HOUSE BILL 1441
By Rudder

SENATE BILL 1104

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 4; Title 38, Chapter 3; Title 39, Chapter 17; Title 43; Title 50; Title 53; Title 63; Title 67 and Title 68, relative to the "Tennessee Medical Cannabis Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 7, is amended by adding Sections 2 through 24 as a new part.

SECTION 2. This part is known and may be cited as the "Tennessee Medical Cannabis Act."

SECTION 3.

The general assembly intends to establish a functional framework within which to authorize access to medical cannabis on a regulated basis for patients with qualifying medical conditions and which licenses and regulates the processes for cultivating, producing, distributing, transporting, selling, and acquiring cannabis for medical use and research. The broad purpose of the Tennessee Medical Cannabis Act is to increase low-cost public health options, alleviate suffering, develop agricultural business, incentivize research of THC benefits, and expeditiously license and track medical cannabis from cultivation to point of sale within the boundaries of this state. The general assembly recognizes that as of 2023, thirty-seven (37) states, including Tennessee border states Alabama, Arkansas, Mississippi, Missouri, and Virginia, have exercised their Tenth Amendment rights under the United States Constitution, and have been supported by the federal government in the exercise of these rights with the inclusion of the Rohrabacher amendment in the federal omnibus budget bill each year since 2014,

and legalized access to medical cannabis for many medical conditions. More than two-thirds (2/3) of the population in the United States currently have access to legal medical cannabis through other authorized state programs. Additionally, the general assembly recognizes that peer-reviewed medical studies have established a statistical correlation between reduced opioid-use overdoses in states with medical cannabis programs.

SECTION 4. As used in this part, unless the context otherwise requires:

(1) "Adjacent" means a county that shares a contiguous county line boundary with a primary county;

(2) "Caregiver" means a resident of this state who:

(A) Is eighteen (18) years of age or older;

(B) Meets the regulatory requirements under this part; and

(C) Has agreed to assist with the medical use of cannabis of another person with, or by applying for, a medical cannabis card;

(3) "Certification" means a document dated and signed by a physician, physician's assistant, nurse practitioner, or other healthcare provider approved by the medical cannabis commission, confirming that a person has been diagnosed with a qualifying condition under this part;

(4) "Commission" means the medical cannabis commission created in part 1 of this chapter;

(5) "Department" means the department of agriculture;

(6) "Enclosed facility" means a locked and secured building, room, greenhouse, or warehouse that maintains security and is accessible only to persons who are employed or contracted by a licensed provider, or who have provided state or federally issued photo identification;

(7) "Hemp" has the same meaning as defined in § 43-27-101;

(8) "Licensed premises" means the premises specified in an application for a license that is owned or in the possession of a licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical cannabis in accordance with this part;

(9) "Licensee" means a business entity that, meeting the requirements under this part through a competitive process, has been awarded a license to cultivate, process, transport, dispense, sell, distribute, and otherwise deliver medical cannabis-infused products for use by qualified patients;

(10) "License registry" means a documented, electronic, and integrated tracking system for licensing all aspects of processing from cultivation to point of sale;

(11) "Managed medical wellness phase 1 license" or "phase 1 license" means the first run of licenses under this part that are issued provisionally before rulemaking is complete;

(12) "Managed medical wellness track and trace system" means a documentary and electronic process:

(A) By which the chain of custody from medical cannabis seed to point of sale is detailed and documented to identify, at a minimum, the species of plant, its geographic point of cultivation, and method of transportation, if any, beyond its point of cultivation to the final point of sale and product; and

(B) Used to monitor the chain of custody for all medical cannabis and medical cannabis-infused products used for medical purposes from the point of cultivation to the end consumer and to ensure products comply with this part;

(13) "Medical cannabis":

(A) Means all parts of any plant of the genus cannabis, whether growing or not, including the seeds, extractions of any kind from any part of the plant, and

every compound, derivative, mixture, product, or preparation of the plant that is grown and sold pursuant to this part; and

(B) Does not include hemp;

(14) "Medical cannabis card" means a valid, state-issued card under this part;

(15) "Medical cannabis cultivation operation" means a licensed premises on which a person cultivates medical cannabis for sale and distribution to a medical cannabis wellness dispensary, a medical cannabis-infused products manufacturer, or another medical cannabis cultivation operation;

(16) "Medical cannabis-infused product":

(A) Means a product infused with medical cannabis that is intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, and tinctures; and

(B) Does not include raw plant material, any product administered by smoking, combustion, or vaping, or a food product that has medical cannabis baked, mixed, or otherwise infused into the product, such as cookies or candies until such modalities are included by act of the general assembly or by the commission pursuant to rulemaking;

(17) "Medical cannabis-infused products manufacturer" means a licensed premises where a medical cannabis-infused product is produced;

(18) "Medical cannabis wellness dispensary":

(A) Means a person who is licensed pursuant to this part to operate a business that sells medical cannabis to qualified patients or caregivers; and

(B) Does not include a caregiver;

(19) "Medical cannabis testing facility" means a licensed premises where testing of medical cannabis takes place for medical cannabis licensees and for medical cannabis and medical cannabis-infused products;

(20) "Medical cannabis transporter" means a person who is licensed to transport medical cannabis and medical cannabis-infused products from one (1) medical cannabis establishment to another and to store transported medical cannabis and medical cannabis-infused products at its licensed premises;

(21) "Medical use":

(A) Means the acquisition, possession, use, delivery, transfer, or administration of cannabis authorized by this part; and

(B) Does not include possession, use, or administration of cannabis that was not purchased or acquired from a licensed provider;

(22) "Patient registry" means a documented, electronic, and integrated medical cannabis card system for patient registration;

(23) "Person" means a natural person, partnership, association, company, corporation, organization, or other business entity, or a manager, agent, owner, director, officer, or employee of such entity;

