

House Bill 196 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 33rd, Washburn of the 144th, Wilkerson of the 38th, Daniel of the 117th, McCollum of the 30th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
2 relating to access to medical cannabis, so as to provide that the Georgia Access to Medical
3 Cannabis Commission shall be subject to the Administrative Procedure Act, laws governing
4 open meetings and open records, and state purchasing laws; to provide for information to be
5 provided to the Medical Cannabis Commission Oversight Committee unless exempt from
6 public disclosure under open records laws; to authorize the location of retail outlets for the
7 dispensing of low THC oil and products to registered patients at Class 1 and Class 2
8 production facilities; to authorize the dispensing of low THC oil and products from any
9 Class 1 or Class 2 production licensee by any dispensing licensee; to provide for additional
10 Class 1 and Class 2 production licenses; to provide for criteria; to provide for appeals to the
11 Georgia State-wide Business Court; to require each commissioner to file an annual financial
12 disclosure statement; to amend Code Section 31-2A-18 of the Official Code of Georgia
13 Annotated, relating to the Low THC Oil Patient Registry, so as to expand conditions for
14 which low THC oil may be used for treatment; to provide for related matters; to provide for
15 an effective date; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 196 (SUB)

17 **SECTION 1.**

18 Article 9 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
19 access to medical cannabis, is amended by revising Code Section 16-12-202, relating to the
20 creation of Georgia Access to Medical Cannabis Commission, terms, designation, meetings,
21 vacancy, and compensation, by adding a new subsection to read as follows:

22 "(f) The commission shall be subject to the provisions of Article 3 of Chapter 5, Chapter
23 13, Chapter 14, and Article 4 of Chapter 18 of Title 50, except as otherwise provided in this
24 article."

25 **SECTION 2.**

26 Said article is further amended by revising paragraphs (2) and (17) of Code
27 Section 16-12-203, relating to powers, duties, and responsibilities of the Georgia Access to
28 Medical Cannabis Commission, as follows:

29 "(2) To execute a contract or contracts to purchase or obtain low THC oil, cannabis,
30 cannabinoids, or any other derivative, compound, or substantially similar products from
31 any available legal source and to provide logistics related thereto in accordance with this
32 article. Such contract or contracts may be executed with one or more qualified
33 corporations or with one or more governmental entities. Purchases made and contracts
34 entered into pursuant to this paragraph shall ~~not~~ be subject to state purchasing laws
35 contained in Article 3 of Chapter 5 of Title 50 ~~or in other provisions of the Official Code~~
36 ~~of Georgia Annotated;~~"

37 "(17) To levy fines for failure by a Class 1 production licensee, Class 2 production
38 licensee, or dispensing licensee to operate in accordance with rules and regulations
39 established by the commission within 14 days of written notice by the commission of
40 specific violations. Such fines shall not exceed \$25,000.00 for a first offense, \$50,000.00
41 for a failure to remedy the offense within 60 days after written notice of a first offense,
42 and \$75,000.00 for subsequent failures to remedy noncompliance within 90 days after

43 written notice of a first offense. Following a third written notice of a recurring violation,
44 the commission may also order a licensee to cease operations for a period of up to 30
45 days to correct the violation. Any such fines or orders to cease operations shall be subject
46 to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act-';' provided,
47 however, that any appeal from a final decision shall be made to the Georgia State-wide
48 Business Court in accordance with Code Section 16-12-221.1."

49 **SECTION 3.**

50 Said article is further amended by revising Code Section 16-12-206, relating to annual,
51 nontransferable dispensing license, adoption of rules, and fees, as follows:

52 "16-12-206.

53 (a)(1) Upon request by a licensed pharmacy in this state, the State Board of Pharmacy
54 shall be authorized to develop an annual, nontransferable specialty dispensing license for
55 an independent pharmacy with a registered office located within this state to dispense low
56 THC oil and products to registered patients. The State Board of Pharmacy shall develop
57 rules and regulations regarding dispensing pharmacies in this state in accordance with the
58 requirements contained in subsection (b) of this Code section.

