use of
 5 marijuana: cachexia; severe pain; severe nausea; seizures, including those that
 6 are characteristic of epilepsy; or persistent muscle spasms, including those that
 7 are characteristic of multiple sclerosis; or

8 (C) any other medical condition, or treatment for such
 9 condition, approved by the department, **under** [PURSUANT TO ITS
 10 AUTHORITY TO PROMULGATE] regulations **adopted under AS 17.37.060**
 11 or [ITS] approval of **a** [ANY] petition submitted [BY A PATIENT OR
 12 PHYSICIAN] under AS 17.37.060;

13 **(5)** [(3)] "department" means the Department of Health and Social
 14 Services;

15 **(6)** "**facility monitored by the department or the Department of**
 16 **Administration**" means an institution, building, office, or home operated by the
 17 **department or the Department of Administration, funded by the department or**
 18 **the Department of Administration, under contract with the department or the**
 19 **Department of Administration, inspected by the department or the Department**
 20 **of Administration, designated by the department or the Department of**
 21 **Administration, or licensed by the department or the Department of**
 22 **Administration, for the care of**

23 **(A) juveniles; for the purposes of this subparagraph,**
 24 **"institution" includes a foster home and a group home, and a juvenile**
 25 **detention facility; a juvenile detention home, a juvenile work camp, and a**
 26 **treatment facility, as those terms are defined in AS 47.14.990;**

27 **(B) the elderly; for the purposes of this subparagraph,**
 28 **"institution" includes an assisted living home as defined in AS 47.33.990**
 29 **and a Pioneers' Home operated under AS 47.55;**

30 **(C) the mentally ill; for the purposes of this subparagraph,**
 31 **"institution" includes a designated treatment facility and an evaluation**

1 **facility, as those terms are defined in AS 47.30.915;**

2 **(7) "medical facility" means an institution, building, office, or home**
 3 **providing medical services, and includes a hospital, clinic, physician's office, or**
 4 **health facility as defined in AS 47.07.900, and a facility providing hospice care or**
 5 **rehabilitative services, as those terms are defined in AS 47.07.900;**

6 **(8) [(4)] "medical use" means the acquisition, possession, cultivation,**
 7 **use or [AND/OR] transportation of marijuana or [AND/OR] paraphernalia related to**
 8 **the administration of [SUCH] marijuana to alleviate [ADDRESS THE SYMPTOMS**
 9 **OR EFFECTS OF] a debilitating medical condition under the provisions of this**
 10 **chapter and AS 11.71.090 [ONLY AFTER A PHYSICIAN HAS AUTHORIZED**
 11 **SUCH MEDICAL USE BY A DIAGNOSIS OF THE PATIENT'S DEBILITATING**
 12 **MEDICAL CONDITION];**

13 **(9) [(5)] "patient" means a person who has a debilitating medical**
 14 **condition;**

15 **(10) [(6)] "physician" means a person licensed to practice medicine in**
 16 **this state or an officer in the regular medical service of the armed forces of the United**
 17 **States or the United States Public Health Service while in the discharge of their official**
 18 **duties, or while volunteering services without pay or other remuneration to a hospital,**
 19 **clinic, medical office, or other medical facility in this state;**

20 **(11) [(7)] "primary caregiver [CARE-GIVER]" means a person listed**
 21 **as a primary caregiver under AS 17.37.010 and in physical possession of a**
 22 **caregiver registry identification card; "primary caregiver" also includes an**
 23 **alternate caregiver when the alternate caregiver is in physical possession of the**
 24 **caregiver registry identification card [, OTHER THAN THE PATIENT'S**
 25 **PHYSICIAN, WHO IS 18 YEARS OF AGE OR OLDER AND HAS SIGNIFICANT**
 26 **RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT WHO**
 27 **HAS A DEBILITATING MEDICAL CONDITION];**

28 **(12) [(8)] "PRISONER" MEANS A PERSON DETAINED OR**
 29 **CONFINED IN A CORRECTIONAL FACILITY, WHETHER BY ARREST,**
 30 **CONVICTION, OR COURT ORDER, OR A PERSON HELD AS A WITNESS OR**
 31 **OTHERWISE, INCLUDING MUNICIPAL PRISONERS HELD UNDER CONTRACT**