(24) "Primary county" means the county designated on the license application as the location where a plurality or majority, as applicable, of the licensee's operations will exist;

(25) "Qualified patient" means a resident of this state who has been diagnosed with a qualifying condition, and who has met the requirements to obtain a medical cannabis card;

(26) "Qualifying condition" means any of the following conditions diagnosed by a healthcare provider, including a medical doctor, physician's assistant, or nurse practitioner:

(A) Cancer;

(B) Glaucoma;

(C) Epilepsy;

(D) Human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS);

(E) Inflammatory bowel disease, including Crohn's disease and ulcerative colitis;

(F) Multiple sclerosis;

(G) Opioid addiction;

(H) Renal failure;

(I) Severe nausea or chronic pain;

(J) Any medical condition producing cachexia, persistent muscle spasm, or seizures;

(K) Post-traumatic stress disorder;

(L) Chronic radiculopathy;

(M) Severe psoriasis;

(N) Post-laminectomy syndrome;

(O) Psoriatic arthritis;

(P) Complex pain syndrome, including trigeminal neuralgia, amyotrophic lateral sclerosis (ALS), and Parkinson's disease;

(Q) End-of-life pain management or palliative care;

(R) Traumatic brain injury (TBI);

(S) Tourette syndrome;

(T) Autism spectrum disorder;

(U) Fibromyalgia;

(V) Sickle cell disease;

(W) The following conditions if the patient is younger than eighteen (18) years of age:

(i) Cerebral palsy;

(ii) Cystic fibrosis;

(iii) Osteogenesis imperfecta; and

(iv) Muscular dystrophy;

(X) Terminal conditions; and

(Y) Any additional conditions approved by the commission pursuant to rulemaking;

(27) "Resealable" means that a package or container continues to function with effectiveness specifications established by the commission and in accordance with the federal Poison Prevention Packaging Act of 1970, compiled in 15 U.S.C. § 1471 et seq., for the number of openings and closings customary for its size and contents;

(28) "Terminal condition" means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible without the administration of life-sustaining procedures, and is expected to result in death within one (1) year after diagnosis if the condition runs its normal course; and

(29) "THC" means delta-9-tetrahydrocannabinol, an active ingredient in medical cannabis.

SECTION 5.

(a) A person shall not acquire, possess, or use a medical cannabis-infused product without a valid medical cannabis card issued pursuant to this part. A medical cannabis card may be issued only to a qualified patient or caregiver.

(b) In order to qualify for and obtain a medical cannabis card from the commission, a patient must:

(1) Be eighteen (18) years of age or older;

(2) Provide proof of residency in this state by means of state-issued photo identification;

(3) Complete and sign a written application form, promulgated by the commission, subject to the penalties of perjury set out in § 39-16-702;

(4) Pay an application fee of sixty-five dollars ($65.00), or other amount as determined by the commission; and

(5) Submit either:

(A) A certification from a healthcare provider confirming that the patient has been diagnosed with a qualifying condition; or

(B) The patient's medical records from a healthcare provider confirming that the patient has been diagnosed with a qualifying medical condition; provided, that the records must be reviewed and accepted by the commission as adequate proof that the patient requesting the card has been so diagnosed.

(c) In order for a medical cannabis card to be issued by the commission to a parent or legal guardian of a minor for use by the minor, a parent or legal guardian must:

(1) Obtain a certification from a physician licensed in this state that the minor suffers from a qualifying condition;

(2) Complete the application for minors, promulgated by the commission, and copies of the physician certification and proof of diagnosis of a qualifying condition; and

(3) Submit proof that the parent or legal guardian has qualified as a caregiver under subsection (d).

(d) A qualified patient may designate a caregiver to assist with the purchase and use of medical cannabis. If a qualified patient is under eighteen (18) years of age, then only a caregiver may purchase or administer medical cannabis to the qualified patient. When a qualified patient has a designated caregiver, only the designated caregiver is authorized to purchase medical cannabis; a patient with a designated caregiver is not authorized to purchase medical cannabis. In order to qualify for and obtain a medical cannabis card, a caregiver must:

(1) Be eighteen (18) years of age or older;

(2) Provide proof of residency in this state by means of state-issued photo identification;

(3) Pay an application fee of sixty-five dollars ($65.00), or other amount as determined by the commission;

(4) Have no ownership interest in or contract or employment relationship with a licensee; and

(5) Identify each patient for whom the caregiver provides care, including a confirmation of the caregiver relationship in writing from each qualified patient; provided, that a caregiver is not authorized to provide care to more than ten (10) qualified patients at any given time.

(e) A caregiver may lawfully acquire and possess medical cannabis, but not use medical cannabis under this part without the caregiver actually being diagnosed with a

qualifying medical condition and issued a medical cannabis card as a qualified patient. In order for a caregiver to act on behalf of a minor or adult patient to purchase, possess, and administer medical cannabis, the caregiver must obtain the caregiver medical cannabis card, and the patient must be issued a valid patient medical cannabis card by the commission. A caregiver may receive compensation from the qualified patient or other entity for any services provided to the qualified patient.

SECTION 6. This part supersedes state criminal and civil laws pertaining to the acquisition, possession, use, cultivation, manufacturing, processing, research and development, and sale of medical cannabis. The acquisition, possession, use, cultivation, manufacturing, processing, research and development, or sale of medical cannabis in compliance with this part, and as approved by the commission, does not constitute a violation of § 39-17-417, § 39-17-418, or other law to the contrary.

SECTION 7.

(a) In order to obtain a medical cannabis card, except for a medical cannabis card for a minor, the diagnosis of a qualifying condition must be made by one (1) of the following healthcare providers:

(1) A medical doctor licensed to practice medicine in this state;

(2) A physician's assistant licensed in this state; or

(3) A nurse practitioner licensed in this state.

(b) The diagnosis must be in writing and clearly stated in the patient's medical records or in a certification by the healthcare provider confirming that the patient has been diagnosed with a qualifying condition.

