

HOUSE BILL NO. 1430

Introduced by

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

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

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

6 **19-24-01. Definitions.**

7 For the purposes of this chapter:

8 1. "Allowable amount of cannabis" means:

- 9 a. Two and one-half ounces of cannabis;
- 10 b. The quantity of cannabis products as established by department regulation;
- 11 c. If the cardholder has a registry identification card allowing cultivation, six
12 cannabis plants; and
- 13 d. If the cardholder has a registry identification card allowing cultivation, the amount
14 of cannabis and cannabis products which were produced from the cardholder's
15 allowable plants, if the cannabis and cannabis products are possessed at the
16 same property where the plants were cultivated.

17 2. "Bona fide practitioner-patient relationship" means:

- 18 a. A practitioner and patient have a treatment or consulting relationship, during the
19 course of which the practitioner has completed an assessment of the patient's
20 medical history and current medical condition, including an in-person physical
21 examination;
- 22 b. The practitioner has consulted with the patient with respect to the patient's
23 debilitating medical condition; and

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

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

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

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

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

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

18 8. "Debilitating medical condition" means:

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

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

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

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

30 10. "Designated caregiver" means an individual who:

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

- 1 b. Has agreed to assist with a qualifying patient's medical use of cannabis;
2 c. Has not been convicted of a disqualifying felony offense; and
3 d. Assists no more than five qualifying patients with those patients' medical use of
4 cannabis, unless the designated caregiver's qualifying patients each reside in or
5 are admitted to a health care facility or residential care facility where the
6 designated caregiver is employed.
- 7 11. "Disqualifying felony offense" means:
8 a. A dangerous special offense as provided in section 12.1-32-09 which was
9 classified as a felony; or
10 b. A violation of a state or federal controlled substances law that was classified as a
11 felony in the jurisdiction where the individual was convicted, not including:
12 (1) An offense for which the sentence, including any term of probation,
13 incarceration, or supervised release, was completed ten or more years
14 earlier; or
15 (2) An offense that consisted of conduct for which this chapter would likely have
16 prevented a conviction, but the conduct either occurred before the
17 enactment of this chapter or was prosecuted by an authority other than the
18 state.
- 19 12. "Edible cannabis products" means products that:
20 a. Contain or are infused with cannabis or an extract of cannabis;
21 b. Are intended for human consumption by oral ingestion; and
22 c. Are presented in the form of foodstuffs, beverages, extracts, oils, tinctures, and
23 other similar products.
- 24 13. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other
25 enclosed area that is equipped with locks or other security devices that permit access
26 only by the cardholder or cardholders allowed to cultivate the plants. Two or more
27 cardholders who reside in the same dwelling may share one enclosed, locked facility
28 for cultivation.
- 29 14. "Medical cannabis" or "cannabis" has the meaning given to the term "marijuana" in
30 section 19-03.1-01.

- 1 15. "Medical cannabis dispensary" or "dispensary" means an entity registered with the
2 department under this chapter which acquires, possesses, stores, delivers, transfers,
3 transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia,
4 or related supplies and educational materials to cardholders.
- 5 16. "Medical cannabis establishment" means a cultivation facility, a cannabis testing
6 facility, a cannabis product manufacturing facility, or a dispensary.
- 7 17. "Medical cannabis establishment agent" means an owner, officer, board member,
8 employee, or volunteer at a medical cannabis establishment.
- 9 18. "Medical use" includes the acquisition, administration, cultivation, manufacture,
10 delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis
11 or paraphernalia relating to the administration of cannabis to treat or alleviate a
12 registered qualifying patient's debilitating medical condition or symptoms associated
13 with the patient's debilitating medical condition. The term does not include:
- 14 a. The cultivation of cannabis by a nonresident cardholder;
15 b. The cultivation of cannabis by a cardholder who is not designated as being
16 allowed to cultivate on the cardholder's registry identification card; or
17 c. The extraction of resin from cannabis by solvent extraction unless the extraction
18 is done by a cannabis product manufacturing facility.
- 19 19. "Nonresident cardholder" means a individual who:
- 20 a. Has been diagnosed with a debilitating medical condition, or is the parent,
21 guardian, conservator, or other individual with authority to consent to the medical
22 treatment of an individual who has been diagnosed with a debilitating medical
23 condition;
- 24 b. Is not a resident of the state or who has been a resident of the state for fewer
25 than forty-five days;
- 26 c. Was issued a currently valid registry identification card or its equivalent by
27 another state, district, territory, commonwealth, insular possession of the United
28 States, or country recognized by the United States which allows the individual to
29 use cannabis for medical purposes in the jurisdiction of issuance; and
- 30 d. Has submitted any documentation required by the department, and has received
31 confirmation of registration.

