

CS FOR HOUSE BILL NO. 213(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/5/99

Referred: Judiciary

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

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 entire amount of marijuana manufactured, delivered, possessed,

1 possessed with intent to manufacture or deliver, used, or displayed was intended by the
 2 defendant to be used by the patient to address the symptoms disclosed in the
 3 physician's statement described in AS 17.37.010(c);

4 (3) the manufacture, delivery, possession, possession with intent to
 5 manufacture, deliver, use, or display complied with the requirements of AS 17.37; and

6 (4) if the defendant is the

7 (A) primary 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; or

11 (B) alternate caregiver of the patient, the defendant was in
 12 physical possession of the caregiver registry identification card at the time of
 13 the manufacture, delivery, possession, possession with intent to manufacture or
 14 deliver, use, or display.

15 (b) In this section,

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

17 (2) "debilitating medical condition" has the meaning given in
 18 AS 17.37.070;

19 (3) "patient" has the meaning given in AS 17.37.070;

20 (4) "physician" has the meaning given in AS 17.37.070;

21 (5) "primary caregiver" has the meaning given in AS 17.37.070.

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

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

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

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

27 (a) The department shall create and maintain a confidential registry of patients who
 28 have applied for and are entitled to receive a registry identification card according to
 29 the criteria set out [FORTH] in this chapter. **The registry must also contain the**
 30 **name of the primary caregiver and the name of the alternate caregiver of a**
 31 **patient, if either is designated by the patient. Only one primary caregiver and**

1 one alternate caregiver may be listed in the registry for a patient. The registry
 2 and the information contained within it are not a public record under
 3 AS 09.25.100 - 09.25.220. Peace officers and authorized employees of state or
 4 municipal [LOCAL] law enforcement agencies shall be granted access to the
 5 information contained within the department's confidential registry only

6 (1) in the course of a criminal investigation;

7 (2) for the purpose of verifying that an individual **who** [THAT] has
 8 presented a registry identification card to a state or municipal [LOCAL] law
 9 enforcement official is lawfully in possession of such card; or

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

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

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

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

29 (A) stating that the physician personally examined the
 30 patient and that the examination took place in the context of a bona fide
 31 physician-patient relationship;

1 **(B)** [THE ORIGINAL OR A COPY OF WRITTEN
2 DOCUMENTATION] stating that the patient has been diagnosed with a
3 debilitating medical condition **and specifying the nature of the patient's**
4 **symptoms; and**

5 **(C)** **stating that the physician has considered other approved**
6 **medications and treatments that might provide relief,** [AND THE
7 PHYSICIAN'S CONCLUSION] that **are reasonably available to the patient,**
8 **and that can be tolerated by the patient, and that the physician has**
9 **concluded that the patient** might benefit from the medical use of marijuana;

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

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

14 **(B)** [(3)] the name, address, and telephone number of the
15 patient's physician; and

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

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

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

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

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

1 an offense under AS 11.71 or AS 11.73; and

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

4 (e) A person may be a primary caregiver or alternate caregiver for only
 5 one patient at a time unless the primary caregiver or alternate caregiver is
 6 simultaneously caring for two or more patients who reside in the same household
 7 as the caregiver and are related to the caregiver by at least the fourth degree of
 8 kinship by blood or marriage.

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

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

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

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

9 (4) the name, [AND] address, date of birth, and Alaska driver's
 10 license or identification card and number of the patient's primary caregiver and
 11 alternate caregiver [CARE-GIVER], if either [ANY] is designated [AT THE TIME
 12 OF APPLICATION].

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

24 (h) A patient or a primary caregiver who is questioned by a [ANY] state or
 25 municipal [LOCAL] law enforcement official about the patient's or primary
 26 caregiver's [HIS OR HER] medical use of marijuana shall immediately show proper
 27 identification to the official and inform the official that the person is a registered
 28 patient or listed primary caregiver for a registered patient and either show the
 29 official (1) the person's registry identification card, or (2) [PROVIDE] a copy of
 30 an application that has been pending without registration or denial for over 35
 31 days since received by [THE WRITTEN DOCUMENTATION SUBMITTED TO] the

1 department and proof of the date of [MAILING OR OTHER TRANSMISSION OF
 2 THE WRITTEN DOCUMENTATION FOR] delivery to the department, which shall
 3 be accorded the same legal effect as a registry identification card [,] until the patient
 4 receives actual notice that the application has been denied.

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

7 (j) [(f)] The denial **or revocation** of a registry identification card **or the**
 8 **removal of a patient from the registry or the listing of a caregiver** shall be
 9 considered a final agency action subject to judicial review. Only the patient, **or the**
 10 **parent or guardian of a patient who is a minor, has** [WHOSE APPLICATION HAS
 11 BEEN DENIED SHALL HAVE] standing to contest the final agency action.

