

House Bill 1 (AS PASSED HOUSE AND SENATE)

By: Representatives Peake of the 141st, Gravley of the 67th, Kaiser of the 59th, Ramsey of the 72nd, McCall of the 33rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to public health and morals, so as to provide for the possession of low THC oil under certain circumstances; to provide for definitions; to provide for penalties; to amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to create a registration within the Department of Public Health for individuals or caregivers who are authorized to possess low THC oil; to define certain terms; to provide for registration cards; to provide for procedure; to create the Georgia Commission on Medical Cannabis; to provide for membership, procedures, duties, and responsibilities; to provide for an automatic repeal of the commission; to allow the Board of Regents of the University System of Georgia to create or work with others to create a research program using low THC oil in treating certain residents of this state who have medication-resistant epilepsies; to provide for permits to be issued to program participants and others; to provide for automatic repeal of the research program; to amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions of torts, so as to provide for limited liability for health care institutions and health care providers that permit the possession, administration, or use of low THC oil by an individual or caregiver on their premises in accordance with the laws of this state; to provide for a short title; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

This Act shall be known and may be cited as the "Haleigh's Hope Act."

SECTION 1-2.

Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to offenses against public health and morals, is amended by adding a new article to read as follows:

"ARTICLE 8**16-12-190.**

As used in this article, the term 'low THC oil' means an oil that contains not more than 5 percent by weight of tetrahydrocannabinol and an amount of cannabidiol equal to or greater than the amount of tetrahydrocannabinol.

16-12-191.

(a)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any person to possess or have under his or her control 20 fluid ounces or less of low THC oil if:

(A) Such person is registered with the Department of Public Health as set forth in Code Section 31-2A-18;

(B) Such person has in his or her possession a registration card issued by the Department of Public Health; and

(C) Such substance is in a pharmaceutical container labeled by the manufacturer indicating the percentage of tetrahydrocannabinol therein.

(2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses or has under his or her control 20 fluid ounces or less of low THC oil without complying with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished as for a misdemeanor.

(b)(1) Notwithstanding any provision of Chapter 13 of this title, it shall be lawful for any person to possess or have under his or her control 20 fluid ounces or less of low THC oil if:

(A) Such person is involved in a clinical research program being conducted by the Board of Regents of the University System of Georgia or any authorized clinical trial or research study in this state or their authorized agent pursuant to Chapter 51 of Title 31 as:

(i) A program participant;

(ii) A parent, guardian, or legal custodian of a program participant;

(iii) An employee of the board of regents designated to participate in the research program;

(iv) A program agent;

(v) A program collaborator and their designated employees;

(vi) A program supplier and their designated employees;

(vii) A program physician;

(viii) A program clinical researcher;

(ix) Program pharmacy personnel; or

(x) Other program medical personnel;

(B) Such person has in his or her possession a permit issued as provided in Code Section 31-51-7; and

(C) Such substance is in a pharmaceutical container labeled by the manufacturer indicating the percentage of tetrahydrocannabinol therein.

(2) Notwithstanding any provision of Chapter 13 of this title, any person who possesses or has under his or her control 20 fluid ounces or less of low THC oil without complying with subparagraphs (A), (B), and (C) of paragraph (1) of this subsection shall be punished as for a misdemeanor.

(c) Notwithstanding any provision of Chapter 13 of this title, any person having possession of or under his or her control more than 20 fluid ounces of low THC oil but less than 160 fluid ounces of low THC oil or who manufactures, distributes, dispenses, sells, or possesses with the intent to distribute low THC oil shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years, a fine not to exceed \$50,000.00, or both.

(d) Notwithstanding any provision of Chapter 13 of this title, any person who sells, manufactures, delivers, brings into this state, or has possession of 160 or more fluid ounces of low THC oil shall be guilty of the felony offense of trafficking in low THC oil and, upon conviction thereof, shall be punished as follows:

(1) If the quantity of low THC oil is at least 160 fluid ounces but less than 31,000 fluid ounces, by imprisonment for not less than five years nor more than ten years and a fine not to exceed \$100,000.00;

(2) If the quantity of low THC oil is at least 31,000 fluid ounces but less than 154,000 fluid ounces, by imprisonment for not less than seven years nor more than 15 years and a fine not to exceed \$250,000.00; and

(3) If the quantity of low THC oil is 154,000 or more fluid ounces, by imprisonment for not less than ten years nor more than 20 years and a fine not to exceed \$1 million.