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

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

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

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

17 **19-24-02. Protections for the medical use of cannabis.**

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

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

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

29 c. Transferring cannabis to a testing facility for testing;

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

- 1 e. Selling, transferring, or delivering cannabis seeds produced by the cardholder to
2 a cultivation facility or dispensary; or
- 3 f. Offering or providing cannabis to a cardholder for a registered qualifying patient's
4 medical use, to a nonresident cardholder, or to a dispensary if nothing of value is
5 transferred in return and the individual giving the cannabis does not knowingly
6 cause the recipient to possess more than the allowable amount of cannabis.
- 7 2. A nonresident cardholder may not be subject to arrest, prosecution, or penalty under
8 chapter 19-03.1 or 19-03.4, or denied any right or privilege, including civil penalty or
9 disciplinary action by a business or occupational or professional licensing board or
10 entity, for transporting, purchasing, possessing, or using medical cannabis under this
11 chapter if the nonresident cardholder does not possess more than two and one-half
12 ounces of cannabis and the quantity of cannabis products established by department
13 regulation.
- 14 3. There is a presumption that a qualifying patient or designated caregiver is engaged in
15 the medical use of cannabis pursuant to this chapter if the cardholder is in possession
16 of a registry identification card and an amount of cannabis which does not exceed the
17 allowable amount of cannabis. The presumption may be rebutted by evidence that
18 conduct related to cannabis was not for the purpose of treating or alleviating a
19 qualifying patient's debilitating medical condition or symptoms associated with the
20 qualifying patient's debilitating medical condition pursuant to this chapter.
- 21 4. A practitioner may not be subject to arrest, prosecution, or penalty in any manner, or
22 denied any right or privilege, including civil penalty or disciplinary action by the state
23 board of medical examiners or by any other occupational or professional licensing
24 board or bureau, solely for providing written certifications or for otherwise stating that,
25 in the practitioner's professional opinion, a patient is likely to receive therapeutic or
26 palliative benefit from the medical use of cannabis to treat or alleviate the patient's
27 serious or debilitating medical condition or symptoms associated with the serious or
28 debilitating medical condition, provided nothing in this chapter prevents a practitioner
29 from being sanctioned for:
- 30 a. Issuing a written certification to a patient with whom the practitioner does not
31 have a bona fide practitioner-patient relationship; or

- 1 b. Failing to properly evaluate a patient's medical condition.
- 2 5. An attorney may not be subject to disciplinary action by the state bar association or
3 other professional licensing association for providing legal assistance to prospective or
4 registered medical cannabis establishments or others related to activity that is no
5 longer subject to criminal penalties under state law pursuant to this chapter.
- 6 6. An individual may not be subject to arrest, prosecution, or penalty in any manner
7 under chapter 19-03.1 or 19-03.4, or denied any right or privilege, including any civil
8 penalty or disciplinary action by a court or occupational or professional licensing board
9 or bureau, for:
- 10 a. Providing or selling cannabis paraphernalia to a cardholder, nonresident
11 cardholder, or to a medical cannabis establishment;
- 12 b. Being in the presence or vicinity of the medical use of cannabis which are exempt
13 from criminal penalties under this chapter;
- 14 c. Allowing the individual's property to be used for activities that are exempt from
15 criminal penalties under this chapter; or
- 16 d. Assisting a registered qualifying patient with the act of using or administering
17 cannabis.
- 18 7. A dispensary or a dispensary agent is not subject to prosecution, search, or
19 inspection, except by the department under this chapter, seizure, or penalty in any
20 manner, and may not be denied any right or privilege, including civil penalty or
21 disciplinary action by a court or business licensing board or entity, for acting pursuant
22 to this chapter and rules authorized by this chapter to:
- 23 a. Possess, transport, and store cannabis and cannabis products;
- 24 b. Deliver, transfer, and transport cannabis to testing facilities and compensate
25 testing facilities for services provided;
- 26 c. Accept cannabis offered by a cardholder or nonresident cardholder if nothing of
27 value is exchanged in return;
- 28 d. Purchase or otherwise acquire cannabis from cultivation facilities or dispensaries,
29 and cannabis products from cannabis product manufacturing facilities or
30 dispensaries; and