1 AND JUVENILES HELD UNDER THE AUTHORITY OF AS 47.10;

2 (9) "REGISTRY IDENTIFICATION CARD" MEANS A DOCUMENT
3 ISSUED BY THE DEPARTMENT WHICH IDENTIFIES A PATIENT
4 AUTHORIZED TO ENGAGE IN THE MEDICAL USE OF MARIJUANA AND THE
5 PATIENT'S PRIMARY CARE-GIVER, IF ANY;

6 (10) "Usable form" and "usable marijuana" means the seeds, leaves,
7 buds, and flowers of the plant (genus) cannabis, but does not include the stalks or roots
8 [;

9 (11) "WRITTEN DOCUMENTATION" MEANS A STATEMENT
10 SIGNED BY A PATIENT'S PHYSICIAN OR COPIES OF THE PATIENT'S
11 PERTINENT MEDICAL RECORDS].

12 * **Sec. 8.** AS 17.37.020 and 17.37.050 are repealed.

13 * **Sec. 9.** This Act takes effect immediately under AS 01.10.070(c).

Alaska Statute

Title 17. Food and Drugs: Chapter 37. Medical Uses of Marijuana

AS 17.37.010. Registry of Patients and Listing of Caregivers.

(a) The department shall create and maintain a confidential registry of patients who have applied for and are entitled to receive a registry identification card according to the criteria set out in this chapter. The registry must also contain the name of the primary caregiver and the name of the alternate caregiver of a patient, if either is designated by the patient. Only one primary caregiver and one alternate caregiver may be listed in the registry for a patient. The registry and the information contained within it are not a public record under AS 40.25.100 - 40.25.220. Peace officers and authorized employees of state or municipal law enforcement agencies shall be granted access to the information contained within the department's confidential registry only

(1) for the purpose of verifying that an individual who has presented a registry identification card to a state or municipal law enforcement official is lawfully in possession of such card; or

(2) for the purpose of determining that an individual who claims to be lawfully engaged in the medical use of marijuana is registered or listed with the department or is considered to be registered or listed under (g) of this section.

(b) Except as provided in (a) of this section, a person, other than authorized employees of the department in the course of their official duties, may not be permitted to gain access to names of patients, physicians, primary or alternate caregivers, or any information related to such persons maintained in connection with the department's confidential registry.

(c) In order to be placed on the state's confidential registry for the medical use of marijuana, an adult patient or a parent or guardian of a minor patient shall provide to the department

(1) a statement signed by the patient's physician

(A) stating that the physician personally examined the patient and that the examination took place in the context of a bona fide physician-patient relationship and setting out the date the examination occurred;

(B) stating that the patient has been diagnosed with a debilitating medical condition; and

(C) stating that the physician has considered other approved medications and treatments that might provide relief, that are reasonably available to the patient, and that can be tolerated by the patient, and that the physician has concluded that the patient might benefit from the medical use of marijuana;

(2) a sworn application on a form provided by the department containing the following information:

(A) the name, address, date of birth, and Alaska driver's license or identification card number of the patient;

(B) the name, address, and telephone number of the patient's physician; and

(C) the name, address, date of birth, and Alaska driver's license or identification card number of the patient's primary caregiver and alternate caregiver if either is designated at the time of application, along with the statements required under (d) of this section; and

(3) if the patient is a minor, a statement by the minor's parent or guardian that the patient's physician has explained the possible risks and benefits of medical use of marijuana and that the parent or guardian consents to serve as the primary caregiver for the patient and to control the acquisition, possession, dosage, and frequency of use of marijuana by the patient.

(d) A person may be listed under this section as the primary caregiver or alternate caregiver for a patient if the person submits a sworn statement on a form provided by the department that the person

(1) is at least 21 years of age;

(2) has never been convicted of a felony offense under AS 11.71 or AS 11.73 or a law or ordinance of another jurisdiction with elements similar to an offense under AS 11.71 or AS 11.73; and

(3) is not currently on probation or parole from this or another jurisdiction.