(c) No later than January 1, 2024, the commission shall ensure that a process is available for healthcare providers to provide a certification electronically as part of the patient medical cannabis card registry process.

SECTION 8.

(a) In order to commence, use, and maintain a reliable patient registry system, by no later than January 1, 2024, the commission shall:

(1) Publish application forms and procedures for obtaining all patient and caregiver medical cannabis cards; and

(2) Establish and commence using an integrated, electronic registry system to:

(A) Track the medical cannabis card application process through issuance or denial; and

(B) Track medical cannabis cards that are denied, issued, revoked, suspended, or reinstated.

(b) The department and state and local law enforcement agencies must have access to the patient registry in order to prevent counterfeiting of cards, to minimize illegal usage, and to attain maximum compliance with this part.

(c) Medical cannabis cards expire two (2) years from the date of issuance and are authorized to be renewed after payment of a sixty-five-dollar renewal fee, or other amount as determined by the commission.

(d) A medical cannabis card application must be signed with an affirmation that the information provided is true and correct to the best of the person's knowledge, and that the person acknowledges that false statements may result in criminal penalties, denial, revocation, or suspension of the medical cannabis card, and that each person holding a card must be locatable in the registry system with adequate identifying information. Each card must clearly state an expiration date after which it is no longer valid.

(e) By no later than January 1, 2024, the commission shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, that include criteria by which medical cannabis cards may be revoked, suspended, and reissued. A rule shall not prohibit the issuance or use of a medical cannabis card based on an arrest for any felony or misdemeanor unless the arrest is for a violation of this part. In the event a medical cannabis card is revoked by the commission, the most recently paid registration fee is to be refunded to the cardholder.

SECTION 9.

(a) The commission has the power and responsibility to implement this part by making medical-grade cannabis available to qualified patients. In order to facilitate an initial level of product availability and avoid a program delay dependent on rulemaking, the commission shall expeditiously review and issue approved provisional managed medical wellness phase 1 licenses no later than April 1, 2024. By June 1, 2024, the commission shall expeditiously review and commence approval of all medical cannabis card requests that meet the requirements of this part.

(b) To provide certainty to the public and participating businesses and to implement this part and perform all regulatory responsibilities, the commission shall move expeditiously to promulgate rules by January 1, 2024. The commission is fully empowered to adopt, change, and enforce rules to implement the statutory duties outlined in this part.

(c) In order to finalize managed medical wellness phase 1 licensing, the commission shall adhere to the deadlines and time limits specified in this part. Provisional approval of managed medical wellness phase 1 rural and urban licenses must be completed by April 1, 2024. Final approval or denial of the provisional managed medical wellness phase 1 licenses must be completed by June 30, 2024. The

commission shall promulgate rules that establish on-site inspection criteria applicable in the final approval or denial process for provisional managed medical wellness phase 1 licenses.

(d) The commission shall procure and utilize a secure, online patient registry, license registry, and track and trace system. All data related to the implementation of this part, including, but not limited to, application forms, licensing information, registration of medical cannabis card holders and caregivers, compliance, and the status of medical cannabis research programs must be maintained in a secure system developed or procured by the commission. Data must not be sold, and patient information must remain confidential and not be transferred or sold.

(e) The commission shall provide annual written reports no later than July 31 of each year, with the first due no later than July 31, 2024, tracking implementation of this part. The report must be made publicly available and posted on the commission's website. The report must include:

(1) The number of patients applying for and receiving medical cannabis cards;

(2) Which qualifying conditions are claimed in obtaining the cards;

(3) Comments from healthcare providers and pharmacists;

(4) Revenues and expenses of card issuance and business licensing;

(5) Relevant developments in other states' medical cannabis laws;

(6) Relevant scientific research;

(7) Applicable tax revenue;

(8) The commission's operating budget; and

(9) Any other information available to the commission that would inform public officials of how this part affects the public.

SECTION 10.

(a) A person shall not produce, process, dispense, possess, or use a medical cannabis-infused product without a valid medical cannabis card issued pursuant to this part. A medical cannabis card may be issued only to a qualified patient or caregiver.

(b) Notwithstanding subsection (a), a woman who knows, or reasonably should know, she is pregnant shall not use medical cannabis or a medical cannabis-infused product while pregnant. A licensee shall not dispense or sell medical cannabis or a medical cannabis-infused product to a qualified patient who is known to be pregnant.

(c) All of the cultivation, processing, transportation, manufacturing, packaging, dispensing, sale, and use of any form of medical cannabis are subject to licensing under this part. The commission shall license all medical cannabis providers to ensure statewide patient access to pharmaceutical-grade medical cannabis and medical cannabis-infused products and to ensure compliance with this part.

SECTION 11.

(a) In order to expeditiously establish licensing for cultivation and processing of medical cannabis and in recognition of the time necessary to construct appropriately secure growing facilities and to cultivate the necessary strains of medical cannabis, the commission has the duty and responsibility to issue provisional licenses in accordance with this section and in advance of the July 31, 2024, deadline. A provisional managed medical wellness phase 1 license shall not be finally approved or denied until after an on-site inspection of all facilities pursuant to rules promulgated by the commission.