- 1 e. Deliver, sell, supply, transfer, or transport cannabis, cannabis products, and
2 cannabis paraphernalia, and related supplies and educational materials to
3 cardholders, nonresident cardholders, and dispensaries.
- 4 8. A cultivation facility or a cultivation facility agent is not subject to prosecution, search,
5 or inspection, except by the department under this chapter, seizure, or penalty in any
6 manner, and may not be denied any right or privilege, including civil penalty or
7 disciplinary action by a court or business licensing board or entity for acting under this
8 chapter and rules authorized by this chapter to:
- 9 a. Possess, plant, propagate, cultivate, grow, harvest, produce, process,
10 manufacture, compound, convert, prepare, pack, repack, or store cannabis;
- 11 b. Deliver, transfer, or transport cannabis to testing facilities and compensate testing
12 facilities for services provided;
- 13 c. Accept cannabis offered by a cardholder or nonresident cardholder if nothing of
14 value is exchanged in return;
- 15 d. Purchase or otherwise acquire cannabis from cultivation facilities;
- 16 e. Purchase cannabis seeds from cardholders, nonresident cardholders, and the
17 equivalent of a medical cannabis establishment that is registered in another
18 jurisdiction; and
- 19 f. Deliver, sell, supply, transfer, or transport cannabis, cannabis paraphernalia, and
20 related supplies and educational materials to cultivation facilities and
21 dispensaries.
- 22 9. A cannabis product manufacturing facility or a cannabis product manufacturing facility
23 agent is not subject to prosecution, search, or inspection, except by the department
24 under this chapter, seizure, or penalty in any manner, and may not be denied any right
25 or privilege, including civil penalty or disciplinary action by a court or business
26 licensing board or entity for acting under this chapter and rules authorized by this
27 chapter to:
- 28 a. Purchase or otherwise acquire cannabis from cultivation facilities, and cannabis
29 products or cannabis from cannabis product manufacturing facilities;
- 30 b. Possess, produce, process, manufacture, compound, convert, prepare, pack,
31 repack, and store cannabis and cannabis products;

- 1 c. Deliver, transfer, or transport cannabis, cannabis products, cannabis
2 paraphernalia, and related supplies and educational materials to dispensaries
3 and cannabis product manufacturing facilities;
- 4 d. Deliver, transfer, or transport cannabis to testing facilities and compensate testing
5 facilities for services provided; or
- 6 e. Deliver, sell, supply, transfer, or transport cannabis, cannabis products, cannabis
7 paraphernalia, and related supplies and educational materials to cannabis
8 product manufacturing facilities or dispensaries.
- 9 10. A testing facility or testing facility agent is not subject to prosecution, search, or
10 inspection, except by the department under this chapter, seizure, or penalty in any
11 manner, and may not be denied any right or privilege, including civil penalty or
12 disciplinary action by a court or business licensing board or entity, for acting under this
13 chapter and rules authorized by this chapter to:
- 14 a. Acquire, possess, transport, and store cannabis and cannabis products obtained
15 from cardholders, nonresident cardholders, and medical cannabis
16 establishments;
- 17 b. Return the cannabis and cannabis products to the cardholders, nonresident
18 cardholders, and medical cannabis establishment from which it was obtained;
- 19 c. Test cannabis, including for potency, pesticides, mold, or contaminants; and
20 d. Receive compensation for those services.
- 21 11. A cardholder, nonresident cardholder, or the equivalent of a medical cannabis
22 establishment that is registered in another jurisdiction may sell or donate cannabis
23 seeds to cultivation facilities.
- 24 12. Any cannabis, cannabis product, cannabis paraphernalia, or other interest in or right to
25 property that is possessed, owned, or used in connection with the medical use of
26 cannabis as allowed under this chapter, or acts incidental to that use, may not be
27 seized or forfeited. This chapter may not prevent the seizure or forfeiture of cannabis
28 exceeding the amounts allowed under this chapter, nor prevent seizure or forfeiture if
29 the basis for the action is unrelated to the cannabis that is possessed, manufactured,
30 transferred, or used under this chapter.