59 (2) The commission shall be authorized to issue five dispensing licenses to each Class
60 1 production licensee and each Class 2 production licensee for retail outlets to dispense
61 low THC oil and products to registered patients. In addition, the commission shall be
62 authorized to issue a dispensing license for a retail outlet to each Class 1 production
63 licensee and each Class 2 production licensee for the purpose of establishing a retail
64 outlet for the dispensing of low THC oil and products to registered patients at the location
65 of the Class 1 production licensee's production facility or at the location of the Class 2
66 production licensee's production facility. The commission shall ensure that dispensing
67 licenses shall be issued so that retail outlets are dispersed throughout the state. The
68 commission shall develop rules and regulations regarding retail dispensing licensees in

69 this state in accordance with the requirements contained in subsection (b) of this Code
70 section. The commission shall be authorized to issue one additional dispensing license
71 to each Class 1 and Class 2 production licensee when the Low THC Oil Patient Registry
72 established and maintained pursuant to Code Section 31-2A-18 reaches 25,000 patients
73 and for every increase of 10,000 patients thereafter.

74 (b) The State Board of Pharmacy and the commission shall separately adopt rules relating
75 to the dispensing of low THC oil and products, with the State Board of Pharmacy
76 promulgating rules and regulations for pharmacies that dispense low THC oil and products
77 and the commission promulgating rules and regulations for other retail outlets that dispense
78 low THC oil and products. Such rules shall include but not be limited to:

79 (1) Standards, procedures, and protocols for the effective use of low THC oil and
80 products as authorized by state law and related rules and regulations;

81 (2) Standards, procedures, and protocols for the dispensing of low THC oil and products
82 by a pharmacy with a dispensing license and by retail dispensing licensees and for the
83 utilization of a tracking system;

84 (3) Procedures and protocols to provide that no low THC oil or products may be sold to
85 or transferred to a location outside of this state;

86 (4) The establishment of standards, procedures, and protocols for determining the
87 amount of usable low THC oil and products that is necessary to constitute an adequate
88 supply for registered patients in this state to ensure uninterrupted availability for a period
89 of one month, including amounts for topical treatments;

90 (5) The establishment of standards, procedures, and protocols to ensure that all low THC
91 oil and products dispensed are consistently pharmaceutical grade;

92 (6) The establishment of standards and procedures for the revocation, suspension, and
93 nonrenewal of dispensing licenses;

94 (7) The establishment of other licensing, renewal, and operational standards which are
95 deemed necessary by the State Board of Pharmacy and the commission;

- 96 (8) The establishment of standards and procedures for testing low THC oil and products
97 for levels of tetrahydrocannabinol or other testing parameters deemed appropriate by the
98 State Board of Pharmacy and the commission;
- 99 (9) The establishment of health, safety, and security requirements for pharmacies and
100 retail dispensing licensees dispensing low THC oil and products; and
- 101 (10) Requirements for the issuance of dispensing licenses to pharmacies and Class 1 and
102 Class 2 production licensees.
- 103 (c) The commission shall be authorized, by rules and regulations, to establish fees for
104 dispensing licenses to Class 1 and Class 2 production licensees commensurate with the
105 location of the retail outlet and demand for low THC oil and products at such location.
- 106 (d) Each dispensing location shall be authorized to sell low THC oil and products from any
107 Class 1 or Class 2 production licensee in this state."

108 **SECTION 4.**

109 Said article is further amended by revising Code Section 16-12-207, relating to establishment
110 of Medical Cannabis Commission Oversight Committee, membership, inspections, provision
111 of information, plan for accredited lab testing, and patient and physician input, as follows:
112 "16-12-207.

113 (a) The General Assembly shall establish a Medical Cannabis Commission Oversight
114 Committee with two members appointed by the Lieutenant Governor and two members
115 appointed by the Speaker of the House of Representatives. Any member of the Medical
116 Cannabis Commission Oversight Committee shall be permitted to inspect any production
117 facility upon request and after reasonable notice is provided to the production facility.