(b) Provisional managed medical wellness phase 1 licenses are categorized as urban omni licenses and rural vertically integrated (RUVI) licenses. Each category of provisional managed medical wellness phase 1 license is to be issued in accordance with and subject to the following:

(1) For urban omni licenses:

(A) No later than April 1, 2024, the commission shall issue no more than three (3) urban omni licenses in each county having a population of more than three hundred sixty-six thousand two hundred (366,200), according to the 2020 federal census or any subsequent federal census. Such license authorizes the licensee to conduct all activities from cultivation to sale within the designated county of operation. The licensee shall not operate outside the county designated in the application, except that transportation of materials or product outside of the county is authorized and sales to an RUVI licensee may occur upon receipt of a waiver issued by the commission;

(B) The maximum number of urban omni licenses available to be issued in this state is twelve (12);

(C) An entity applying for an urban omni license shall pay the department an application fee of eighty-five thousand dollars ($85,000), of which fifteen thousand dollars ($15,000) is nonrefundable;

(D) The entity's majority ownership must be attributable to an individual with proof of residency in this state for a continuous period of no fewer than three (3) years preceding the application date, and an individual with proof of residency in this state for a continuous period of no fewer than three (3) years preceding the application date must serve as an officer or executive director of the entity;

(E) The entity shall submit a detailed business and operations plan for its proposed activities within one (1) or more counties. Such plan must include, but is not limited to:

(i) Identification of each individual with a financial interest in the entity;

(ii) Identification of each business entity with a financial interest in the entity;

(iii) A proposed location with street address, which must be consistent with current guidelines and legal requirements for retail pharmacies and other drug dispensaries;

(iv) A full list of activities, such as cultivation, drying, processing, and dispensing, to be undertaken by the entity;

(v) A summary of projected tenant improvements, production schedule, products, production capacity, standard operating procedures, target customer base, and projected open date;

(vi) Identification of all corporate officers and summaries of the business experience for each person expected to be responsible for facility operations; and

(vii) An attestation statement and signature from a responsible corporate officer affirming that the contents are true and correct under penalty of perjury to the best of the officer's personal knowledge;

(F) If the license is granted, then the full eighty-five-thousand-dollar fee is nonrefundable. In the event the provisional license is denied due to any failure by the entity to provide information as requested by the commission or due to the failure by the entity to pass the on-site inspection, the commission may deem up to thirty-eight thousand three

hundred dollars ($38,300) of the fee to be nonrefundable to offset administrative costs;

(G) All owners, officers, board members, and managers of the applying entity must, during the application and operation period, pass a federal bureau of investigation level 2 background screening process, which is to be documented on the application materials prior to final review and approval;

(H) Any written request for additional information from the commission must be provided promptly by the applying entity, and in no event later than sixty (60) days after receiving notice of the request; and

(I) The commission shall issue a final decision to approve or deny the urban omni license for each such application only after determining that the conditions under this subdivision (b)(1) are met, all fees are paid, and an on-site inspection of the facility was conducted. The on-site inspection may occur before or after July 31, 2024. Final decisions to approve or deny an urban omni license must be made and published no later than July 31, 2024; and

(2) For rural vertically integrated (RUVI) licenses:

(A) No later than March 1, 2024, the commission shall issue no more than four (4) RUVI licenses in each grand division of this state; provided, that an RUVI license shall not be issued for a county eligible for an urban omni license. Such license authorizes the licensee to conduct all activities from cultivation to sale;

(B) The maximum number of RUVI licenses available to be issued in this state is twelve (12);

(C) An entity applying for an RUVI license shall pay the department a nonrefundable application fee of forty-five thousand dollars ($45,000);

(D) The entity's majority ownership must be attributable to an individual with proof of residency in this state for a continuous period of no fewer than three (3) years preceding the application date, and an individual with proof of residency in this state for a continuous period of no fewer than three (3) years preceding the application date must serve as an officer or executive director of the entity;

(E) The entity shall submit a detailed business and operations plan for its proposed activities within a designated county and the grand division in which it is located. An RUVI licensee may, upon final approval, operate in the county designated in its application, and in any adjacent county sharing a border with the designated county. Such plan must include, but is not limited to:

(i) Identification of each individual with a financial interest in the entity;

(ii) Identification of each business entity with a financial interest in the entity;

(iii) A proposed location with street address, which must be consistent with current guidelines and legal requirements for retail pharmacies and other drug dispensaries;

(iv) A full list of activities, such as cultivation, drying, processing, and dispensing, to be undertaken by the entity;

(v) A summary of projected tenant improvements, production schedule, products, production capacity, standard operating procedures, target customer base, and projected open date;

(vi) Identification of all corporate officers and summaries of the business experience for each person expected to be responsible for facility operations; and

(vii) An attestation statement and signature from a responsible corporate officer affirming that the contents are true and correct under penalty of perjury to the best of the officer's personal knowledge;

(F) If the license is granted, then the full forty-five-thousand-dollar fee is nonrefundable. If the application is denied, then forty thousand dollars ($40,000) of the fee is refundable; except that in the event the provisional license is denied due to any failure by the entity to provide information as requested by the commission or due to the failure by the entity to pass the on-site inspection, the commission may deem up to eighteen thousand three hundred dollars ($18,300) of the fee to be nonrefundable to offset administrative costs;

(G) An RUVI licensee is expressly authorized to conduct business activities in its primary county, and to aggregate cultivation, processing, and manufacturing of medical cannabis in adjacent counties;

(H) An RUVI licensee is expressly authorized to work cooperatively with up to six (6) additional entities or persons at an equal number of additional physical locations in order to cultivate, process, or

manufacture medical cannabis or medical cannabis-infused products as long as:

(i) The locations of such cooperative activities are located within the licensee's primary county or adjacent county;

(ii) Each cooperative entity, or person, and location is fully disclosed with names and addresses included in the application; and

(iii) Each such entity or person has agreed in writing with the RUVI licensee to operate in accordance with this part;

(I) All owners, officers, board members, and managers of the applying entity must, during the application and operation period, pass a federal bureau of investigation level 2 background screening process, which is to be documented on the application materials prior to final review and approval;

(J) Any written request for additional information from the commission must be provided promptly by the applying entity, and in no event later than sixty (60) days after receiving notice of the request; and

(K) The commission shall issue a final decision to approve or deny the RUVI license for each such application only after determining that the conditions under this subdivision (b)(2) are met, all fees are paid, and an on-site inspection of the facility was conducted. The on-site inspection may occur before or after July 31, 2024. Final decisions to approve or deny an RUVI license must be made and published no later than July 31, 2024.