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

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

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

16 **19-24-03. Limitations.**

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

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

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

24 c. Smoking cannabis:

25 (1) On any form of public transportation; or

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

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

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

3 **19-24-04. Discrimination prohibited.**

4 1. A school or landlord may not refuse to enroll or lease to and may not otherwise
5 penalize an individual solely for the individual's status as a cardholder, unless failing to
6 do so would violate federal law or regulations or cause the school or landlord to lose a
7 monetary or licensing-related benefit under federal law or regulations.

8 2. For the purposes of medical care, including organ and tissue transplants, a registered
9 qualifying patient's use of cannabis according to this chapter is considered the
10 equivalent of the authorized use of any other medication used at the discretion of a
11 practitioner and does not constitute the use of an illicit substance or otherwise
12 disqualify a qualifying patient from necessary medical care.

13 3. An individual may not be denied primary residential responsibility of or parenting time
14 with a minor solely for the individual's status as a cardholder, and there may not be a
15 presumption of neglect or child endangerment for conduct allowed under this chapter,
16 unless the individual's behavior is such that it creates an unreasonable danger to the
17 safety of the minor as established by clear and convincing evidence.

18 4. Except as provided in this chapter, a registered qualifying patient who uses cannabis
19 for medical purposes must be afforded all the same rights under state and local law,
20 including those guaranteed under chapter 14-02.4, as the individual would be afforded
21 if the patient were solely prescribed pharmaceutical medications, as it pertains to:

22 a. Any interaction with a individual's employer;

23 b. Drug testing by a individual's employer; or

24 c. Drug testing required by any state or local law, agency, or government official.

25 5. The rights provided by this section do not apply to the extent the rights conflict with an
26 employer's obligations under federal law or regulations or to the extent the rights
27 would disqualify an employer from a monetary or licensing-related benefit under
28 federal law or regulations.

29 6. An employer is not required to allow the ingestion of cannabis in any workplace or to
30 allow any employee to work while under the influence of cannabis. A registered
31 qualifying patient may not be considered to be under the influence of cannabis solely

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

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

5 **19-24-05. Addition of debilitating medical conditions.**

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

12 **19-24-06. Acts not required - Acts not prohibited.**

13 1. This chapter does not require:

14 a. Medial assistance or a private insurer to reimburse an individual for costs
15 associated with the medical use of cannabis;

16 b. Any person in lawful possession of property to allow a guest, client, customer, or
17 other visitor to smoke cannabis on or in that property; or

18 c. A landlord to allow the cultivation of cannabis on the rental property.

19 2. This chapter does not prohibit an employer from disciplining an employee for ingesting
20 cannabis in the workplace or for working while under the influence of cannabis.

21 **19-24-07. Issuance - Denial.**

22 1. The department shall begin issuing registry identification cards to qualifying patients
23 no later than one hundred forty days after the effective date of this Act who submit the
24 following, in accordance with the department's regulations:

25 a. A written certification issued by a practitioner within ninety days immediately
26 preceding the date of an application;

27 b. The application or renewal fee;

28 c. The name, address, and date of birth of the qualifying patient, except if the
29 applicant is homeless, no address is required;

30 d. The name, address, and telephone number of the qualifying patient's practitioner;

