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Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1430

Introduced by

Representatives P. Anderson, Glassheim, Hawken, Maragos, M. Nelson, Schneider, Strinden

A BILL for an Act to create and enact chapter 19-24 of the North Dakota Century Code, relating to the use of medical marijuana; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 19-24 of the North Dakota Century Code is created and enacted as follows:

19-24-01. Definitions.

For the purposes of this chapter:

1. "Allowable amount of cannabis" means:
   a. Two and one-half ounces of cannabis;
   b. The quantity of cannabis products as established by department regulation;
   c. If the cardholder has a registry identification card allowing cultivation, six cannabis plants; and
   d. If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products which were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated.
2. "Bona fide practitioner-patient relationship" means:
   a. A practitioner and patient have a treatment or consulting relationship, during the course of which the practitioner has completed an assessment of the patient's medical history and current medical condition, including an in-person physical examination;
   b. The practitioner has consulted with the patient with respect to the patient's debilitating medical condition; and

c. The practitioner is available to or offers to provide followup care and treatment to the patient, including patient examinations.

3. "Cannabis product manufacturing facility" means an entity registered with the department under this chapter which acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to medical cannabis dispensaries.

4. "Cannabis products" means concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

5. "Cannabis testing facility" or "testing facility" means an independent entity registered with the department to analyze the safety and potency of cannabis.

6. "Cardholder" means a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card.

7. "Cultivation facility" means an entity registered with the department under this chapter which acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to medical cannabis establishments.

8. "Debilitating medical condition" means:

a. Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, ulcerative colitis, agitation of Alzheimer's disease, post-traumatic stress disorder, or the treatment of these conditions;

b. A chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

c. Any other medical condition or its treatment added by the department, as provided for in this chapter.

9. "Department" means the state department of health.

10. "Designated caregiver" means an individual who:

a. Is at least twenty-one years of age;

b. Has agreed to assist with a qualifying patient's medical use of cannabis;

c. Has not been convicted of a disqualifying felony offense; and

d. Assists no more than five qualifying patients with those patients' medical use of cannabis, unless the designated caregiver's qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed.

11. "Disqualifying felony offense" means:

a. A dangerous special offense as provided in section 12.1-32-09 which was classified as a felony; or

b. A violation of a state or federal controlled substances law that was classified as a felony in the jurisdiction where the individual was convicted, not including:

(1) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten or more years earlier; or

(2) An offense that consisted of conduct for which this chapter would likely have prevented a conviction, but the conduct either occurred before the enactment of this chapter or was prosecuted by an authority other than the state.

12. "Edible cannabis products" means products that:

a. Contain or are infused with cannabis or an extract of cannabis;

b. Are intended for human consumption by oral ingestion; and

c. Are presented in the form of foodstuffs, beverages, extracts, oils, tinctures, and other similar products.

13. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by the cardholder or cardholders allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation.

14. "Medical cannabis" or "cannabis" has the meaning given to the term "marijuana" in section 19-03.1-01.

15. "Medical cannabis dispensary" or "dispensary" means an entity registered with the department under this chapter which acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials to cardholders.

16. "Medical cannabis establishment" means a cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a dispensary.

17. "Medical cannabis establishment agent" means an owner, officer, board member, employee, or volunteer at a medical cannabis establishment.

18. "Medical use" includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition. The term does not include:

a. The cultivation of cannabis by a nonresident cardholder;

b. The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the cardholder's registry identification card; or

c. The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility.

19. "Nonresident cardholder" means a individual who:

a. Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other individual with authority to consent to the medical treatment of an individual who has been diagnosed with a debilitating medical condition;

b. Is not a resident of the state or who has been a resident of the state for fewer than forty-five days;

c. Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States which allows the individual to use cannabis for medical purposes in the jurisdiction of issuance; and

d. Has submitted any documentation required by the department, and has received confirmation of registration.

20 "Practitioner" means an individual who is licensed with authority to prescribe drugs. In relation to a nonresident cardholder, "practitioner" means an individual who is licensed with authority to prescribe drugs to humans in the state of the patient's residence.

21. "Qualifying patient" means an individual who has been diagnosed by a practitioner as having a debilitating medical condition.

22. "Registry identification card" means a document issued by the department which identifies an individual as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card under this chapter.

23. "Written certification" means a document dated and signed by a practitioner stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification must affirm that it is made in the course of a bona fide practitioner-patient relationship and must specify the qualifying patient's debilitating medical condition.

19-24-02. Protections for the medical use of cannabis.