(c) The commission shall set a schedule regarding final approvals and denials of urban omni and RUVI licenses under the phase 1 program. Final decisions shall not be delayed past November 15, 2024.

(d) Each urban omni licensee is authorized to own and operate up to three (3) medical cannabis wellness dispensaries per license, each of which must be located in the primary county. Each RUVI licensee is authorized to own and operate up to three (3) medical cannabis wellness dispensaries per license, each of which must be located within the primary county or an adjacent county.

(e) The commission shall issue or deny urban omni and RUVI licenses based on compliance with statutory requirements and the applicant's business plan as it relates to:

(1) The applicant's ability to capitalize and conduct operations as proposed in its business plan, including business experience in related fields, such as agriculture, real estate, development, manufacturing, or retail sales;

(2) The applicant's history of business activities as it applies to the entity and the individuals who are the entity's owners, officers, and managers;

(3) The proposed location of all operations as being suitable for all activities, not inconsistent with applicable zoning, and able to serve an identifiable geographic area; and

(4) A detailed operational plan and the financial ability to execute the plan.

(f) Pursuant to its rulemaking authority, the commission shall authorize an additional number of licenses that are based on market demand for stand-alone medical cannabis wellness dispensaries, stand-alone cultivation, and stand-alone processing or manufacturing facilities and for similar vertically integrated operations described in the phase 1 licensing program. In promulgating the rules, the commission, in consultation

with the department, shall incorporate and streamline the licensing requirements and criteria set out in this part.

(g) A transfer of license or change of ownership must comply with the requirement the transferee or new majority ownership must be attributable to an individual with proof of residency in this state for a continuous period of no fewer than three (3) years preceding the date of the application for the transfer of license or change in ownership, and an individual with proof of residency in this state for a continuous period of no fewer than three (3) years preceding the application date must serve as an officer or executive director of the entity. An entity or individual applying to transfer or sell any license may only do so in accordance with rules promulgated by the commission; provided, that the transfer or sale of a phase 1 license may occur only after at least five (5) years from the date of initial issuance.

(h) A person may have a majority ownership interest in only one (1) license. A person may own a minority interest in any other license, except as provided in Section 23.

SECTION 12.

(a) The department shall perform all statutory and regulatory inspection and enforcement requirements under this part. Costs related to department staffing needs and implementation and enforcement of this part are to be borne by the commission.

(b) Product testing must be performed during cultivation, manufacture, and final processing before sale.

(c) The protocols for testing must include the following, as well as a determination of corresponding tolerance limits:

(1) Cannabinoids;

(2) Heavy metals;

(3) Microbials;

(4) Mycotoxins;

(5) Residual pesticides; and

(6) Residual solvents.

SECTION 13.

(a) This state hereby preemptively regulates medical cannabis from seed to sale to use and shall reasonably regulate and control all aspects of industry to meet the stated intent of this part. A county or municipality seeking to ban the cultivation, processing, manufacture, or sale of medical cannabis within its jurisdiction is authorized to do so by a two-thirds (2/3) vote of the local legislative body; provided, that the vote occurs no later than August 31, 2023. A county or municipality is authorized to tax the sale of medical cannabis and medical cannabis-infused products in accordance with title 67, chapter 6, part 2; provided, that such tax must not exceed two and one-tenth percent (2.1%).

(b) For the exercise of the privilege of engaging in the business of selling medical cannabis in this state, a medical cannabis tax is levied on the sales price of medical cannabis and medical cannabis-infused products when sold at retail in this state. The medical cannabis tax is levied at the rate of nine percent (9%) of the sales price.

(c) Notwithstanding § 67-4-2007, the excise tax rate for all licensees, except for RUVI licensees, is equal to ten percent (10%) of the net earnings for the next preceding fiscal year for business done in this state during that fiscal year.

(d) There is created a special account in the state treasury to be known as the "medical cannabis fund." All moneys collected pursuant to this part must be transmitted to the department of revenue, which shall deposit the same in the medical cannabis

fund. Moneys in the fund may be invested by the state treasurer in accordance with § 9-4-603. Notwithstanding any law to the contrary, interest accruing on investments and deposits of the medical cannabis fund must be credited to the fund, must not revert to the general fund, and must be carried forward into the subsequent fiscal year. Except as provided in subsection (e), expenditures from the medical cannabis fund may be made only to implement and administer this part. Specifically, the medical cannabis fund includes:

(1) Fees collected by the commission;

(2) Excise tax revenues received pursuant to subsection (c);

(3) Medical cannabis tax revenues received pursuant to subsection (b); and

(4) Any moneys appropriated to the fund by the general assembly for the initial operation of the commission.

(e) Tax collected from the medical cannabis tax under subsection (b) must be apportioned and allocated in the following manner:

(1) Five percent (5%) to the peace officer standards and training (POST) commission for opioid and methamphetamine drug enforcement training purposes;

(2) Thirty percent (30%) to the department of agriculture for programs and grants administered by the department that facilitate agricultural development in this state, including, but not limited to, the agriculture enterprise fund and the Tennessee agricultural enhancement program;

(3) Ten percent (10%) to the department of economic and community development for community and rural development program grants administered by the department;

(4) Forty-five percent (45%) to the medical cannabis fund; and

(5) Ten percent (10%) to the department of veterans services for post-traumatic stress disorder (PTSD) treatment programs administered by the department.

(f) Upon a determination that the commission has established sufficient revenues for the administration of this part, the general assembly may, pursuant to the general appropriations act, direct the department of revenue to transfer any excess balance in the medical cannabis fund to the general fund to repay any appropriation made by the general assembly in the implementation of this part.