- 1 e. The name, address, and date of birth of the designated caregiver, or designated
2 caregivers, chosen by the qualifying patient;
- 3 f. If more than one designated caregiver is designated at any given time,
4 documentation demonstrating a greater number of designated caregivers is
5 needed due to the patient's age or medical condition;
- 6 g. The name of no more than two dispensaries that the qualifying patient
7 designates; and
- 8 h. If the qualifying patient designates a designated caregiver, a designation as to
9 whether the qualifying patient or designated caregiver will be allowed under state
10 law to possess and cultivate cannabis plants for the qualifying patient's medical
11 use.
- 12 2. If the qualifying patient is unable to submit the information required by this section due
13 to the individuals' age or medical condition, the person responsible for making medical
14 decisions for the qualifying patient may do so on behalf of the qualifying patient.
- 15 3. Except as provided in subdivision d, the department shall:
- 16 a. Verify the information contained in an application or renewal submitted pursuant
17 to this chapter and approve or deny an application or renewal within fifteen days
18 of receiving a completed application or renewal application;
- 19 b. Issue registry identification cards to a qualifying patient and the patient's
20 designated caregivers within five days of approving the application or renewal. A
21 designated caregiver must have a registry identification card for each of the
22 designated caregiver's qualifying patients; and
- 23 c. Enter the registry identification number of the dispensary or dispensaries the
24 patient designates into the verification system.
- 25 4. The department may conduct a background check of the prospective designated
26 caregiver in order to carry out this provision.
- 27 5. The department may not issue a registry identification card to a qualifying patient who
28 is younger than eighteen years of age unless:
- 29 a. The qualifying patient's practitioner has explained the potential risks and benefits
30 of the medical use of cannabis to the custodial parent or legal guardian with
31 responsibility for health care decisions for the qualifying patient; and

- 1 b. The custodial parent or legal guardian with responsibility for health care decisions
2 for the qualifying patient consents in writing to:
3 (1) Allow the qualifying patient's medical use of cannabis;
4 (2) Serve as the qualifying patient's designated caregiver; and
5 (3) Control the acquisition of the cannabis, the dosage, and the frequency of
6 the medical use of cannabis by the qualifying patient.
- 7 6. The department may deny an application or renewal of a qualifying patient's registry
8 identification card only if the applicant:
9 a. Did not provide the required information, fee, or materials;
10 b. Previously had a registry identification card revoked; or
11 c. Provided false information.
- 12 7. The department may deny an application or renewal for a designated caregiver
13 chosen by a qualifying patient whose registry identification card was granted only if:
14 a. The designated caregiver does not meet the requirements of this chapter;
15 b. The applicant did not provide the information required;
16 c. The designated caregiver previously had a registry identification card revoked; or
17 d. The applicant or the designated caregiver provided false information.
- 18 8. The department shall give written notice to the qualifying patient of the reason for
19 denying a registry identification card to the qualifying patient or to the qualifying
20 patient's designated caregiver.
- 21 9. Denial of an application or renewal is considered a final department action, subject to
22 judicial review.
- 23 10. A copy of the individual's application, written certification, and proof the application
24 was submitted to the department must be deemed a registry identification card until a
25 qualifying patient who has submitted an application and the required fee to the
26 department receives a registry identification card or a rejection.
- 27 11. A copy of the qualifying patient's application, written certification, and proof the
28 application was submitted to the department must be deemed a registry identification
29 card until a designated caregiver whose qualifying patient has submitted an
30 application and the required fee receives a registry identification card or a rejection.

- 1 a. A valid, written certification issued within the previous year must be deemed a
2 registry identification card for a qualifying patient until twenty-five days after the
3 department makes applications available.
- 4 12. The following must be deemed a designated caregiver registry identification card until
5 twenty-five days after the department makes applications available:
- 6 a. A copy of a qualifying patient's valid written certification issued within the previous
7 year; and
- 8 b. A signed affidavit attesting that the individual has significant responsibility for
9 managing the well-being of the patient and that the individual has been chosen to
10 assist the qualifying patient.

11 **19-24-08. Registry identification cards.**

- 12 1. A registry identification card must contain:
- 13 a. The name of the cardholder;
- 14 b. A designation of whether the cardholder is a qualifying patient or a designated
15 caregiver;
- 16 c. The date of issuance and expiration date;
- 17 d. A random ten-digit alphanumeric identification number, containing at least four
18 numbers and at least four letters, which is unique to the cardholder;
- 19 e. If the cardholder is a designated caregiver, the random identification number of
20 the qualifying patient the designated caregiver will assist;
- 21 f. A clear indication of whether the cardholder has been designated to cultivate
22 cannabis plants for the qualifying patient's medical use;
- 23 g. A photograph of the cardholder, if the department's regulations require one; and
- 24 h. The phone number or website address where the card can be verified.
- 25 2. Except as provided in this subsection, the expiration date must be one year after the
26 date of issuance.
- 27 3. If the practitioner stated in the written certification that the qualifying patient would
28 benefit from cannabis until a specified earlier date, the registry identification card
29 expires on that date.