1. A cardholder who possesses a valid registry identification card is not subject to arrest, prosecution, or penalty in any manner under chapter 19-03.1 or 19-03.4, or denial of any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau for:

   a. The medical use of cannabis under this chapter, if the cardholder does not possess more than the allowable amount of cannabis, and if any cannabis plants are either cultivated in an enclosed, locked facility or are being transported;

   b. Reimbursement by a registered qualifying patient to the patient's registered designated caregiver for direct costs incurred by the registered designated caregiver for assisting with the registered qualifying patient's medical use of cannabis;

   c. Transferring cannabis to a testing facility for testing;

   d. Compensating a dispensary or a testing facility for goods or services provided;

e. Selling, transferring, or delivering cannabis seeds produced by the cardholder to a cultivation facility or dispensary; or

f. Offering or providing cannabis to a cardholder for a registered qualifying patient's medical use, to a nonresident cardholder, or to a dispensary if nothing of value is transferred in return and the individual giving the cannabis does not knowingly cause the recipient to possess more than the allowable amount of cannabis.

2. A nonresident cardholder may not be subject to arrest, prosecution, or penalty under chapter 19-03.1 or 19-03.4, or denied any right or privilege, including civil penalty or disciplinary action by a business or occupational or professional licensing board or entity, for transporting, purchasing, possessing, or using medical cannabis under this chapter if the nonresident cardholder does not possess more than two and one-half ounces of cannabis and the quantity of cannabis products established by department regulation.

3. There is a presumption that a qualifying patient or designated caregiver is engaged in the medical use of cannabis pursuant to this chapter if the cardholder is in possession of a registry identification card and an amount of cannabis which does not exceed the allowable amount of cannabis. The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating a qualifying patient's debilitating medical condition or symptoms associated with the qualifying patient's debilitating medical condition pursuant to this chapter.

4. A practitioner may not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including civil penalty or disciplinary action by the state board of medical examiners or by any other occupational or professional licensing board or bureau, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical condition, provided nothing in this chapter prevents a practitioner from being sanctioned for:

a. Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner-patient relationship; or

b. Failing to properly evaluate a patient's medical condition.

5. An attorney may not be subject to disciplinary action by the state bar association or other professional licensing association for providing legal assistance to prospective or registered medical cannabis establishments or others related to activity that is no longer subject to criminal penalties under state law pursuant to this chapter.

6. An individual may not be subject to arrest, prosecution, or penalty in any manner under chapter 19-03.1 or 19-03.4, or denied any right or privilege, including any civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for:

a. Providing or selling cannabis paraphernalia to a cardholder, nonresident cardholder, or to a medical cannabis establishment;

b. Being in the presence or vicinity of the medical use of cannabis which are exempt from criminal penalties under this chapter;

c. Allowing the individual's property to be used for activities that are exempt from criminal penalties under this chapter; or

d. Assisting a registered qualifying patient with the act of using or administering cannabis.

7. A dispensary or a dispensary agent is not subject to prosecution, search, or inspection, except by the department under this chapter, seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting pursuant to this chapter and rules authorized by this chapter to:

a. Possess, transport, and store cannabis and cannabis products;

b. Deliver, transfer, and transport cannabis to testing facilities and compensate testing facilities for services provided;

c. Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;

d. Purchase or otherwise acquire cannabis from cultivation facilities or dispensaries, and cannabis products from cannabis product manufacturing facilities or dispensaries; and

e. Deliver, sell, supply, transfer, or transport cannabis, cannabis products, and cannabis paraphernalia, and related supplies and educational materials to cardholders, nonresident cardholders, and dispensaries.

8. A cultivation facility or a cultivation facility agent is not subject to prosecution, search, or inspection, except by the department under this chapter, seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity for acting under this chapter and rules authorized by this chapter to:

a. Possess, plant, propagate, cultivate, grow, harvest, produce, process, manufacture, compound, convert, prepare, pack, repack, or store cannabis;

b. Deliver, transfer, or transport cannabis to testing facilities and compensate testing facilities for services provided;

c. Accept cannabis offered by a cardholder or nonresident cardholder if nothing of value is exchanged in return;

d. Purchase or otherwise acquire cannabis from cultivation facilities;

e. Purchase cannabis seeds from cardholders, nonresident cardholders, and the equivalent of a medical cannabis establishment that is registered in another jurisdiction; and

f. Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, and related supplies and educational materials to cultivation facilities and dispensaries.