(e) A person may be a primary caregiver or alternate caregiver for only one patient at a time unless the primary caregiver or alternate caregiver is simultaneously caring for two or more patients who are related to the caregiver by at least the fourth degree of kinship by blood or marriage.

(f) The department shall review the application and all information submitted under (c) and (d) of this section within 30 days of receiving it. The department shall notify the patient that the patient's application for a registry identification card has been denied if the department's review of the information that the

patient has provided discloses that the information required under (c) of this section has not been provided or has been falsified or that the patient is not otherwise qualified to be registered. If the department determines that the primary caregiver or alternate caregiver is not qualified under this section to be a primary caregiver or alternate caregiver, or if the information required under this section has not been provided or has been falsified, the department shall notify the patient of that determination and shall proceed to review the patient's application as if a primary caregiver or alternate caregiver was not designated. The patient may amend the application and designate a new primary caregiver or alternate caregiver at any time. The department may not list a newly designated primary caregiver or alternate caregiver until it determines that the newly designated primary caregiver or alternate caregiver is qualified under this section and that the information required under this section has been provided. Otherwise, not more than five days after verifying the information, the department shall issue a registry identification card to the patient, and, if a primary caregiver for a patient has been listed in the registry, the department shall issue to the patient a duplicate of the patient's card clearly identified as the caregiver registry identification card, stating

(1) the patient's name, address, date of birth, and Alaska driver's license or identification card number;

(2) that the patient is registered with the department as a person who has a debilitating medical condition that the patient may address with the medical use of marijuana;

(3) the dates of issuance and expiration of the registry identification card; and

(4) the name, address, date of birth, and Alaska driver's license or identification card number of the patient's primary caregiver and alternate caregiver, if either is designated.

(g) If the department fails to deny the application and issue a registry identification card within 35 days of receipt of an application, the patient's application for the card is considered to have been approved. Receipt of an application shall be considered to have occurred upon delivery to the department.

Notwithstanding this subsection, an application may not be considered to have been received before June 1, 1999. If the department subsequently registers a patient or lists a primary caregiver or alternate caregiver, if either is designated, or denies the application or listing, that registration or listing or denial revokes the approval that is considered to have occurred under this subsection.

(h) A patient or a primary caregiver who is questioned by a state or municipal law enforcement official about the patient's or primary caregiver's medical use of marijuana shall immediately show proper identification to the official and inform the official that the person is a registered patient or listed primary caregiver for a registered patient and either show the official (1) the person's registry identification card, or (2) a copy of an application that has been pending without registration or denial for over 35 days since received by the department and proof of the date of delivery to the department, which shall be accorded the same legal effect as a registry identification card until the patient receives actual notice that the application has been denied.

(i) A person may not apply for a registry identification card more than once every six months.

(j) The denial or revocation of a registry identification card or the removal of a patient from the registry or the listing of a caregiver shall be considered a final agency action subject to judicial review. Only the patient, or the parent or guardian of a patient who is a minor, has standing to contest the final agency action.

(k) When there has been a change in the name, address, or physician of a patient who has qualified for a registry identification card, or a change in the name or address of the patient's primary caregiver or alternate caregiver, that patient must notify the department of the change within 10 days. To maintain an effective registry identification card, a patient must annually resubmit updated written documentation, including a statement signed by the patient's physician containing the information required to be submitted under (c)(1) of this section, to the department, as well as the name and address of the patient's primary caregiver or alternate caregiver, if any.

(l) A patient who no longer has a debilitating medical condition and the patient's primary caregiver, if any, shall return all registry identification cards to the department within 24 hours of receiving the diagnosis by the patient's physician.

(m) A copy of a registry identification card is not valid. A registry identification card is not valid if the card has been altered, mutilated in a way that impairs its legibility, or laminated.

(n) The department may revoke a patient's registration if the department determines that the patient has violated a provision of this chapter or AS 11.71.

(o) The department may remove a primary caregiver or alternate caregiver from the registry if the department determines that the primary caregiver or alternate caregiver is not qualified to be listed or has violated a provision of this chapter or AS 11.71.

(p) The department may determine and levy reasonable fees to pay for any administrative costs associated with its role in administering this chapter.