118 (b) The commission shall promptly provide any document or information requested by the
119 oversight committee that is in its possession, provided that the commission shall not be
120 required to share documents containing data identifying individual patients or physicians,
121 information marked as trade secrets by applicants or licensees, information that in the view

122 ~~of the commission would interfere with an ongoing licensing applicant selection process,~~
 123 ~~or information that in the judgment of the commission would create law enforcement or~~
 124 ~~security risks to the citizens of Georgia any information that would be exempt from public~~
 125 ~~disclosure pursuant to Code Section 50-18-72 or pursuant to state or federal privacy laws.~~

126 (c) ~~No later than August 1, 2021, the oversight committee shall recommend to the~~
 127 ~~commission a process and plan for providing accredited lab testing of products produced~~
 128 ~~by licensees and for labeling such products. The commission shall consider the~~
 129 ~~recommendations of the oversight committee in adopting policies, procedures, and~~
 130 ~~regulations regarding such testing and labeling Reserved.~~

131 (d) The oversight committee may regularly seek input from patients and physicians as to
 132 the availability and quality of products produced pursuant to this chapter, and recommend
 133 to the commission changes to policies, procedures, and regulations to improve availability
 134 and quality. The commission shall consider such recommendations in adopting policies,
 135 procedures, and regulations."

136 **SECTION 5.**

137 Said article is further amended by revising subsection (a) of Code Section 16-12-211, relating
 138 to Class 1 production licenses, application fees, revocation, and limitation of ownership, as
 139 follows:

140 "(a) The commission may issue up to two initial Class 1 production licenses. The
 141 commission shall issue four additional Class 1 production licenses pursuant to subsection
 142 (a) of Code Section 16-12-221, provided that the total number of Class 1 and Class 2
 143 production licenses shall not exceed 15 production licenses. A Class 1 production licensee
 144 shall be authorized to:

- 145 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited to
 146 100,000 square feet of cultivation space; and
 147 (2) Manufacture low THC oil and products."

148

SECTION 6.

149 Said article is further amended by revising subsection (a) of Code Section 16-12-212, relating
150 to Class 2 production licenses, application fees, revocation, and limitation of ownership, as
151 follows:

152 "(a) The commission may issue up to four initial Class 2 production licenses. The
153 commission shall issue seven additional Class 2 production licenses pursuant to subsection
154 (a) of Code Section 16-12-221, provided that the total number of Class 1 and Class 2
155 production licenses shall not exceed 15 production licenses. A Class 2 production licensee
156 shall be authorized to:

157 (1) Grow cannabis only in indoor facilities for use in producing low THC oil, limited
158 to 50,000 square feet of cultivation space; and

159 (2) Manufacture low THC oil and products."

160

SECTION 7.

161 Said article is further amended by revising Code Section 16-12-220, relating to confidential
162 nature of data, exclusion, and patient privacy, as follows:

163 "16-12-220.

164 (a) All working papers, recorded information, documents, and copies produced by,
165 obtained by, or disclosed to the commission pursuant to the activities conducted pursuant
166 to this part, ~~other than information published in an official commission report regarding the~~
167 ~~activities conducted pursuant to this article, shall be confidential data and shall not be~~
168 ~~subject to Article 4 of Chapter 18 of Title 50; provided, however, that any contract,~~
169 ~~memorandum of understanding, or cooperative endeavor agreement entered into by the~~
170 ~~commission pursuant to this article shall be subject to Article 4 of Chapter 18 of Title 50,~~
171 relating to open records.

172 (b) In no event shall the commission disclose any information that would reveal the
173 identity or health information of any registered patient or violate the federal Health
174 Insurance Portability and Accountability Act of 1996, Public Law 104-191."