9. A cannabis product manufacturing facility or a cannabis product manufacturing facility agent is not subject to prosecution, search, or inspection, except by the department under this chapter, seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity for acting under this chapter and rules authorized by this chapter to:

a. Purchase or otherwise acquire cannabis from cultivation facilities, and cannabis products or cannabis from cannabis product manufacturing facilities;

b. Possess, produce, process, manufacture, compound, convert, prepare, pack, repack, and store cannabis and cannabis products;

c. Deliver, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, and related supplies and educational materials to dispensaries and cannabis product manufacturing facilities;

d. Deliver, transfer, or transport cannabis to testing facilities and compensate testing facilities for services provided; or

e. Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis paraphernalia, and related supplies and educational materials to cannabis product manufacturing facilities or dispensaries.

10. A testing facility or testing facility agent is not subject to prosecution, search, or inspection, except by the department under this chapter, seizure, or penalty in any manner, and may not be denied any right or privilege, including civil penalty or disciplinary action by a court or business licensing board or entity, for acting under this chapter and rules authorized by this chapter to:

a. Acquire, possess, transport, and store cannabis and cannabis products obtained from cardholders, nonresident cardholders, and medical cannabis establishments;

b. Return the cannabis and cannabis products to the cardholders, nonresident cardholders, and medical cannabis establishment from which it was obtained;

c. Test cannabis, including for potency, pesticides, mold, or contaminants; and

d. Receive compensation for those services.

11. A cardholder, nonresident cardholder, or the equivalent of a medical cannabis establishment that is registered in another jurisdiction may sell or donate cannabis seeds to cultivation facilities.

12. Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under this chapter, or acts incidental to that use, may not be seized or forfeited. This chapter may not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under this chapter, nor prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used under this chapter.

13. Possession of, or application for, a registry identification card does not constitute probable cause or reasonable suspicion, nor may it be used to support a search of the individual or property of the individual possessing or applying for the registry identification card, or otherwise subject the individual or property of the individual to inspection by any governmental agency.

14. For the purposes of state law, activities related to medical cannabis must be considered lawful as long as the activities are in accordance with this chapter.

15. A law enforcement officer employed by an agency that receives state or local government funds may not expend any state or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of the Controlled Substances Act [21 U.S.C. 811 et seq.] if the officer has reason to believe the activity is in compliance with this chapter, nor may that officer expend any state or local resources, including the officer’s time, to provide any information or logistical support related to such activity to any federal law enforcement authority or prosecuting entity.

19-24-03. Limitations.

1. This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

   a. Undertaking any task under the influence of cannabis, when doing so would constitute negligence or professional malpractice;

   b. Possessing cannabis or otherwise engaging in the medical use of cannabis in any correctional facility;

   c. Smoking cannabis:

      (1) On any form of public transportation; or

      (2) In any public place or any place that is open to the public;

   c. Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, train, or motorboat while under the influence of cannabis, except that a registered qualifying patient or nonresident cardholder may not be considered to be under the influence of cannabis solely because of the presence of metabolites

or components of cannabis that appear in insufficient concentration to cause impairment.

19-24-04. Discrimination prohibited.

1. A school or landlord may not refuse to enroll or lease to and may not otherwise penalize an individual solely for the individual's status as a cardholder, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.
2. For the purposes of medical care, including organ and tissue transplants, a registered qualifying patient's use of cannabis according to this chapter is considered the equivalent of the authorized use of any other medication used at the discretion of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from necessary medical care.
3. An individual may not be denied primary residential responsibility of or parenting time with a minor solely for the individual's status as a cardholder, and there may not be a presumption of neglect or child endangerment for conduct allowed under this chapter, unless the individual's behavior is such that it creates an unreasonable danger to the safety of the minor as established by clear and convincing evidence.
4. Except as provided in this chapter, a registered qualifying patient who uses cannabis for medical purposes must be afforded all the same rights under state and local law, including those guaranteed under chapter 14-02.4, as the individual would be afforded if the patient were solely prescribed pharmaceutical medications, as it pertains to:
   a. Any interaction with a individual's employer;
   b. Drug testing by a individual's employer; or
   c. Drug testing required by any state or local law, agency, or government official.
5. The rights provided by this section do not apply to the extent the rights conflict with an employer's obligations under federal law or regulations or to the extent the rights would disqualify an employer from a monetary or licensing-related benefit under federal law or regulations.
6. An employer is not required to allow the ingestion of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. A registered qualifying patient may not be considered to be under the influence of cannabis solely

because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

7. A school, landlord, or employer may not be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.

19-24-05. Addition of debilitating medical conditions.

Any resident of the state may petition the department to add serious medical conditions or the condition's treatments to the list of debilitating medical conditions listed in this chapter. The department shall consider petitions in the manner required by department regulation, including public notice and hearing. The department shall approve or deny a petition within one hundred eighty days of its submission. The approval or denial of any petition is a final decision of the department, subject to judicial review.