SECTION 14. This part does not:

(1) Require an insurer, organization for managed care, or any person or entity who provides coverage for a medical or healthcare service to pay for or reimburse a person for costs associated with the medical use of cannabis;

(2) Require any employer to allow the medical use of cannabis in the workplace or to modify the job or working conditions of a person who engages in the medical use of cannabis that are based upon the reasonable business purposes of the employer; or

(3) Limit the ability of an employer to establish, continue, or enforce a drug-free workplace program or policy.

SECTION 15.

(a) The commission, in consultation with the department, shall develop and maintain a track and trace system that tracks medical cannabis from either seed or immature plant stage until the medical cannabis and medical cannabis-infused product is sold to a customer at a medical cannabis wellness dispensary to ensure that no medical cannabis grown or processed by a medical cannabis establishment is sold or otherwise

transferred except to another medical cannabis establishment or by a medical cannabis wellness dispensary.

(b) At a minimum, the system must be capable of storing and providing access to all of the following:

(1) The date, time, amount, and price of each sale or transfer of medical cannabis or medical cannabis-infused products to a qualified patient or caregiver;

(2) Tracking information regarding the planting of cannabis seeds;

(3) Tracking information regarding the harvesting of cannabis plants;

(4) Tracking cannabis plant, batch, and product destruction; and

(5) Notifications when cannabis is transported, stolen, diverted, or lost.

SECTION 16. The commission is authorized to:

(1) Promulgate rules, including emergency rules, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the regulation and control of the cultivation, manufacture, distribution, sale, and testing of medical cannabis and medical cannabis-infused products and for the implementation and enforcement of this part;

(2)

(A) Grant or refuse state licenses for the cultivation, manufacture, distribution, sale, and testing of medical cannabis and medical cannabis-infused products as provided by law;

(B) Suspend, restrict, or revoke such licenses or fine the licensee upon a violation of this part, or any rule promulgated pursuant to this part, and impose any penalty otherwise authorized by this part or any rule promulgated pursuant to this part; and

(C) Take any action with respect to a registration, in the same manner as with a license, in accordance with the procedures established pursuant to this part;

(3) Hear and determine at a public hearing any contested state license denial and any complaints against a licensee and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing. The commission may, at its discretion, delegate to the department hearing officers the authority to conduct licensing, disciplinary, and rulemaking hearings. When conducting such hearings, the hearing officers are agents of the commission under the direction and supervision of the executive director and the commission;

(4) Maintain the confidentiality of reports or other information obtained from a licensee showing the sales volume or quantity of medical cannabis or medical cannabis-infused products sold, or revealing any customer information, or any other records that are exempt from public inspection pursuant to state law. Such reports or other information may be used only for a purpose authorized by this part or for any other state or local law enforcement purpose. Any customer information may be used only for a purpose authorized by this part;

(5) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the commission for the administration of this part or any of the rules promulgated under this part; and

(6) Prepare and transmit annually a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the commission.

SECTION 17.

(a) The commission may issue commission and letter rulings, at the commission's discretion.

(b) Commission rulings are statements regarding the substantive application of law and statements of procedure that affect the rights and duties of licensees and other members of the public. Commission rulings are advisory in nature and are not binding on the commission.

(c)

(1) Letter rulings must interpret and apply the law to a specific set of existing facts furnished by a particular licensee. These rulings are binding upon the commission and are applicable only to the individual licensee being addressed.

(2) Letter rulings can be revoked or modified by the commission at any time. A revocation or modification is effective retroactively, unless the following conditions are met, in which case the revocation or modification is prospective only:

(A) The licensee must not have misstated or omitted material facts involved in the transaction;

(B) Facts that develop later must not be materially different from the facts upon which the ruling was based;

(C) The applicable law must not have been changed or amended;

(D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and

(E) The licensee directly involved must have acted in good faith in relying upon the ruling, and a retroactive revocation or modification of the ruling must inure to the licensee's detriment.

(d) When prompt consideration of an issue is needed, a party can request an expedited letter or ruling by expressly requesting an expedited ruling and by submitting the fee required to receive an expedited ruling, as such fee is established by the commission. When an expedited letter or ruling is requested as provided in this subsection (d), the commission shall either issue a ruling within sixty (60) days of the date on which the request for an expedited ruling was submitted or deny the request and return the fee to the requesting party within seven (7) days of the date on which the request was submitted.

(e) Requests for commission and letter rulings must be submitted in the form and manner prescribed by commission rule.

(f) A reasonable fee may be set and prescribed by the commission for issuing commission and letter rulings.

SECTION 18. The commission shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to address the following:

(1) Procedures consistent with this part for the issuance, renewal, suspension, and revocation of licenses to operate medical cannabis wellness dispensaries;

(2) A schedule of application, licensing, and renewal fees for medical cannabis establishments;

(3) Qualifications for licensure under this part, including, but not limited to, the requirement for a level 2 federal bureau of investigation background check for all owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this part;

(4) Establishing an independent testing and certification program for medical cannabis and medical cannabis-infused products that complies with the following requirements:

(A) Within an implementation time frame established by the commission, requiring licensees to test medical cannabis and medical cannabis-infused products to ensure at a minimum that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling;

(B) Testing must include, but not be limited to, analysis for:

(i) Residual solvents, poisons, or toxins;

(ii) Harmful chemicals;

(iii) Dangerous molds or mildew;

(iv) Filth;

(v) Pesticides; and

(vi) Harmful microbials such as E. coli or salmonella;

(C) In the event that test results indicate the presence of quantities of a substance determined to be injurious to health, such cannabis or cannabis-infused products must be immediately quarantined and the licensee must immediately notify the commission. Such cannabis or product must be documented and properly destroyed;

(D) Testing must also verify THC potency representations for correct labeling;

(E) Determining an acceptable variance for potency representations and procedures to address potency misrepresentations;

(F) Determining the protocols and frequency of medical cannabis testing by licensees; and

(G) The provision of standards for licensing laboratories for medical cannabis and medical cannabis-infused products to the commission by the executive director;