(q) A primary caregiver may only act as the primary caregiver for the patient when the primary caregiver is in physical possession of the caregiver registry identification card. An alternate caregiver may only act as the primary caregiver for the patient when the alternate caregiver is in physical possession of the caregiver registry identification card.

(r) The department may not register a patient under this section unless the statement of the patient's physician discloses that the patient was personally examined by the physician within the 16-month period immediately preceding the patient's application. The department shall cancel, suspend, revoke, or not renew the registration of a patient whose annual resubmission of updated written documentation to the department under (k) of this section does not disclose that the patient was personally examined by the patient's physician within the 16-month period immediately preceding the date by which the patient is required to annually resubmit written documentation.

AS 17.37.020. Medical Use of Marijuana. [Repealed, Sec. 8 Ch 37 SLA 1999].

Repealed or Renumbered

AS 17.37.030. Privileged Medical Use of Marijuana.

(a) A patient, primary caregiver, or alternate caregiver registered with the department under this chapter has an affirmative defense to a criminal prosecution related to marijuana to the extent provided in AS 11.71.090.

(b) Except as otherwise provided by law, a person is not subject to arrest, prosecution, or penalty in any manner for applying to have the person's name placed on the confidential registry maintained by the department under AS 17.37.010.

(c) A physician is not subject to any penalty, including arrest, prosecution, or disciplinary proceeding, or denial of any right or privilege, for

(1) advising a patient whom the physician has diagnosed as having a debilitating medical condition about the risks and benefits of medical use of marijuana or that the patient might benefit from the medical use of marijuana, provided that the advice is based upon the physician's contemporaneous assessment in the context of a bona fide physician-patient relationship of

(A) the patient's medical history and current medical condition; and

(B) other approved medications and treatments that might provide relief and that are reasonably available to the patient and that can be tolerated by the patient; or

(2) providing a patient with a written statement in an application for registration under AS 17.37.010.

(d) Notwithstanding the provisions of this section, a person, including a patient, primary caregiver, or alternate caregiver, is not entitled to the protection of this chapter for the person's acquisition, possession, cultivation, use, sale, distribution, or transportation of marijuana for nonmedical use.

AS 17.37.040. Restrictions On Medical Use of Marijuana.

(a) A patient, primary caregiver, or alternate caregiver may not

(1) engage in the medical use of marijuana in a way that endangers the health or well-being of any person;

(2) engage in the medical use of marijuana in plain view of, or in a place open to, the general public; this paragraph does not prohibit a patient or primary caregiver from possessing marijuana in a place open to the general public if

(A) the person possesses, in a closed container carried on the person, one ounce or less of marijuana in usable form;

- (B) the marijuana is not visible to anyone other than the patient or primary caregiver; and
- (C) the possession is limited to that necessary to transport the marijuana directly to the patient or primary caregiver or directly to a place where the patient or primary caregiver may lawfully possess or use the marijuana;
- (3) sell or distribute marijuana to any person, except that a patient may deliver marijuana to the patient's primary caregiver and a primary caregiver may deliver marijuana to the patient for whom the caregiver is listed; or
- (4) possess in the aggregate more than
 - (A) one ounce of marijuana in usable form; and
 - (B) six marijuana plants, with no more than three mature and flowering plants producing usable marijuana at any one time.
- (b) Any patient found by a preponderance of the evidence to have knowingly violated the provisions of this chapter shall be precluded from obtaining or using a registry identification card for the medical use of marijuana for a period of one year. In this subsection, "knowingly" has the meaning given in AS 11.81.900.
- (c) A governmental, private, or other health insurance provider is not liable for any claim for reimbursement for expenses associated with medical use of marijuana.
- (d) Nothing in this chapter requires any accommodation of any medical use of marijuana
 - (1) in any place of employment;
 - (2) in any correctional facility, medical facility, or facility monitored by the department or the Department of Administration;
 - (3) on or within 500 feet of school grounds;
 - (4) at or within 500 feet of a recreation or youth center; or
 - (5) on a school bus.

AS 17.37.050. Medical Use of Marijuana By a Minor. [Repealed, Sec. 8 Ch 37 SLA 1999].