19-24-06. Acts not required - Acts not prohibited.

1. This chapter does not require:
   a. Medial assistance or a private insurer to reimburse an individual for costs associated with the medical use of cannabis;
   b. Any person in lawful possession of property to allow a guest, client, customer, or other visitor to smoke cannabis on or in that property; or
   c. A landlord to allow the cultivation of cannabis on the rental property.
2. This chapter does not prohibit an employer from disciplining an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis.

19-24-07. Issuance - Denial.

1. The department shall begin issuing registry identification cards to qualifying patients no later than one hundred forty days after the effective date of this Act who submit the following, in accordance with the department's regulations:
   a. A written certification issued by a practitioner within ninety days immediately preceding the date of an application;
   b. The application or renewal fee;
   c. The name, address, and date of birth of the qualifying patient, except if the applicant is homeless, no address is required;
   d. The name, address, and telephone number of the qualifying patient's practitioner;

e. The name, address, and date of birth of the designated caregiver, or designated caregivers, chosen by the qualifying patient;

f. If more than one designated caregiver is designated at any given time, documentation demonstrating a greater number of designated caregivers is needed due to the patient's age or medical condition;

g. The name of no more than two dispensaries that the qualifying patient designates; and

h. If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use.

2. If the qualifying patient is unable to submit the information required by this section due to the individuals' age or medical condition, the person responsible for making medical decisions for the qualifying patient may do so on behalf of the qualifying patient.

3. Except as provided in subdivision d, the department shall:

a. Verify the information contained in an application or renewal submitted pursuant to this chapter and approve or deny an application or renewal within fifteen days of receiving a completed application or renewal application;

b. Issue registry identification cards to a qualifying patient and the patient's designated caregivers within five days of approving the application or renewal. A designated caregiver must have a registry identification card for each of the designated caregiver's qualifying patients; and

c. Enter the registry identification number of the dispensary or dispensaries the patient designates into the verification system.

4. The department may conduct a background check of the prospective designated caregiver in order to carry out this provision.

5. The department may not issue a registry identification card to a qualifying patient who is younger than eighteen years of age unless:

a. The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and

b. The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

(1) Allow the qualifying patient's medical use of cannabis;

(2) Serve as the qualifying patient's designated caregiver; and

(3) Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

6. The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

a. Did not provide the required information, fee, or materials;

b. Previously had a registry identification card revoked; or

c. Provided false information.

7. The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:

a. The designated caregiver does not meet the requirements of this chapter;

b. The applicant did not provide the information required;

c. The designated caregiver previously had a registry identification card revoked; or

d. The applicant or the designated caregiver provided false information.

8. The department shall give written notice to the qualifying patient of the reason for denying a registry identification card to the qualifying patient or to the qualifying patient's designated caregiver.

9. Denial of an application or renewal is considered a final department action, subject to judicial review.

10. A copy of the individual's application, written certification, and proof the application was submitted to the department must be deemed a registry identification card until a qualifying patient who has submitted an application and the required fee to the department receives a registry identification card or a rejection.

11. A copy of the qualifying patient's application, written certification, and proof the application was submitted to the department must be deemed a registry identification card until a designated caregiver whose qualifying patient has submitted an application and the required fee receives a registry identification card or a rejection.

a. A valid, written certification issued within the previous year must be deemed a registry identification card for a qualifying patient until twenty-five days after the department makes applications available.

12. The following must be deemed a designated caregiver registry identification card until twenty-five days after the department makes applications available:

a. A copy of a qualifying patient's valid written certification issued within the previous year; and

b. A signed affidavit attesting that the individual has significant responsibility for managing the well-being of the patient and that the individual has been chosen to assist the qualifying patient.

19-24-08. Registry identification cards.

1. A registry identification card must contain:

a. The name of the cardholder;

b. A designation of whether the cardholder is a qualifying patient or a designated caregiver;

c. The date of issuance and expiration date;

d. A random ten-digit alphanumeric identification number, containing at least four numbers and at least four letters, which is unique to the cardholder;

e. If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver will assist;

f. A clear indication of whether the cardholder has been designated to cultivate cannabis plants for the qualifying patient's medical use;

g. A photograph of the cardholder, if the department's regulations require one; and

h. The phone number or website address where the card can be verified.

2. Except as provided in this subsection, the expiration date must be one year after the date of issuance.

3. If the practitioner stated in the written certification that the qualifying patient would benefit from cannabis until a specified earlier date, the registry identification card expires on that date.

19-24-09. Verification system.

