

April 9, 2009

H 1380. MEDICAL MARIJUANA ACT. Filed 4/9/09. TO ENACT THE MEDICAL MARIJUANA ACT.

Amends GS Chapter 90 by enacting new Article 72, which does as follows:

Legal use of medical marijuana. Prohibits the arrest, prosecution, or penalization of a qualified patient or a qualified patient's designated caregiver for the possession of or medical use of marijuana by the qualified patient if the quantity of marijuana does not exceed an adequate supply for the qualified patient. A *qualified patient* is defined as a North Carolina resident who has been diagnosed with cancer; glaucoma; HIV/AIDS; hepatitis C; porphyria; amyotrophic lateral sclerosis; Alzheimer's disease; nail patella syndrome; rheumatoid arthritis; fibromyalgia; severe migraines; multiple sclerosis; Crohn's disease; injury or disease to the spinal cord, spinal column, or vertebra; myelomalacia; or celiac disease; or any chronic or debilitating disease or medical condition or treatment that produces cachexia or wasting syndrome; severe pain; severe nausea; anorexia; seizures; or severe and persistent muscle spasms; or any other serious medical or mental condition or its treatment approved by a licensed physician. This prohibition does not apply to a qualified patient under the age of 18 unless the patient's practitioner has explained the potential risks and benefits of the medical use of marijuana to the qualified patient and to a parent, guardian, or person having legal custody of the qualified patient, and the parent, guardian, or person having legal custody (1) allows the patient's use of medical marijuana, (2) serves as the patient's designated caregiver, and (3) controls the dosage and frequency of the patient's use of medical marijuana. An adequate supply is defined as an amount of marijuana that is not more than is reasonably necessary to assure the uninterrupted availability of marijuana for the purpose of alleviating the symptoms or effects of the qualifying patient's debilitating medical condition and that is derived solely from an intrastate source.

Prohibits the arrest, prosecution, or penalization of a practitioner (defined as a person licensed in North Carolina to prescribe and administer drugs that are subject to the Controlled Substances Act) for advising a patient about the risks and benefits of medical marijuana use or for providing a patient with valid documentation that the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient.

Registration of qualified patients and designated caregivers. Requires the Department of Health and Human Services to promulgate rules that govern applications for registry identification cards for qualifying patients and designated caregivers, as outlined in the bill. Requires qualifying patients and designated caregivers to notify the Department of any name or address changes. Provides that applications for registry identification cards are confidential and not subject to the Public Records Act. Possession of or application for a registry identification card is not probable cause to search a person or the property of a person possessing or applying for the identification card. Prohibits a school, employer, or landlord from refusing to enroll, employ, or lease to a person solely for the person's status as a registered qualifying patient or registered designated caregiver. Provides that a qualified patient's authorized use of medical marijuana shall be considered equivalent to the authorized use of any other medication (and shall not constitute the use of an illicit substance) for purposes of medical care.

Licensure of marijuana producers and dispensaries. Requires the Department to establish a regulated medical marijuana supply system through the licensure of medical marijuana dispensaries and producers as outlined in the bill. Prohibits the arrest, prosecution or penalization of a licensed producer for the production, possession, distribution, or dispensing of medical marijuana.

Affirmative defenses. Makes it an affirmative defense to a criminal charge of possession, delivery, or production of marijuana, or any other criminal offense in which the possession, delivery, or production of marijuana is an element, that the person charged with the offense is a person who either (1) (a) has been diagnosed with a chronic or debilitating medical condition (as defined in the bill); (b) is engaged in the medical use of marijuana; and (c) possesses, delivers, or produces marijuana only in an amount permitted by the bill, even if the person does not hold a registry identification card or (2) is assisting a person who has been diagnosed with a chronic or debilitating medical condition and possesses, delivers, or produces marijuana only in an amount permitted in the bill, even if the person does not hold a registry identification card.

Limitations on the use of medical marijuana. Does not permit any person to operate a motor vehicle, aircraft, or motorboat while impaired by marijuana. Does not permit any person to undertake a task while under the influence of marijuana if doing so would constitute negligence or professional malpractice. Does not permit smoking of marijuana in a school bus or other form of public transportation, on any school grounds, in any correctional facility, or any public place. Does not permit a licensed producer to distribute marijuana to a person not approved by the Department of Health and Human Services or to obtain or transport marijuana outside of North Carolina in violation of federal law.

Establishment of Medical Cannabis Research Program. Authorizes the University of North Carolina, if the University so chooses, to conduct scientific research regarding the efficacy and safety of administering marijuana as part of medical treatment.

Effective December 1, 2009.

Intro. by Jones.

GS 90