1 **19-24-09. Verification system.**

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

21 **19-24-10. Notification to department - Civil penalty.**

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

- 1 d. The registered qualifying patient shall notify the department when the registered
2 qualifying patient changes preference as to who may cultivate cannabis for the
3 qualifying patient.
- 4 e. The cardholder shall notify the department within ten days of becoming aware
5 that the cardholder lost a registry identification card.
- 6 f. The registered qualifying patient shall notify the department before a registered
7 qualifying patient changes designated dispensary or dispensaries.
- 8 2. The patient's designated caregiver shall make the required notification if the qualifying
9 patient is unable to make the notification due to age or medical condition.
- 10 3. The department shall issue the cardholder a new registry identification card with a new
11 random ten-digit alphanumeric identification number within ten days of receiving the
12 updated information and a twenty dollar fee when a cardholder notifies the department
13 of items listed in subdivision a, but remains eligible under this chapter. If the individual
14 notifying the department is a registered qualifying patient, the department also shall
15 issue the registered designated caregiver a new registry identification card within ten
16 days of receiving the updated information.
- 17 4. If the registered qualifying patient's certifying practitioner notifies the department in
18 writing that either the registered qualifying patient has ceased to suffer from a
19 debilitating medical condition or that the practitioner no longer believes the patient
20 would receive therapeutic or palliative benefit from the medical use of cannabis, the
21 card becomes void. However, the registered qualifying patient has fifteen days to
22 dispose of or give away that patient's cannabis.
- 23 5. A medical cannabis establishment shall notify the department within one business day
24 of any theft or significant loss of cannabis.

25 **19-24-11. Affirmative defense - Dismissal for medical cannabis.**

- 26 1. Except as provided in section 19-24-02 and this section, an individual may assert the
27 medical purpose for using cannabis as a defense to any prosecution involving
28 cannabis, and that defense must be presumed valid if the evidence shows that:
- 29 a. A practitioner has stated, in the practitioner's professional opinion, after having
30 completed a full assessment of the individual's medical history and current
31 medical condition made in the course of a bona fide practitioner-patient

- 1 relationship, the patient has a debilitating medical condition and the potential
2 benefits of using cannabis for medical purposes would likely outweigh the health
3 risks for the individual:
- 4 b. The individual was in possession of no more than two and one-half ounces of
5 cannabis, the amount of cannabis products allowed by department regulation, six
6 cannabis plants, and the cannabis produced by those plants;
- 7 c. The individual was engaged in the acquisition, possession, use, manufacture,
8 cultivation, or transportation of cannabis, paraphernalia, or both, relating to the
9 administration of cannabis to treat or alleviate the individual's debilitating medical
10 condition or symptoms associated with the individual's debilitating medical
11 condition; and
- 12 d. Any cultivation of cannabis and storage of more than two and one-half ounces of
13 cannabis occurred in a secure location that only the individual asserting the
14 defense could access.
- 15 2. The defense and motion to dismiss may not prevail if the prosecution proves that:
- 16 a. The individual had a registry identification card revoked for misconduct; or
17 b. The purposes for the possession or cultivation of cannabis were not solely for
18 palliative or therapeutic use by the individual with a debilitating medical condition
19 who raised the defense.
- 20 3. An individual is not required to possess a registry identification card to raise the
21 affirmative defense under this section.
- 22 4. If an individual demonstrates the individual's medical purpose for using cannabis
23 pursuant to this section, except as provided in section 19-24-02 the individual may not
24 be subject to the following for the individual's use of cannabis for medical purposes:
- 25 a. Disciplinary action by an occupational or professional licensing board or bureau;
26 or
27 b. Forfeiture of any interest in or right to any property other than cannabis.

28 **19-24-12. Registration of medical cannabis establishment.**

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

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

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

5 (1) The application fee.

6 (2) An application, including:

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

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

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

14 (d) Any additional information requested by the department.

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

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

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

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

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

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

- 1 2. If a local government has enacted a numerical limit on the number of medical
2 cannabis establishments in the locality and a greater number of applicants seek
3 registrations, the department shall solicit and consider input from the local government
4 as to its preference or preferences for registration.
- 5 3. The department shall issue a renewal registration certificate within ten days of receipt
6 of the prescribed renewal application and renewal fee from a medical cannabis
7 establishment if the establishment's registration certificate is not under suspension
8 and has not been revoked.

