A Bill

By: Representative House

Filed with: Arkansas Legislative Council
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS CONSTITUTION, AMENDMENT 98,
ALSO KNOWN AS THE "ARKANSAS MEDICAL MARIJUANA
AMENDMENT OF 2016"; TO AUTHORIZE PATIENTS WITH A
MEDICAL CONDITION THAT HAS BEEN TREATED OR COULD BE
TREATED WITH AN OPIOID TO USE MEDICAL MARIJUANA AS AN
ALTERNATIVE TO TREATMENT WITH AN OPIOID; AND FOR
OTHER PURPOSES.

Subtitle

TO AMEND THE ARKANSAS MEDICAL MARIJUANA
AMENDMENT OF 2016; AND TO AUTHORIZE
CERTAIN PATIENTS TO USE MEDICAL MARIJUANA
AS AN ALTERNATIVE TO TREATMENT WITH AN
OPIOID.

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

SECTION 1. DO NOT CODIFY. Legislative findings and intent.
(a) The General Assembly finds that:

(1) The opioid epidemic is the most significant public health
and safety crisis that this state is facing;

(2) Fueled by the growing opioid epidemic, drug overdoses have
now become the leading cause of death nationwide for people under fifty-five
(55) years of age;

(3) Physical tolerance to opioids can begin to develop as early
as two (2) to three (3) days following the continuous use of opioids, which is a factor contributing significantly to the addictive potential of opioids;

(4) The increased prevalence of opioid use disorder and the risking number of opioid overdose deaths are largely due to the dramatic rise in the rate and amount of opioids prescribed for pain over the past several decades;

(5) In the absence of alternative treatments, reducing the supply of prescription opioids too abruptly may cause a person who had been using prescription opioids to begin using an illicit drug such as heroin, thus increasing the risk of a drug overdose;

(6) In 2018, Illinois enacted legislation to create a program that allows qualified patients in Illinois who have a medical condition for which an opioid has been or could be prescribed to use medical cannabis as an alternative to opioid;

(7) Patients began registering for the Illinois program, known as the "Opioid Alternative Pilot Program", on January 31, 2019;

(8) In Arkansas, the drug overdose death rate has increased from five and four-tenths (5.4) deaths per one hundred thousand (100,000) persons in 2000 to fourteen (14.0) deaths per one hundred thousand (100,000) persons in 2016;

(9) If this trend continues, the drug overdose death rate may surpass the motor vehicle death rate, which was twenty (20) deaths per one hundred thousand (100,000) persons in 2016; and

(10) All additional measures must be taken to combat the increased prevalence of opioid use disorder and opioid addiction in this state.

(b) It is the intent of this act to authorize a program for citizens of Arkansas to use medical marijuana as an alternative to use of opioids.

SECTION 2. Pursuant to § 23 of Arkansas Constitution, Amendment 98, also known as the "Arkansas Medical Marijuana Amendment of 2016", Arkansas Constitution, Amendment 98, § 2(13), concerning the definition of "qualifying medical condition", is amended to read as follows:

(13) “Qualifying medical condition” means one (1) or more of the following:
(A) Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette's syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

(B) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis; and

(C) Any other medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care; and

(D) Any other medical condition or its treatment approved by the Department of Health under § 4 of this amendment;

SECTION 3. Pursuant to § 23 of Arkansas Constitution, Amendment 98, also known as the "Arkansas Medical Marijuana Amendment of 2016", Arkansas Constitution, Amendment 98, § 2, concerning the definitions under the Arkansas Medical Marijuana Amendment of 2016, is amended to add an additional subdivision to read as follows:

(27) "Opioid" means a drug or medication that is a Schedule II controlled substance that is used to relieve pain, including without limitation:

(A) Codeine;

(B) Fentanyl;

(C) Hydrocodone;

(D) Morphine; and

(E) Oxycodone.

SECTION 4. Arkansas Code Title 20, Chapter 56, Subchapter 3, is amended to add an additional section to read as follows:

20-56-305. Alternative to opioids.
(a) The Department of Health, the Medical Marijuana Commission, and the Alcoholic Beverage Control Division shall ensure that qualifying patients under Arkansas Constitution, Amendment 98, who have a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care have access to medical marijuana in the same manner as qualifying patients with other qualifying medical conditions as defined in Arkansas Constitution, Amendment 98, § 2.

(b)(1) Within thirty (30) days of the effective date of this section, the department, commission, and division shall promulgate rules to implement this section.

(2)(A) When adopting the initial rules to implement this section, the final rules shall be filed with the Secretary of State for adoption under § 25-15-204(f):

(i) On or before January 1, 2020; or
(ii) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

(B) The department, commission, and division shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rule for approval before January 1, 2020.

(c) The department, commission, and division shall report annually to the Legislative Council regarding:

(1) The number of applications received from applicants seeking a registry identification card due to a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care;

(2) The nature of the medical condition of each applicant seeking a registry identification card due to a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care; and

(3) The number of applications for registry identification cards approved and denied from applicants seeking a registry identification card due to a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care.
Referred by Representative House
Prepared by: JMB/JMB