175 **SECTION 8.**

176 Said article is further amended by revising subsection (a) of Code Section 16-12-221, relating
177 to contracts awarded through bids or proposals, minimum contract terms and renewals,
178 subcontracting, and giving or receiving things of value limited, as follows:

179 "(a)(1) The commission shall grant initial licenses under this part pursuant to contracts
180 awarded through competitive sealed bids or competitive sealed proposals as provided for
181 in Article 3 of Chapter 5 of Title 50. After issuance of two initial Class 1 production
182 licenses pursuant to Code Section 16-12-211 and four initial Class 2 production licenses
183 pursuant to Code Section 16-12-212, and in the commission shall issue one additional
184 Class 2 production license for every increase of 5,000 patients in the Low THC Oil
185 Patient Registry established and maintained pursuant to Code Section 31-2A-18 and one
186 additional Class 1 production license for every increase of 10,000 patients in the Low
187 THC Oil Patient Registry, subject to the overall limit of total number of Class 1 and Class
188 2 production licenses contained in Code Sections 16-12-211 and 16-12-212. The initial
189 increase in the number of patients in the Low THC Oil Patient Registry shall be based on
190 the number of patients in the registry as of January 1, 2023.

191 (2) In the event that the commission revokes a Class 1 or Class 2 production license, a
192 Class 1 or Class 2 production license is surrendered for any reason, or the commission
193 issues an additional Class 1 production license pursuant to Code Section 16-12-214, the
194 commission shall be authorized to issue any replacement Class 1 or Class 2 production
195 licenses in accordance with rules and regulations established by the commission for such
196 purpose. Such rules and regulations shall not otherwise conflict with this article, and to

197 ~~the extent practicable, such rules and regulations shall incorporate provisions and~~
198 ~~processes similar to Article 3 of Chapter 5 of Title 50."~~

199 **SECTION 9.**

200 Said article is further amended by adding a new Code section to read as follows:

201 "16-12-221.1.

202 (a) The Georgia State-wide Business Court shall exercise exclusive jurisdiction over any
203 appeal by a party aggrieved by a final decision of the commission pursuant to this article.

204 The Georgia State-wide Business Court shall conduct expedited hearings on any such
205 appeals, and review by the court shall be confined to the record.

206 (b) The court shall not substitute its judgment for that of the commission as to the weight
207 of the evidence on questions of fact committed to the discretion of the commission. The
208 court may affirm any decision of the commission in whole or in part. The court shall
209 reverse or remand any case for further proceedings if material rights of the appellant have
210 been prejudiced because the commission's findings, inferences, conclusions, or decisions
211 are:

212 (1) In violation of constitutional or statutory provisions or applicable procurement rules;

213 (2) Made upon unlawful procedures;

214 (3) Affected by other error of law;

215 (4) Not reasonably supported by substantial evidence in view of the reliable and
216 probative evidence in the record as a whole; or

217 (5) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted
218 exercise of discretion.

219 (c) The court shall require a litigation bond or other form of surety payable to the state
220 from any protesting party in an amount determined by the court, which shall be forfeited
221 if the court affirms, in whole, the decision of the commission."

222 **SECTION 10.**

223 Said article is further amended by revising subsection (c) of Code Section 16-12-222, relating
224 to transfer of ownership, appeals, meaning of license, and transfer fees, as follows:

225 "(c) A licensee who has been denied transfer approval by the commission may file an
226 appeal with the Georgia State-wide Business Court in accordance with Code Section
227 16-12-221.1. in the Superior Court of Fulton County in accordance with Chapter 13 of
228 Title 50, the 'Georgia Administrative Procedure Act.'"

229 **SECTION 11.**

230 Said article is further amended by revising subsection (b) of Code Section 16-12-223,
231 relating to revocation of license and appeal, as follows:

232 "(b) A licensee whose license has been revoked by the commission may file an appeal with
233 the Georgia State-wide Business Court in accordance with Code Section 16-12-221.1. in
234 the Superior Court of Fulton County in accordance with Chapter 13 of Title 50, the
235 'Georgia Administrative Procedure Act.'"