9 **19-24-13. Local ordinances.**

- 10 1. A local government may enact ordinances or regulations not in conflict with this
11 chapter, or with regulations enacted pursuant to this chapter, governing the time,
12 place, manner, and number of medical cannabis establishment operations in the
13 locality. A local government may establish civil penalties for violation of an ordinance
14 or regulations governing the time, place, and manner of a medical cannabis
15 establishment that may operate in that locality.
- 16 2. A local government may not prohibit dispensaries, either expressly or through the
17 enactment of ordinances or regulations which make the dispensaries' operation
18 impracticable in the jurisdiction.
- 19 3. Local government may require medical cannabis establishments to obtain a local
20 license, permit, or registration to operate, and may charge a reasonable fee for the
21 local license, permit, or registration.

22 **19-24-14. Requirements - Prohibitions - Penalties.**

- 23 1. Medical cannabis establishments shall conduct a criminal history record check of
24 every individual seeking to become a principal officer, board member, agent, volunteer,
25 or employee before the individual begins working at the medical cannabis
26 establishment.
- 27 2. A medical cannabis establishment may not employ any individual who:
- 28 a. Was convicted of a disqualifying felony offense; or
- 29 b. Is under twenty-one years of age.

- 1 3. The operating documents of a medical cannabis establishment must include
2 procedures for the oversight of the medical cannabis establishment and procedures to
3 ensure accurate recordkeeping.
- 4 4. A medical cannabis establishment shall implement appropriate security measures
5 designed to deter and prevent the theft of cannabis and unauthorized entrance into
6 areas containing cannabis.
- 7 5. All cultivation, harvesting, manufacture, and packaging of cannabis must take place in
8 a secure facility at a physical address provided to the department during the
9 registration process. The secure facility may be accessible only by agents of the
10 medical cannabis establishment, emergency personnel, and adults who are
11 twenty-one years and older and who are accompanied by medical cannabis
12 establishment agents.
- 13 6. A medical cannabis establishment other than a cannabis product manufacturer may
14 not produce cannabis concentrates, cannabis extractions, or other cannabis products.
- 15 7. A medical cannabis establishment may not share office space with or refer patients to
16 a practitioner.
- 17 8. A medical cannabis establishment may not permit any individual to consume cannabis
18 on the property of a medical cannabis establishment.
- 19 9. Medical cannabis establishments are subject to inspection by the department during
20 business hours.
- 21 10. Before cannabis may be dispensed to a cardholder or nonresident cardholder, a
22 dispensary agent shall:
 - 23 a. Make a diligent effort to verify the registry identification card or registration
24 presented to the dispensary is valid;
 - 25 b. Make a diligent effort to verify the individual presenting the documentation is the
26 individual identified on the document presented to the dispensary agent;
 - 27 c. Not believe that the amount dispensed would cause the individual to possess
28 more than the allowable amount of cannabis; and
 - 29 d. Make a diligent effort to verify the dispensary is the current dispensary that was
30 designated by the cardholder or nonresident cardholder.

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

8 **19-24-15. Department regulations.**

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

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

- 1 4. Governing the manner in which it will consider applications for and renewals of registry
2 identification cards, which may include creating a standardized written certification
3 form;
- 4 5. Governing medical cannabis establishments with the goals of ensuring the health and
5 safety of qualifying patients and preventing diversion and theft without imposing an
6 undue burden or compromising the confidentiality of cardholders, including:
 - 7 a. Oversight requirements;
 - 8 b. Recordkeeping requirements;
 - 9 c. Security requirements, including lighting, physical security, and alarm
10 requirements;
 - 11 d. Health and safety regulations, including restrictions on the use of pesticides that
12 are injurious to human health;
 - 13 e. Standards for the manufacture of cannabis products and both the indoor and
14 outdoor cultivation of cannabis by cultivation facilities;
 - 15 f. Requirements for the transportation and storage of cannabis by medical cannabis
16 establishments;
 - 17 g. Employment and training requirements, including requiring each medical
18 cannabis establishment to create an identification badge for each agent;
 - 19 h. Standards for the safe manufacture of cannabis products, including extracts and
20 concentrates;
 - 21 i. Restrictions on the advertising, signage, and display of medical cannabis;
22 however the restrictions may not prevent appropriate signs on the property of a
23 dispensary, listings in business directories including phone books, listings in
24 marijuana-related or medical publications, or the sponsorship of health or
25 not-for-profit charity or advocacy events;
 - 26 j. Requirements and procedures for the safe and accurate packaging and labeling
27 of medical cannabis; and
 - 28 k. Certification standards for testing facilities, including requirements for equipment
29 and qualifications for personnel.
- 30 6. Establishing procedures for suspending or terminating the registration certificates or
31 registry identification cards of cardholders and medical cannabis establishments that