1. The department shall maintain a confidential list of the individuals to whom the department has issued registry identification cards and those individuals' addresses, phone numbers, and registry identification numbers. This confidential list must not be combined or linked in any manner with any other list or database, or be used for any purpose not provided for in this chapter.
2. Within one hundred twenty days of the effective date of this Act, the department shall establish a secure telephone or web-based verification system. The verification system must allow law enforcement personnel and medical cannabis establishments to enter a registry identification number and determine whether the number corresponds with a current, valid registry identification card. The system may disclose only:
   a. Whether the identification card is valid;
   b. The name of the cardholder;
   c. Whether the cardholder is a qualifying patient or a designated caregiver;
   d. Whether the cardholder is permitted to cultivate cannabis plants;
   e. The registry identification number of any affiliated registered qualifying patient; and
   f. The registry identification of the qualifying patient's dispensary or dispensaries, if any.

19-24-10. Notification to department - Civil penalty.

1. The following notifications and department responses are required:
   a. A registered qualifying patient shall notify the department within ten days of any change in name or address, or if the registered qualifying patient ceases to have a debilitating medical condition.
   b. A registered designated caregiver shall notify the department within ten days of any change in name or address, or if the designated caregiver becomes aware the qualifying patient passed away.
   c. The qualifying patient shall notify the department before a registered qualifying patient changes designated caregivers.

d. The registered qualifying patient shall notify the department when the registered qualifying patient changes preference as to who may cultivate cannabis for the qualifying patient.

e. The cardholder shall notify the department within ten days of becoming aware that the cardholder lost a registry identification card.

f. The registered qualifying patient shall notify the department before a registered qualifying patient changes designated dispensary or dispensaries.

2. The patient's designated caregiver shall make the required notification if the qualifying patient is unable to make the notification due to age or medical condition.

3. The department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within ten days of receiving the updated information and a twenty dollar fee when a cardholder notifies the department of items listed in subdivision a, but remains eligible under this chapter. If the individual notifying the department is a registered qualifying patient, the department also shall issue the registered designated caregiver a new registry identification card within ten days of receiving the updated information.

4. If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card becomes void. However, the registered qualifying patient has fifteen days to dispose of or give away that patient's cannabis.

5. A medical cannabis establishment shall notify the department within one business day of any theft or significant loss of cannabis.

19-24-11. Affirmative defense - Dismissal for medical canabis.

1. Except as provided in section19-24-02 and this section, an individual may assert the medical purpose for using cannabis as a defense to any prosecution involving cannabis, and that defense must be presumed valid if the evidence shows that:

a. A practitioner has stated, in the practitioner's professional opinion, after having completed a full assessment of the individual's medical history and current medical condition made in the course of a bona fide practitioner-patient

relationship, the patient has a debilitating medical condition and the potential benefits of using cannabis for medical purposes would likely outweigh the health risks for the individual;

b. The individual was in possession of no more than two and one-half ounces of cannabis, the amount of cannabis products allowed by department regulation, six cannabis plants, and the cannabis produced by those plants;

c. The individual was engaged in the acquisition, possession, use, manufacture, cultivation, or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis to treat or alleviate the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition; and

d. Any cultivation of cannabis and storage of more than two and one-half ounces of cannabis occurred in a secure location that only the individual asserting the defense could access.

2. The defense and motion to dismiss may not prevail if the prosecution proves that:

a. The individual had a registry identification card revoked for misconduct; or

b. The purposes for the possession or cultivation of cannabis were not solely for palliative or therapeutic use by the individual with a debilitating medical condition who raised the defense.

3. An individual is not required to possess a registry identification card to raise the affirmative defense under this section.

4. If an individual demonstrates the individual's medical purpose for using cannabis pursuant to this section, except as provided in section 19-24-02 the individual may not be subject to the following for the individual's use of cannabis for medical purposes:

a. Disciplinary action by an occupational or professional licensing board or bureau; or

b. Forfeiture of any interest in or right to any property other than cannabis.

19-24-12. Registration of medical cannabis establishment.

1. The department shall register the prospective medical cannabis establishment and issue a registration certificate and a random ten-digit alphanumeric identification

number if all of the following conditions are satisfied no later than ninety days after receiving an application for a medical cannabis establishment:

a. The prospective medical cannabis establishment has submitted all of the following:

(1) The application fee.

(2) An application, including:

(a) The legal name of the prospective medical cannabis establishment;

(b) The physical address of the prospective medical cannabis establishment which is not within one thousand feet of a public or private school existing before the date of the medical cannabis establishment application;

(c) The name and date of birth of each principal officer and board member of the proposed medical cannabis establishment; and

(d) Any additional information requested by the department.