12 (k) [(g)] When there has been a change in the name, address, **or** physician [,
 13 OR PRIMARY CARE-GIVER] of a patient who has qualified for a registry
 14 identification card, **or a change in the name or address of the patient's primary**
 15 **caregiver or alternate caregiver**, that patient must notify the **department** [STATE
 16 HEALTH AGENCY] of **the** [ANY SUCH] change within 10 days. To maintain an
 17 effective registry identification card, a patient must annually resubmit updated written
 18 documentation to the **department** [STATE HEALTH AGENCY], as well as the name
 19 and address of the patient's primary **caregiver or alternate caregiver** [CARE-GIVER],
 20 if any.

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

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

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

30 **(o) The department may remove a primary caregiver or alternate**
 31 **caregiver from the registry if the department determines that the primary**

1 caregiver or alternate caregiver is not qualified to be listed or has violated a
 2 provision of this chapter or AS 11.71.

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

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

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

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

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

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

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

31 (b) Except as otherwise provided by law, a person is not [IN AS 17.37.040,

1 NO PATIENT OR PRIMARY CARE-GIVER IN LAWFUL POSSESSION OF A
 2 REGISTRY IDENTIFICATION CARD SHALL BE] subject to arrest, prosecution, or
 3 penalty in any manner for [MEDICAL USE OF MARIJUANA OR FOR] applying to
 4 have **the person's** [HIS OR HER] name placed on the confidential **registry**
 5 [REGISTER] maintained by the department **under AS 17.37.010**.

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

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

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

16 **and**

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

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

28 (d) Notwithstanding the [FOREGOING] provisions **of this section, a** [, NO]
 29 person, including a patient, [OR] primary **caregiver, or alternate caregiver, is not**
 30 [CARE-GIVER, SHALL BE] entitled to the protection of this **chapter** [SECTION] for
 31 **the person's** [HIS OR HER] acquisition, possession, cultivation, use, sale, distribution,

1 or [AND/OR] transportation of marijuana for **nonmedical** [NON-MEDICAL] use.

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

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

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

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

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

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

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

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

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

10 (4) possess more than

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

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

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

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

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

27 (1) in any place of employment;

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

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

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

1 (5) on a school bus.

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

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

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

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

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

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

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

27 (4) [(2)] "debilitating medical condition" means

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

31 (B) any chronic or debilitating disease or treatment for such

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

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

12 (5) [(3)] "department" means the Department of Health and Social
 13 Services;

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

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

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

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

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

5 **(8) [(4)] "medical use" means the acquisition, possession, cultivation,**
 6 **use or [AND/OR] transportation of marijuana or [AND/OR] paraphernalia related to**
 7 **the administration of [SUCH] marijuana to **alleviate** [ADDRESS THE SYMPTOMS**
 8 **OR EFFECTS OF] a debilitating medical condition **under the provisions of this****
 9 **chapter and AS 11.71.090 [ONLY AFTER A PHYSICIAN HAS AUTHORIZED**
 10 **SUCH MEDICAL USE BY A DIAGNOSIS OF THE PATIENT'S DEBILITATING**
 11 **MEDICAL CONDITION];**

12 **(9) [(5)] "patient" means a person who has a debilitating medical**
 13 **condition;**

14 **(10) [(6)] "physician" means a person licensed to practice medicine in**
 15 **this state or an officer in the regular medical service of the armed forces of the United**
 16 **States or the United States Public Health Service while in the discharge of their official**
 17 **duties, or while volunteering services without pay or other remuneration to a hospital,**
 18 **clinic, medical office, or other medical facility in this state;**

19 **(11) [(7)] "primary caregiver [CARE-GIVER]" means a person **listed****
 20 **as a primary caregiver under AS 17.37.010 and in physical possession of a**
 21 **caregiver registry identification card; "primary caregiver" also includes an**
 22 **alternate caregiver when the alternate caregiver is in physical possession of the**
 23 **caregiver registry identification card** [, OTHER THAN THE PATIENT'S
 24 PHYSICIAN, WHO IS 18 YEARS OF AGE OR OLDER AND HAS SIGNIFICANT
 25 RESPONSIBILITY FOR MANAGING THE WELL-BEING OF A PATIENT WHO
 26 HAS A DEBILITATING MEDICAL CONDITION];

27 **(12) [(8)] "PRISONER" MEANS A PERSON DETAINED OR**
 28 **CONFINED IN A CORRECTIONAL FACILITY, WHETHER BY ARREST,**
 29 **CONVICTION, OR COURT ORDER, OR A PERSON HELD AS A WITNESS OR**
 30 **OTHERWISE, INCLUDING MUNICIPAL PRISONERS HELD UNDER CONTRACT**
 31 **AND JUVENILES HELD UNDER THE AUTHORITY OF AS 47.10;**

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

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

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

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

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