(e) Subsections (c) and (d) of this Code section shall not apply to a person involved in a research program being conducted by the Board of Regents of the University System of Georgia or its authorized agent pursuant to Chapter 51 of Title 31 as an employee of the board of regents designated to participate in such program, a program agent, a program collaborator and their designated employees, a program supplier and their designated

employees, a physician, clinical researcher, pharmacy personnel, or other medical personnel, provided that such person has in his or her possession a permit issued as provided in Code Section 31-5-7 and such possession, sale, manufacturing, distribution, or dispensing is solely for the purposes set forth in Chapter 51 of Title 31.

(f) Nothing in this article shall require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in any form, or to affect the ability of an employer to have a written zero tolerance policy prohibiting the on-duty, and off-duty, use of marijuana, or prohibiting any employee from having a detectable amount of marijuana in such employee's system while at work."

PART II

SECTION 2-1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Chapter 2A, relating to the Department of Public Health, by adding a new Code section to read as follows:

"31-2A-18.

(a) As used in this Code section, the term:

(1) 'Board' means the Georgia Composite Medical Board.

(2) 'Caregiver' means the parent, guardian, or legal custodian of an individual who is less than 18 years of age or the legal guardian of an adult.

(3) 'Condition' means:

(A) Cancer, when such diagnosis is end stage or the treatment produces related wasting illness, recalcitrant nausea and vomiting;

(B) Amyotrophic lateral sclerosis, when such diagnosis is severe or end stage;

(C) Seizure disorders related to diagnosis of epilepsy or trauma related head injuries;

(D) Multiple sclerosis, when such diagnosis is severe or end stage;

(E) Crohn's disease;

(F) Mitochondrial disease;

(G) Parkinson's disease, when such diagnosis is severe or end stage; or

(H) Sickle cell disease, when such diagnosis is severe or end stage.

(4) 'Department' means the Department of Public Health.

(5) 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

(6) 'Physician' means an individual licensed to practice medicine pursuant to Article 2 of Chapter 34 of Title 43.

(7) 'Registry' means the Low THC Oil Patient Registry.

(b) There is established within the department the Low THC Oil Patient Registry.

(c) The purpose of the registry is to provide a registration of individuals and caregivers who have been issued registration cards. The department shall establish procedures and promulgate rules and regulations for the establishment and operation of the registration process and dispensing of registry cards to individuals and caregivers. Only individuals residing in this state for at least one year or a child born in this state less than one year old shall be eligible for registration under this Code section. Nothing in this Code section shall apply to any Georgia residents living temporarily in another state for the purpose of securing THC oil for treatment of any condition under this Code section.

(d) The department shall issue a registration card to individuals and caregivers as soon as practicable but no later than September 1, 2015, when an individual has been certified to the department by his or her physician as being diagnosed with a condition and has been authorized by such physician to use low THC oil as treatment for such condition. The board shall establish procedures and promulgate rules and regulations to assist physicians in providing required uniform information relating to certification and any other matter relating to the issuance of certifications. In promulgating such rules and regulations, the board shall require that physicians have a doctor-patient relationship when certifying an individual as needing low THC oil and physicians shall be required to be treating an individual for the specific condition requiring such treatment.

(e) The board shall require physicians to issue quarterly reports to the board. Such reports shall require physicians to provide information, including, but not limited to, dosages recommended for a particular condition, clinical responses, compliance, responses to treatment, side effects, and drug interactions.

(f) Information received and records kept by the department for purposes of administering this Code section shall be confidential; provided, however, that such information shall be disclosed:

(1) Upon written request of an individual or caregiver registered pursuant to this Code section; and

(2) To peace officers and prosecuting attorneys for the purpose of:

(A) Verifying that an individual in possession of a registration card is registered pursuant to this Code section; or

(B) Determining that an individual in possession of low THC oil is registered pursuant to this Code section.

(g) The board shall develop a waiver form that will advise that the use of cannabinoids and THC containing products have not been approved by the FDA and the clinical benefits are unknown and may cause harm. Any patient or caregiver shall sign such waiver prior to his or her approval for registration."

PART III
SECTION 3-1.

Said title is further amended by adding a new chapter to read as follows:

"CHAPTER 50

31-50-1.

(a) There is created the Georgia Commission on Medical Cannabis.

(b) As used in this chapter, the term 'commission' means the Georgia Commission on Medical Cannabis.

31-50-2.