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

3 7. Establishing labeling requirements for cannabis and cannabis products, including
4 requiring cannabis products' labels to include the following:

5 a. The length of time it typically takes for a product to take effect;

6 b. Disclosure of the ingredients and possible allergens;

7 c. A nutritional fact panel; and

8 d. In the case of edible cannabis, products be clearly identifiable, when practicable,
9 with a standard symbol indicating the product contains cannabis.

10 8. Procedures for the registration of nonresident cardholders and cardholder's
11 designation of no more than two dispensaries which must require the submission of:

12 a. A practitioner's statement confirming the patient has a debilitating medical
13 condition; and

14 b. Documentation demonstrating the nonresident cardholder is allowed to possess
15 cannabis or cannabis preparations in the jurisdiction where the cardholder
16 resides.

17 9. Establishing the amount of cannabis products, including the amount of concentrated
18 cannabis, each cardholder and nonresident cardholder is allowed to possess.

19 10. Establishing reasonable application and renewal fees for registry identification cards
20 and registration certificates, according to the following:

21 a. Application fees for medical cannabis establishments may not exceed five
22 thousand dollars, with this upper limit adjusted annually for inflation;

23 b. The total fees collected must generate revenues sufficient to offset all expenses
24 of implementing and administering this chapter;

25 c. The department may establish a sliding scale of patient application and renewal
26 fees based upon a qualifying patient's household income;

27 d. The fees charged to qualifying patients, nonresident cardholders, and caregivers
28 may not be more than the costs of processing the qualified patients applications
29 and issuing a registry identification card or registration; and

30 e. The department may accept donations from private sources to reduce application
31 and renewal fees.

1 **19-24-16. Penalties.**

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

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

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

7 **19-24-17. Suspension - Revocation.**

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

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

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

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

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

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

1 **19-24-18. Confidentiality.**

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

29 **19-24-19. Business deductions.**

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

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

4 **19-24-20. Advisory committee.**

5 1. A nine-member oversight committee is composed of: one member of the house of
6 representatives selected by the house majority leader; one representative of the
7 department selected by the state health officer; one member of the senate selected by
8 the senate majority leader; and the following selected by the state health officer: one
9 practitioner with experience in medical cannabis issues; one nurse; one board
10 member or principal officer of a cannabis testing facility; one individual with experience
11 in policy development or implementation in the field of medical cannabis; and three
12 qualifying patients.

13 2. The oversight committee shall meet at least two times per year for the purpose of
14 evaluating and making recommendations to the legislative assembly and the
15 department regarding:

16 a. The ability of qualifying patients in all areas of the state to obtain timely access to
17 high-quality medical cannabis;

18 b. The effectiveness of the dispensaries and cultivation facilities, individually and
19 together, in serving the needs of qualifying patients, including the provision of
20 educational and support services by dispensaries, the reasonableness of the
21 dispensaries' and facilities' prices, whether the dispensaries and facilities are
22 generating any complaints or security problems, and the sufficiency of the
23 number operating to serve the state's registered qualifying patients;

24 c. The effectiveness of the cannabis testing facilities, including whether a sufficient
25 number are operating;

26 d. The sufficiency of the regulatory and security safeguards contained in this
27 chapter and adopted by the department to ensure access to and use of cannabis
28 cultivated is provided only to cardholders;

29 e. Any recommended additions or revisions to the department regulations or this
30 chapter, including relating to security, safe handling, labeling, and nomenclature;
31 and

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

2 **19-24-21. Report.**

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