(5) Security requirements for a licensed premises, including, at a minimum, lighting, physical security, video, and alarm requirements, and other minimum procedures for internal control as deemed necessary by the commission to properly administer and enforce this part, including reporting requirements for changes, alterations, or modifications to the premises;

(6) Requirements to prevent the sale or diversion of medical cannabis and medical cannabis-infused products to persons not eligible or authorized to receive medical cannabis or medical cannabis-infused products;

(7) Labeling requirements for medical cannabis and medical cannabis-infused products sold by a medical cannabis establishment that include, but are not limited to:

(A) The license number of the medical cannabis cultivation operation;

(B) The license number of the medical cannabis wellness dispensary;

(C) An identity statement and standardized graphic symbol;

(D) The batch number;

(E) A net weight statement;

(F) THC potency and the potency of other cannabinoids or other chemicals, including, but not limited to, cannabidiol (CBD), as determined by the commission;

(G) A list of nonorganic pesticides, fungicides, herbicides, and solvents used during cultivation or production;

(H) A statement to the effect of "This product contains medical cannabis and was cultivated or produced without efficacy, and there may be health risks associated with the consumption of this product.";

(I) Warning labels;

(J) Solvents used in the extraction process;

(K) Amount of THC per serving and the number of servings per package for medical cannabis-infused products;

(L) A list of ingredients and possible allergens for medical cannabis-infused products;

(M) A recommended use by or expiration date for medical cannabis-infused products;

(N) A nutritional fact panel for edible medical cannabis-infused products; and

(O) A universal symbol indicating the package contains medical cannabis;

(8) Health and safety regulations and standards for the manufacture of medical cannabis-infused products and the cultivation of medical cannabis;

(9) Limitations on the display of medical cannabis and medical cannabis-infused products;

(10) Regulation of the storage of, warehouses for, and transportation of medical cannabis and medical cannabis-infused products;

(11) Sanitary requirements for medical cannabis establishments, including, but not limited to, sanitary requirements for the preparation of medical cannabis-infused products;

(12) Records to be kept by licensees and the required availability of the records;

(13) Compliance with, enforcement of, or violation of any rule issued pursuant to this part, including procedures and grounds for denying, suspending, fining, restricting, or revoking a license issued pursuant to this part;

(14) Establishing a schedule of penalties and procedures for issuing and appealing citations for violations of statutes and rules and issuing administrative citations;

(15) Specifications of duties of officers and employees of the commission;

(16) Guidance for local jurisdictions and state and local law enforcement agencies;

(17) Requirements for inspections, investigations, searches, seizures, forfeitures, and such additional activities permitted under the law;

(18) Prohibiting misrepresentations and unfair practices;

(19) Developing individual identification cards and issuance requirements for owners, officers, managers, contractors, employees, and other support staff of licensees, including a fingerprint-based criminal history record check as may be required by the commission prior to issuing a card;

(20) Identification of licensees and their owners, officers, managers, and employees;

(21) Specifying acceptable forms of picture identification that a medical cannabis wellness dispensary may accept when verifying a sale, including, but not limited to, government-issued identification cards;

(22) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(23) Signage, marketing, and advertising standards, including, but not limited to, a prohibition on mass-market campaigns that have a high likelihood of reaching minors and other such rules that may include:

(A) Authorizing packaging and accessory branding;

(B) Prohibiting health or physical benefit claims in advertising, merchandising, and packaging;

(C) Prohibiting unsolicited pop-up advertising on the internet;

(D) Prohibiting the use of banner ads on mass-market websites;

(E) Prohibiting opt-in marketing that does not permit an easy and permanent opt-out feature; and

(F) Prohibiting marketing directed toward location-based devices, including, but not limited to, mobile telephones, unless the marketing is a mobile device application installed on the device by the owner of the device who is eighteen (18) years of age or older and includes a permanent and easy opt-out feature;

(24) Prohibiting the sale of medical cannabis and medical cannabis-infused products unless:

(A) The product is packaged by the medical cannabis wellness dispensary or the medical cannabis-infused products manufacturer in resealable packaging; or

(B) The product is placed in an exit package or container meeting requirements established by the commission at the point of sale prior to exiting the wellness dispensary;

(25) The safe and lawful transport of medical cannabis and medical cannabis-infused products between licensees or licensed premises;

(26) A standardized medical cannabis serving size amount for edible medical cannabis-infused products that does not contain more than ten milligrams (10 mg.) of active THC that is designed only to provide consumers with information about the total number of servings of active THC in a particular medical cannabis-infused product, not as a limitation on the total amount of THC in any particular item;

(27) Labeling requirements regarding servings for edible medical cannabis-infused products;

(28) Limitations on the total amount of active THC in a sealed internal package that is no more than one hundred milligrams (100 mg.) of active THC;

(29) Labeling guidelines concerning the total content of THC per unit of weight;

(30) Prohibiting or regulating additives to any medical cannabis-infused product, including, but not limited to, those that are toxic, designed to make the product more addictive, designed to make the product more appealing to children, or misleading to consumers, but not including common baking and cooking items;

(31) Establish acceptable testing practices and standards, including, but not limited to, testing standards, quality control analysis, equipment certification and calibration, and chemical identification used in bona fide research methodology;

(32) Permission for local fire departments to conduct an annual fire inspection of a medical cannabis cultivation operation; and

(33) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive implementation and administration of this part.

SECTION 19. This part does not:

(1) Delegate to the commission the power to fix or set prices for medical cannabis; or

(2) Limit a law enforcement agency's ability to investigate unlawful activity in relation to a medical cannabis establishment. A law enforcement agency is authorized to run a Tennessee crime information center criminal history record check of a licensee, or employee of a licensee, during an investigation of unlawful activity related to medical cannabis and medical cannabis-infused products.

SECTION 20.