(3) Operating procedures consistent with rules for oversight of the proposed medical cannabis establishment, including procedures to ensure accurate recordkeeping and adequate security measures.

(4) If the city or county where the proposed medical cannabis establishment would be located has enacted zoning restrictions, a sworn statement certifying the proposed medical cannabis establishment is in compliance with the restrictions.

(5) If the city or county where the proposed medical cannabis establishment requires a local registration, license, or permit, a copy of the registration, license, or permit.

b. None of the principal officers or board members has served as a principal officer or board member for a medical cannabis establishment that has had its registration certificate revoked.

c. None of the principal officers or board members is under twenty-one years of age.

d. At least one principal officer is a resident of this state.

2. If a local government has enacted a numerical limit on the number of medical cannabis establishments in the locality and a greater number of applicants seek registrations, the department shall solicit and consider input from the local government as to its preference or preferences for registration.

3. The department shall issue a renewal registration certificate within ten days of receipt of the prescribed renewal application and renewal fee from a medical cannabis establishment if the establishment's registration certificate is not under suspension and has not been revoked.

19-24-13. Local ordinances.

1. A local government may enact ordinances or regulations not in conflict with this chapter, or with regulations enacted pursuant to this chapter, governing the time, place, manner, and number of medical cannabis establishment operations in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of a medical cannabis establishment that may operate in that locality.

2. A local government may not prohibit dispensaries, either expressly or through the enactment of ordinances or regulations which make the dispensaries' operation impracticable in the jurisdiction.

3. Local government may require medical cannabis establishments to obtain a local license, permit, or registration to operate, and may charge a reasonable fee for the local license, permit, or registration.

19-24-14. Requirements - Prohibitions - Penalties.

1. Medical cannabis establishments shall conduct a criminal history record check of every individual seeking to become a principal officer, board member, agent, volunteer, or employee before the individual begins working at the medical cannabis establishment.

2. A medical cannabis establishment may not employ any individual who:

   a. Was convicted of a disqualifying felony offense; or

   b. Is under twenty-one years of age.

3. The operating documents of a medical cannabis establishment must include procedures for the oversight of the medical cannabis establishment and procedures to ensure accurate recordkeeping.

4. A medical cannabis establishment shall implement appropriate security measures designed to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.

5. All cultivation, harvesting, manufacture, and packaging of cannabis must take place in a secure facility at a physical address provided to the department during the registration process. The secure facility may be accessible only by agents of the medical cannabis establishment, emergency personnel, and adults who are twenty-one years and older and who are accompanied by medical cannabis establishment agents.

6. A medical cannabis establishment other than a cannabis product manufacturer may not produce cannabis concentrates, cannabis extractions, or other cannabis products.

7. A medical cannabis establishment may not share office space with or refer patients to a practitioner.

8. A medical cannabis establishment may not permit any individual to consume cannabis on the property of a medical cannabis establishment.

9. Medical cannabis establishments are subject to inspection by the department during business hours.

10. Before cannabis may be dispensed to a cardholder or nonresident cardholder, a dispensary agent shall:

    a. Make a diligent effort to verify the registry identification card or registration presented to the dispensary is valid;

    b. Make a diligent effort to verify the individual presenting the documentation is the individual identified on the document presented to the dispensary agent;

    c. Not believe that the amount dispensed would cause the individual to possess more than the allowable amount of cannabis; and

    d. Make a diligent effort to verify the dispensary is the current dispensary that was designated by the cardholder or nonresident cardholder.

11. A dispensary may not dispense more than two and one-half ounces of cannabis to a nonresident cardholder or a registered qualifying patient, directly or via a designated caregiver, in any fourteen-day period. Dispensaries shall ensure compliance with this limitation by maintaining internal confidential records that include records specifying how much cannabis is being dispensed to the nonresident cardholder or registered qualifying patient and whether it was dispensed directly to a registered qualifying patient or to the designated caregiver.

19-24-15. Department regulations.

The health council shall adopt rules no later than one hundred twenty days after the effective date of this Act:

1. Governing the manner in which the department will consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in this chapter, including public notice of and an opportunity to comment in public hearings on the petitions;
2. Establishing the form and content of registration and renewal applications submitted under this chapter;
3. Establishing a system to numerically score competing medical cannabis establishment applicants, in cases in which more applicants apply than are allowed by the local government, which must include analysis of:
   a. The preference of the local government;
   b. In the case of dispensaries, the suitability of the proposed location and the proposed location's accessibility for patients;
   c. The character, veracity, background, qualifications, and relevant experience of principal officers and board members; and
   d. The business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries, must include the ability to maintain an adequate supply of cannabis, plans to ensure safety and security of patrons and the community, procedures to be used to prevent diversion, and any plan for making cannabis available to low-income registered qualifying patients.