(a) The commission shall consist of 17 members. The commissioner of public health, the director of the Georgia Bureau of Investigation, the director of the Georgia Drugs and Narcotics Agency, the commissioner of agriculture, the chairperson of the Georgia Composite Medical Board, and the Governor's executive counsel shall be permanent members of the commission. The permanent members of the commission may designate another individual to serve in his or her stead. The remaining members of the commission shall be appointed by the Governor on or before July 1, 2015. The remaining members shall be:

(1) Two members of the Senate;

(2) Two members of the House of Representatives;

(3) A board certified hematologist-oncologist;

(4) A board certified neurologist;

(5) A board certified gastroenterologist;

(6) A board certified pharmacist;

(7) An attorney employed by the Prosecuting Attorneys' Council of the State of Georgia or a prosecuting attorney;

(8) A sheriff; and

(9) A police chief.

(b) In the event of death, resignation, disqualification, or removal for any reason of any member of the commission, the vacancy shall be filled in the same manner as the original appointment, and the successor shall serve for the unexpired term.

(c) Membership on the commission shall not constitute public office, and no member shall be disqualified from holding public office by reason of his or her membership.

(d) The Governor shall designate a chairperson of the commission from among the members, which chairperson shall serve in that position at the pleasure of the Governor. The chairperson shall only vote to break a tie. The commission may elect such other officers and committees as it considers appropriate.

(e) The commission, with the approval of the Governor, may employ such professional, technical, or clerical personnel as deemed necessary to carry out the purposes of this chapter. The commission may create committees from among its membership as well as appoint other persons to serve in an advisory capacity to the commission in implementing this chapter.

(f) The commission shall be attached for administrative purposes only to the Department of Public Health in accordance with Code Section 50-4-3. The Department of Public Health may use any funds specifically appropriated to it to support the work of the commission.

31-50-3.

(a) The commission may conduct meetings at such places and times as it deems necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this chapter. The commission shall hold meetings at the call of the chairperson.

(b) A quorum for transacting business shall be a majority of the members of the commission.

(c) Any legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or transportation allowance authorized for state employees. Members of the commission who are state officials, other than legislative members, or state employees shall receive no compensation for their services on the commission, but shall be reimbursed for expenses incurred in the performance of their duties as members of the commission in the same manner as reimbursements are made in their capacity as state officials or state employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to their respective departments.

31-50-4.

(a) The commission shall have the following duties:

(1) To establish comprehensive recommendations regarding the potential regulation of medical cannabis in this state. Such recommendations shall include, without limitations,

specification of the department or departments to have responsibility for the oversight of a state-sanctioned system related to medical cannabis. A detailed report, which shall be submitted no later than December 31, 2015, including a review of the conditions, needs, issues, and problems related to medical cannabis and any recommended action or proposed legislation which the commission deems necessary or appropriate shall be provided to the executive counsel of the Governor, the Office of Planning and Budget, and the chairpersons of the House Committee on Appropriations, the Senate Appropriations Committee, the House Committee on Judiciary, Non-civil, the Senate Judiciary, Non-civil Committee, the House Committee on Health and Human Services, and the Senate Health and Human Services Committee; and

(2) To evaluate and consider the best practices, experiences, and results of legislation in other states with regard to medical cannabis.

(b) The commission shall have the following powers:

(1) To evaluate how the laws and programs affecting medical cannabis should operate in this state;

(2) To request and receive data from and review the records of appropriate state agencies to the greatest extent allowed by state and federal law;

(3) To authorize entering into contracts or agreements through the commission's chairperson necessary or incidental to the performance of its duties;

(4) To establish rules and procedures for conducting the business of the commission; and

(5) To conduct studies, hold public meetings, collect data, or take any other action the commission deems necessary to fulfill its responsibilities.

(c) Subject to the availability of funds, the commission shall be authorized to retain the services of attorneys, consultants, subject matter experts, economists, budget analysts, data analysts, statisticians, and other individuals or organizations as determined appropriate by the commission.

31-50-5.

This chapter shall stand repealed on June 30, 2016."

PART IV

SECTION 4-1.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding a new chapter to read as follows:

"CHAPTER 5131-51-1.

(a) As used in this chapter, the term 'low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

(b) The Board of Regents of the University System of Georgia may cause to be designed, developed, implemented, and administered a low THC oil research program to develop rigorous data that will inform and expand the scientific community's understanding of potential treatments for individuals under 18 years of age with medication-resistant epilepsies.

(c) Any such program shall adhere to the regulatory process established by the federal Food, Drug, and Cosmetic Act, as well as other federal laws and regulations governing the development of new medications containing controlled substances.

(d) Any universities and nonprofit institutions of higher education that conduct research may continue any research that is permitted under federal law as well as any additional research is permitted under this chapter.

31-51-2.