(a) The commission shall create a statewide licensure class system, and corresponding fee structure, for medical cannabis cultivation operations. The classifications may be based upon:

(1) Square footage of the facility;

(2) Lights, lumens, or wattage, or such other indicators of energy usage;

(3) Lit canopy;

(4) The number of cultivating plants; or

(5) Any combination of criteria described in subdivisions (a)(1)-(4) or other reasonable metrics.

(b)

(1) The commission may establish limitations upon medical cannabis production through one (1) or more of the following methods:

(A) Placing or modifying a limit on the number of licenses that it issues, by class or overall, but in placing or modifying the limits, the commission shall consider the reasonable availability of new licenses after a limit is established or modified;

(B) Placing or modifying a limit on the amount of production permitted by a medical cannabis cultivation operation license or class of licenses based upon some reasonable metric or set of metrics including,

but not limited to, those items detailed in subsection (a), previous months' sales, pending sales, or other reasonable metrics as determined by the commission; or

(C) Placing or modifying a limit on the total amount of production by medical cannabis cultivation operation licensees in the state, collectively, based upon some reasonable metric or set of metrics determined by the commission, including, but not limited to, those items detailed in subsection (a).

(2) Notwithstanding this part to the contrary, in considering limitations, the commission, in addition to any other relevant considerations, shall:

(A) Consider the total current and anticipated demand for medical cannabis and medical cannabis-infused products in this state; and

(B) Attempt to reduce the illegal market for medical cannabis.

SECTION 21.

(a) A medical cannabis cultivation operation may be contiguous with the licensee's medical cannabis wellness dispensary or a medical cannabis-infused products manufacturer operated by the licensee. This part does not require such operations to be contiguous.

(b) A medical cannabis cultivation operation shall track all medical cannabis the operation cultivates from seed or immature plant to wholesale transfer or destruction.

SECTION 22.

(a) A medical cannabis-infused product must be manufactured with equipment used exclusively for the manufacture and preparation of medical cannabis-infused products.

(b) A medical cannabis-infused products manufacturer may sell its products to a medical cannabis wellness dispensary or to another medical cannabis-infused products manufacturer.

(c) A medical cannabis-infused products manufacturer shall not:

(1) Add any medical cannabis to a food product where the manufacturer of the food product holds a trademark to the food product's name; except that a manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the medical cannabis-infused products manufacturer does not disclose to the consumer that the final medical cannabis-infused product contains a trademarked food product;

(2) Knowingly label or package a medical cannabis-infused product in a manner that would cause a reasonable consumer confusion as to whether the medical cannabis-infused product was a trademarked food product; and

(3) Label or package a medical cannabis-infused product in a manner that violates any federal trademark law or regulation.

SECTION 23. A person who has any financial interest in a medical cannabis testing facility shall not hold any license or have any financial interest in another type of medical cannabis establishment.

SECTION 24. Notwithstanding another law to the contrary, electronic payment and filing requirements for taxes levied under this part and title 67 are waived and a medical cannabis establishment may file a return in paper form and remit payments in cash or other form approved by the department of revenue. The commissioner of revenue may require that a paper filing be accompanied by a manual handling fee, not to exceed twenty-five dollars ($25.00), that is reasonably calculated by the department to account for the additional cost of preparing, printing, receiving, reviewing, and processing a paper filing.

SECTION 25. Tennessee Code Annotated, Section 68-7-101, is amended by deleting the language "this chapter" and substituting instead the language "this part".

SECTION 26. Tennessee Code Annotated, Section 68-7-102, is amended by deleting the section and substituting instead the following:

There is created the medical cannabis commission. The commission shall oversee the medical cannabis program established in part 2 of this chapter and serve as a resource for the study of federal and state laws regarding medical cannabis, including the preparation of legislation to provide an effective, patient-focused medical cannabis program in this state.

SECTION 27. Tennessee Code Annotated, Section 68-7-103(a)(3), is amended by deleting the subdivision and substituting instead the following:

(3) The governor shall appoint three (3) members, with one (1) appointed from each grand division, including one (1) person with professional experience in industrial or agricultural systems management, including commodities, manufacturing, or distribution in a regulated industry, and two (2) persons with experience in complex agriculture, health, science, business, or government systems.

SECTION 28. Tennessee Code Annotated, Section 68-7-103(f), is amended by adding the language "is registered as a lobbyist pursuant to the registration requirements of title 3, chapter 6, or who" immediately after the language "A person who".

SECTION 29. Tennessee Code Annotated, Section 68-7-104(c), is amended by deleting the following language:

The commission shall meet in Nashville at least once every two (2) months prior to March 1, 2023, and hold other meetings for any period of time as may be necessary for the commission to transact and perform its official duties and functions. Beginning March 1, 2023, the commission is authorized to meet less frequently than once every

two (2) months; provided, that the commission shall set and hold regular meetings necessary for the commission to transact and perform its official duties and functions.

and substituting instead the following:

The commission shall meet in Nashville at least once every month and hold other meetings as may be necessary for the commission to transact and perform its official duties and functions; provided, that the commission shall hold a minimum of two (2) meetings each month through June 2024 in order to implement part 2 of this chapter.

SECTION 30. Tennessee Code Annotated, Section 68-7-105, is amended by deleting the section and substituting instead the following:

Each member of the commission shall receive seven hundred dollars ($700) for each meeting of the commission that the member attends and be reimbursed for travel expenses. All reimbursement for travel expenses must be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 31. Tennessee Code Annotated, Section 68-7-107, is amended by deleting the language "department of health" and substituting instead the language "department of agriculture".

SECTION 32. Tennessee Code Annotated, Section 68-7-108, is amended by adding the language "and employees" immediately after the language "members" wherever it appears; and is further amended by deleting the language "who are to be appointed to acknowledge, as a condition of appointment," and substituting instead the language "who are to be appointed or employed to acknowledge, as a condition of appointment or employment,".

SECTION 33. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that

can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 34. For purposes of promulgating rules and forms, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2023, the public welfare requiring it.