4. Governing the manner in which it will consider applications for and renewals of registry identification cards, which may include creating a standardized written certification form;

5. Governing medical cannabis establishments with the goals of ensuring the health and safety of qualifying patients and preventing diversion and theft without imposing an undue burden or compromising the confidentiality of cardholders, including:

   a. Oversight requirements;

   b. Recordkeeping requirements;

   c. Security requirements, including lighting, physical security, and alarm requirements;

   d. Health and safety regulations, including restrictions on the use of pesticides that are injurious to human health;

   e. Standards for the manufacture of cannabis products and both the indoor and outdoor cultivation of cannabis by cultivation facilities;

   f. Requirements for the transportation and storage of cannabis by medical cannabis establishments;

   g. Employment and training requirements, including requiring each medical cannabis establishment to create an identification badge for each agent;

   h. Standards for the safe manufacture of cannabis products, including extracts and concentrates;

   i. Restrictions on the advertising, signage, and display of medical cannabis; however the restrictions may not prevent appropriate signs on the property of a dispensary, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events;

   j. Requirements and procedures for the safe and accurate packaging and labeling of medical cannabis; and

   k. Certification standards for testing facilities, including requirements for equipment and qualifications for personnel.

6. Establishing procedures for suspending or terminating the registration certificates or registry identification cards of cardholders and medical cannabis establishments that

commit multiple or serious violations of the provisions of this chapter or the regulations adopted under this section;

7. Establishing labeling requirements for cannabis and cannabis products, including requiring cannabis products' labels to include the following:
   a. The length of time it typically takes for a product to take effect;
   b. Disclosure of the ingredients and possible allergens;
   c. A nutritional fact panel; and
   d. In the case of edible cannabis, products be clearly identifiable, when practicable, with a standard symbol indicating the product contains cannabis.
8. Procedures for the registration of nonresident cardholders and cardholder's designation of no more than two dispensaries which must require the submission of:
   a. A practitioner's statement confirming the patient has a debilitating medical condition; and
   b. Documentation demonstrating the nonresident cardholder is allowed to possess cannabis or cannabis preparations in the jurisdiction where the cardholder resides.
9. Establishing the amount of cannabis products, including the amount of concentrated cannabis, each cardholder and nonresident cardholder is allowed to possess.
10. Establishing reasonable application and renewal fees for registry identification cards and registration certificates, according to the following:
   a. Application fees for medical cannabis establishments may not exceed five thousand dollars, with this upper limit adjusted annually for inflation;
   b. The total fees collected must generate revenues sufficient to offset all expenses of implementing and administering this chapter;
   c. The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income;
   d. The fees charged to qualifying patients, nonresident cardholders, and caregivers may not be more than the costs of processing the qualified patients applications and issuing a registry identification card or registration; and
   e. The department may accept donations from private sources to reduce application and renewal fees.

19-24-16. Penalties.

1. A cardholder or medical cannabis establishment that willfully fails to provide a notice required by section 19-24-10 is guilty of a civil infraction, punishable by a fine of no more than one hundred fifty dollars.
2. In addition to any other penalty applicable by law, a medical cannabis establishment or an agent of a medical cannabis establishment which intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or to a medical cannabis establishment or the medical cannabis establishment's agent is guilty of a class C felony. A person convicted under this subsection may not continue to be affiliated with the medical cannabis establishment and is disqualified from further participation under this chapter.
3. In addition to any other penalty applicable in law, a cardholder or nonresident cardholder who intentionally sells or otherwise transfers cannabis in exchange for anything of value to a person other than a cardholder, a nonresident cardholder, or a medical cannabis establishment or a medical cannabis establishment's agent is guilty of a class C felony.
4. An individual who intentionally makes a false statement to a law enforcement official about any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is guilty of a class B misdemeanor. This penalty is in addition to any other penalties that may apply for making a false statement or for the possession, cultivation, or sale of cannabis not protected by this chapter. If an individual convicted of violating this section is a cardholder, the individual is disqualified from further participation under this chapter.
5. A person that knowingly submits false records or documentation required by the department to certify a medical cannabis establishment under this chapter is guilty of a class C felony.
6. A practitioner who knowingly refers patients to a medical cannabis establishment or to a designated caregiver, who advertises in a medical cannabis establishment, or who issues written certifications while holding a financial interest in a medical cannabis establishment must be fined up to one thousand dollars.