236 **SECTION 12.**

237 Said article is further amended by revising Code Section 16-12-224, relating to limitation on
238 ownership by member or former member of commission, limitation on physician's
239 involvement, and identification when contributing to political campaigns, as follows:

240 "16-12-224.

241 (a) No current member of the commission, or former member of the commission for a
242 period of five years from the date such individual ceased to be a member, shall own,
243 operate, have a financial interest in, or be employed by a low THC oil or product
244 manufacturer or distributor, including any licensee under this part.

245 (b) No physician who, presently or during the period of such business relationship,
246 certifies individuals to the commission pursuant to Code Section 31-2A-18 for the use of

247 low THC oil and products to treat certain conditions shall own, operate, have a financial
 248 interest in, or be employed by a low THC oil or product manufacturer or distributor,
 249 including any licensee under this part. This subsection shall not prohibit a physician from
 250 furnishing a registered patient or his or her caregiver, upon request, with the names of low
 251 THC oil and product manufacturers or distributors. Any physician violating this Code
 252 section shall be guilty of a misdemeanor.

253 (c) Each member of the commission shall file an annual financial disclosure statement for
 254 the preceding calendar year with the Office of Inspector General no later than July 1 of
 255 each year. Such financial disclosure shall include ownership interests in businesses,
 256 income, and source or sources of income for the previous calendar year. For any
 257 commissioner serving as of May 1, 2023, such disclosure for the 2022 calendar year shall
 258 be filed with the Office of Inspector General no later than May 31, 2023.

259 ~~(c)~~(d) A licensee that makes a campaign contribution pursuant to Article 2 of Chapter 5
 260 of Title 21 shall identify itself as a licensee under this part to the recipient of such
 261 campaign contribution."

262 **SECTION 13.**

263 Code Section 31-2A-18 of the Official Code of Georgia Annotated, relating to the Low THC
 264 Oil Patient Registry, is amended by revising paragraph (3) of subsection (a) as follows:

265 "(3) 'Condition' means:

- 266 (A) Cancer, when such disease is diagnosed as end stage or the treatment produces
 267 related wasting illness or recalcitrant nausea and vomiting;
- 268 (B) Amyotrophic lateral sclerosis, when such disease is diagnosed as severe or end
 269 stage;
- 270 (C) Seizure disorders related to a diagnosis of epilepsy or trauma related head injuries;
- 271 (D) Multiple sclerosis, when such disease is diagnosed as severe or end stage;
- 272 (E) Crohn's disease;

- 273 (F) Mitochondrial disease;
- 274 (G) Parkinson's disease, when such disease is diagnosed as severe or end stage;
- 275 (H) Sickle cell disease, when such disease is diagnosed as severe or end stage;
- 276 (I) Tourette's syndrome, when such syndrome is diagnosed as severe;
- 277 (J) Autism spectrum disorder, when such disorder is diagnosed for a patient who is at
- 278 least 18 years of age, or severe autism, when diagnosed for a patient who is less than
- 279 18 years of age;
- 280 (K) Epidermolysis bullosa;
- 281 (L) Alzheimer's disease, when such disease is diagnosed as severe or end stage;
- 282 (M) Acquired immune deficiency syndrome, when such syndrome is diagnosed as
- 283 severe or end stage;
- 284 (N) Peripheral neuropathy, when such symptoms are diagnosed as severe or end stage;
- 285 (O) Post-traumatic stress disorder resulting from direct exposure to or the witnessing
- 286 of a trauma for a patient who is at least 18 years of age; ~~or~~
- 287 (P) Intractable pain;
- 288 (Q) Ulcerative colitis; or
- 289 (R) Myasthenia Gravis."

290 **SECTION 14.**

291 This Act shall become effective upon its approval by the Governor or upon its becoming law

292 without such approval.

293 **SECTION 15.**

294 All laws and parts of laws in conflict with this Act are repealed.