To the extent permissible under this chapter, any research program developed pursuant to this chapter shall be designed to permit the voluntary enrollment of all individuals under 18 years of age having medication-resistant epilepsies who are residents of this state and who:

(1) Have been residents of this state for the 24 month period immediately preceding their entry into the program; or

(2) Have been residents of this state continuously since birth if they are less than 24 months old at the time of their entry into the program.

31-51-3.

(a) For purposes of this chapter, the board of regents may act through a unit of the University System of Georgia, a nonprofit corporation research institute, or a nonprofit institution of higher education that conducts research, or any combination thereof.

(b) Any nonprofit corporation research institute approved by the board of regents to participate in the research program established under this chapter shall be required to have the necessary experience, expertise, industry standards and security procedures, and infrastructure to implement such research in accordance with accepted scientific and regulatory standards.

297 (c) The board of regents and its authorized agent may enter into such agreements, among
298 themselves and with other parties, as are reasonable and necessary to implement the
299 provisions of this chapter.

300 31-51-4.

301 (a) The board of regents or its authorized agent may designate an FDA approved supplier
302 of low THC oil and collaborate with a designated supplier to develop a clinical trial or
303 research study protocol to study the use of low THC oil in the treatment of individuals
304 under 18 years of age with medication-resistant epilepsies, which trial or research study
305 shall be conducted at one or more locations in this state. Such supplier shall be required
306 to supply a source of low THC oil that has been standardized and tested in keeping with
307 such standards.

308 (b) The board of regents or its authorized agent shall work with any supplier of low THC
309 oil to commit personnel and other resources to such collaboration and to supply low THC
310 oil for a collaborative study under reasonable terms and conditions to be agreed upon
311 mutually.

312 31-51-5.

313 Any public record, as defined by Code Section 50-18-70, produced pursuant to this chapter
314 shall be exempt from disclosure to the extent provided by Code Section 50-18-72.

315 31-51-6.

316 All activities undertaken pursuant to this chapter shall be subject to availability of funds
317 appropriated to the board of regents or to any other academic or research institution or
318 otherwise made available for purposes of this chapter.

319 31-51-7.

320 (a)(1) Research program participants and their parents, guardian, or legal custodian,
321 employees of the board of regents designated to participate in the research program,
322 program agents and collaborators and their designated employees, and program suppliers
323 of low THC oil and their designated employees shall be immune from state prosecution
324 as provided in Code Section 16-12-191.

325 (2) Physicians, clinical researchers, pharmacy personnel, and all medical personnel in
326 the research program authorized by this chapter shall be immune from state prosecution
327 as provided in Code Section 16-12-191.

328 (b) For purposes of providing proof of research program participation, the board of regents
329 or its agent which administers the research program authorized by this chapter shall provide

appropriate permits, suitable for carrying on their persons or display, as applicable, to research program participants and their parents, guardian, or legal custodian, employees of the board of regents designated to participate in the research program, program agents and collaborators and their designated employees, program suppliers of low THC oil and their designated employees, physicians, clinical researchers, pharmacy personnel, and all medical personnel in the program.

31-51-8.

The board of regents may establish fees for program participants in such amounts as are reasonable to offset program costs.

31-51-9.

The board of regents may adopt such rules and regulations as are reasonable and necessary for purposes of this chapter.

31-51-10.

This chapter shall stand repealed on July 1, 2020."

PART V

SECTION 5-1.

Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general provisions of torts, is amended by adding a new Code section to read as follows:

"51-1-29.6.

(a) As used in this Code section, the term:

(1) 'Caregiver' shall have the same meaning as set forth in Code Section 31-2A-18.

(2) 'Health care institution' shall have the same meaning as set forth in Code Section 51-1-29.5.

(3) 'Health care provider' means any person licensed, certified, or registered under Chapter 9, 10A, 11, 11A, 26, 28, 30, 33, 34, 35, 39, or 44 of Title 43 or Chapter 4 of Title 26.

(4) 'Low THC oil' shall have the same meaning as set forth in Code Section 16-12-190.

(b) A health care institution shall not be subject to any civil liability, penalty, licensing sanction, or other detrimental action and a health care provider shall not be subject to any civil liability, penalty, denial of a right or privilege, disciplinary action by a professional licensing board, or other detrimental action for allowing an individual or caregiver to possess, administer, or use low THC oil on the premises of a health care institution or

362 offices of a health care provider provided that the possession of such substance is in
363 accordance with the laws of this state."

364 **PART VI**

365 **SECTION 6-1.**

366 This Act shall become effective upon its approval by the Governor or upon its becoming law
367 without such approval.

368 **SECTION 6-2.**

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