7. It is a class B misdemeanor for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to this chapter.

8. A medical cannabis establishment is subject to a fine of up to one thousand dollars for any violation of this chapter, or the rules issued under this chapter if no penalty has been specified. This penalty is in addition to any other penalties applicable by law.

19-24-17. Suspension - Revocation.

1. The department may on its own motion or on complaint, after investigation and opportunity for a public hearing at which the medical cannabis establishment has been afforded an opportunity to be heard, suspend or revoke a registration certificate for multiple negligent or knowing violations or for a serious and knowing violation by the registrant or any of the registrant's agents of this chapter or any rules under this chapter.

2. The department shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing, in writing to the medical cannabis establishment at the address on the registration certificate. A suspension may not be for a period longer than six months.

3. A medical cannabis establishment may continue to possess cannabis during a suspension but that establishment may not dispense, transfer, or sell cannabis during the suspension. A cultivation facility may continue to cultivate and possess cannabis plants during a suspension, but that cultivation facility may not dispense, transfer, or sell cannabis during the suspension.

4. The department immediately shall revoke the registry identification card of any cardholder who sells cannabis to an individual who is not allowed to possess cannabis for medical purposes under this chapter, and the cardholder is disqualified from further participation under this chapter.

5. The department may revoke the registry identification card of any cardholder who knowingly commits multiple unintentional violations or a serious knowing violation of this chapter.

6. Revocation is a final decision of the department and is subject to judicial review.

19-24-18. Confidentiality.

1. Data in registration applications and supporting data submitted by qualifying patients, designated caregivers, nonresident cardholders, and medical cannabis establishments, including data on designated caregivers and practitioners, are private data on individuals that is confidential and exempt from section 44-04-18.
2. Data kept or maintained by the department may not be used for any purpose not provided for in this chapter and may not be combined or linked in any manner with any other list or database.
3. Data kept or maintained by the department may be disclosed as necessary for:
   a. The verification of registration certificates and registry identification cards;
   b. Submission of the annual report;
   c. Notification of state or local law enforcement of apparent criminal violations of this chapter;
   d. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
   e. Notification of the state board of medical examiners if there is reason to believe a practitioner provided a written certification, if the department has reason to believe the practitioner otherwise violated the standard of care for evaluating medical conditions.
4. Any information kept or maintained by a medical cannabis establishment must identify cardholders by the cardholders' registry identification numbers and must not contain names or other personally identifying information.
5. At the cardholder's request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.
6. Any department hard drive or other data-recording media that are no longer in use and which contain cardholder information must be destroyed.

19-24-19. Business deductions.

Notwithstanding any federal tax law to the contrary, in computing net income for a medical cannabis establishment, there must be allowed as a deduction from state taxes all the ordinary

and necessary expenses paid or incurred during the taxable year in carrying on a trade or business as a medical cannabis establishment, including reasonable allowance for salaries or other compensation for personal services actually rendered.

19-24-20. Advisory committee.

1. A nine-member oversight committee is composed of: one member of the house of representatives selected by the house majority leader; one representative of the department selected by the state health officer; one member of the senate selected by the senate majority leader; and the following selected by the state health officer: one practitioner with experience in medical cannabis issues; one nurse; one board member or principal officer of a cannabis testing facility; one individual with experience in policy development or implementation in the field of medical cannabis; and three qualifying patients.
2. The oversight committee shall meet at least two times per year for the purpose of evaluating and making recommendations to the legislative assembly and the department regarding:
   a. The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;
   b. The effectiveness of the dispensaries and cultivation facilities, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services by dispensaries, the reasonableness of the dispensaries' and facilities' prices, whether the dispensaries and facilities are generating any complaints or security problems, and the sufficiency of the number operating to serve the state's registered qualifying patients;
   c. The effectiveness of the cannabis testing facilities, including whether a sufficient number are operating;
   d. The sufficiency of the regulatory and security safeguards contained in this chapter and adopted by the department to ensure access to and use of cannabis cultivated is provided only to cardholders;
   e. Any recommended additions or revisions to the department regulations or this chapter, including relating to security, safe handling, labeling, and nomenclature; and

f. Any research studies regarding health effects of medical cannabis for patients.

19-24-21. Report.

1. Before June first of each year, the department shall provide a report to the legislative management regarding the findings and recommendations of the advisory committee, the number of applications for registry identification cards received, the number of qualifying patients and designated caregivers approved, the number of registry identification cards revoked, the number of each type of medical cannabis establishment that are registered, and the expenses incurred and revenues generated from the medical cannabis program.
2. The department may not include identifying information on qualifying patients, designated caregivers, or practitioners in the report.