Repealed or Renumbered

AS 17.37.060. Addition of Debilitating Medical Conditions.

Not later than August 31, 1999, the department shall adopt regulations under AS 44.62 (Administrative Procedure Act) governing the manner in which it may consider adding debilitating medical conditions to the list provided in AS 17.37.070 . After the adoption of the regulations, the department shall also accept for consideration physician or patient initiated petitions to add debilitating medical conditions to the list provided in AS 17.37.070 and, after hearing, shall approve or deny the petitions within 180 days of submission. The denial of a petition shall be considered a final agency action subject to judicial review.

AS 17.37.070. Definitions.

In this chapter, unless the context clearly requires otherwise,

- (1) "alternate caregiver" means a person who is listed as an alternate caregiver under AS 17.37.010 ;
- (2) "bona fide physician-patient relationship" means that the physician obtained a patient history, performed an in-person physical examination of the patient, and documented written findings, diagnoses, recommendations, and prescriptions in written patient medical records maintained by the physician;
- (3) "correctional facility" has the meaning given in AS 33.30.901 ;
- (4) "debilitating medical condition" means
 - (A) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome, or treatment for any of these conditions;
 - (B) any chronic or debilitating disease or treatment for such diseases, which produces, for a specific patient, one or more of the following, and for which, in the professional opinion of the patient's physician, such condition or conditions reasonably may be alleviated by the medical use of marijuana: cachexia;

severe pain; severe nausea; seizures, including those that are characteristic of epilepsy; or persistent muscle spasms, including those that are characteristic of multiple sclerosis; or

(C) any other medical condition, or treatment for such condition, approved by the department, under regulations adopted under AS 17.37.060 or approval of a petition submitted under AS 17.37.060 ;

(5) "department" means the Department of Health and Social Services;

(6) "facility monitored by the department or the Department of Administration" means an institution, building, office, or home operated by the department or the Department of Administration, funded by the department or the Department of Administration, under contract with the department or the Department of Administration, inspected by the department or the Department of Administration, designated by the department or the Department of Administration, or licensed by the department or the Department of Administration, for the care of

(A) juveniles; for the purposes of this subparagraph, "institution" includes a foster home and a group home, and a juvenile detention facility, a juvenile detention home, a juvenile work camp, and a treatment facility, as those terms are defined in AS 47.14.990 ;

(B) the elderly; for the purposes of this subparagraph, "institution" includes

(i) an assisted living home as defined in AS 47.33.990 ; and

(ii) the Alaska Pioneers' Home or the Alaska Veterans' Home, operated under AS 47.55;

(C) the mentally ill; for the purposes of this subparagraph, "institution" includes a designated treatment facility and an evaluation facility, as those terms are defined in AS 47.30.915 ;

(7) "medical facility" means an institution, building, office, or home providing medical services, and includes a hospital, clinic, physician's office, or health facility as defined in AS 47.07.900 , and a facility providing hospice care or rehabilitative services, as those terms are defined in AS 47.07.900 ;

(8) "medical use" means the acquisition, possession, cultivation, use or transportation of marijuana or paraphernalia related to the administration of marijuana to alleviate a debilitating medical condition under the provisions of this chapter and AS 11.71.090 ;

(9) "patient" means a person who has a debilitating medical condition;

(10) "physician" means a person licensed to practice medicine in this state or an officer in the regular medical service of the armed forces of the United States or the United States Public Health Service while in the discharge of their official duties, or while volunteering services without pay or other remuneration to a hospital, clinic, medical office, or other medical facility in this state;

(11) "primary caregiver " means a person listed as a primary caregiver under AS 17.37.010 and in physical possession of a caregiver registry identification card; "primary caregiver" also includes an alternate caregiver when the alternate caregiver is in physical possession of the caregiver registry identification card;

(12) "usable form" and "usable marijuana" means the seeds, leaves, buds, and flowers of the plant (genus) cannabis, but does not include the stalks or roots.

AS 17.37.080. Short Title.

AS 17.37.010 - 17.37.070 may be cited as the Medical Uses of Marijuana for Persons Suffering from Debilitating Medical Conditions Act.