Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023

SENATE BILL NO. 2388
(Senators Larsen, Barta)
(Representative Mock)

AN ACT to amend and reenact sections 19-24.1-05, 19-24.1-18, 19-24.1-19, and 19-24.1-34 of the North Dakota Century Code, relating to reapplication for registered identification cards for marijuana and acts associated with marijuana not prohibited from employee discipline; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-24.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-05. Qualifying patients and designated caregivers - Identification cards - Issuance and denial.

1. Upon receipt of a complete application for or renewal of a qualifying patient or designated caregiver registry identification card, the department shall verify the submitted information.

2. The verification methods used by the department on an application or renewal and accompanying documentation may include:

   a. Contacting an applicant by telephone or mail, or if proof of identity is uncertain, the department shall require a face-to-face meeting and the production of additional identification materials;

   b. Contacting the North Dakota board of medicine or North Dakota board of nursing to verify the certifying health care provider is licensed in the state and is in good standing; and

   c. Contacting the health care provider to obtain additional documentation verifying the qualifying patient applicant's medical diagnosis and medical condition qualify the applicant for participation in the medical marijuana program.

3. Upon verification of the information contained in an application or renewal, the department shall approve or deny the application or renewal.

4. Except as provided in subsection 5, the department shall issue a registry identification card within thirty calendar days of approving an application or renewal. A designated caregiver must have a registry identification card for each of the designated caregiver's registered qualifying patients.

5. The department may not issue a registry identification card to a qualifying patient who is a minor unless:

   a. The department receives documentation the minor's health care provider has explained to the parent or legal guardian with responsibility for health care decisions for the minor the potential risks of the use of pediatric medical marijuana; and

   b. The department receives documentation the parent or legal guardian with responsibility for health care decisions for the minor consents in writing to:

      (1) Allow the minor's use of pediatric medical marijuana to treat or alleviate the debilitating medical condition;

(2) Serve as the minor's designated caregiver or identifies a registered designated caregiver to act as the minor's designated caregiver;

(3) Control the acquisition of usable marijuana and control the dosage and frequency of the use of usable marijuana by the minor; and

(4) If serving as the minor's designated caregiver, prevent the minor from accessing the usable marijuana by storing the usable marijuana in an enclosed, locked facility.

6. If the department denies an application or renewal, the applicant may not reapply for one year from the date of the denial, unless otherwise authorized by the department, and the applicant is prohibited from all lawful privileges provided under this chapter.

7. The department shall deny an application for or renewal of a qualifying patient's registry identification card if the applicant:

a. Does not meet the requirements of this section or section 19-24.1-03;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked~~; or~~ which involved unauthorized minor transfer, use, or access to usable marijuana or the use of usable marijuana which allowed the smoke or vapor to be inhaled by a minor;

d. Provided false or falsified information or made a material misstatement~~.~~; or

e. Previously had a registry identification card revoked three times.

8. The department shall deny an application for or renewal of a designated caregiver registry identification card if the designated caregiver applicant:

a. Does not meet the requirements of this section or section 19-24.1-04;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked which involved unauthorized minor transfer, use, or access to usable marijuana or the use of usable marijuana which allowed the smoke or vapor to be inhaled by a minor; ~~or~~

d. Provided false or falsified information or made a material misstatement; or

e. Previously had a registry identification card revoked three times.

9. Notwithstanding subsection 8, the department shall deny an application for or renewal of a qualifying patient or designated caregiver registry identification card for one year from the date of an initial revocation and five years from the date of a second revocation.

10. A registered qualifying patient may have no more than five registered designated caregivers.

~~10.~~11. The department shall notify, in writing, the qualifying patient or designated caregiver applicant of the reason for denying an application or renewal.

~~11.~~12. The department shall notify the following in writing:

a. A registered qualifying patient if that patient's designated caregiver's application or renewal is denied; and

b. A registered designated caregiver if that caregiver's qualifying patient's application or renewal is denied.

~~12.~~ 13. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

SECTION 2. AMENDMENT. Section 19-24.1-18 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-18. Compassion centers - Agents - Registry identification cards.

1. Upon issuance of a compassion center registry certificate, the department shall issue a registry identification card to each qualified compassion center agent associated with the compassion center.

2. To qualify to be issued a registry identification card, each compassion center agent must be at least twenty-one years of age and shall submit all of the following registry identification card application material to the department:

   a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.

   b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.

   c. A written and signed statement from an officer or executive staff member of the compassion center stating the applicant is associated with the compassion center and the capacity of the association.

   d. The name, address, and telephone number of the agent.

   e. The name, address, and telephone number of the compassion center with which the agent is associated.

   f. The agent's signature and the date.

   g. A nonrefundable application or renewal fee in the amount of two hundred dollars.

3. Each compassion center agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.

   a. All applicable fees associated with the required criminal history record checks must be paid by the compassion center or the agent.

   b. A criminal history record check must be performed upon initial application and biennially upon renewal. A compassion center agent shall consent to a criminal history record check at any time the department determines necessary.

   c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being a compassion center agent.

4. The department shall notify the compassion center in writing of the purpose for denying a compassion center agent application for a registry identification card. The department shall deny an application if the applicant fails to meet the registration requirements or to provide the information required, if the applicant previously had a registry identification card revoked subject to sections 19-24.1-05, 19-24.1-19, and 19-24.1-20, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

5. The department shall issue a compassion center agent a registry identification card within thirty calendar days of approval of an application.

6. A compassion center agent with a registry identification card shall notify the department of any of the following within ten calendar days of the change, in a manner prescribed by the department:

   a. A change in the cardholder's name or address; and

   b. Knowledge of a change that would render the compassion center agent no longer eligible to be a cardholder.

7. If a compassion center agent loses the agent's registry identification card, that agent shall notify the department in writing within twenty-four hours of becoming aware the card has been lost.

8. If a cardholder notifies the department of items listed in this section but the nature of the item reported results in the cardholder remaining eligible, the department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifies the department of an item that results in the cardholder being ineligible, the registry identification card immediately becomes void.

9. A compassion center shall notify the department in writing within two calendar days of the date a compassion center agent ceases to work for or be associated with the compassion center. Upon receipt of the notification, that individual's registry identification card becomes void immediately.

10. The registry identification card of a compassion center agent expires one year after issuance or upon the termination of the compassion center's registration certificate, whichever occurs first. To prevent interruption of possession of a valid registry identification card, a compassion center agent shall renew a registry identification card by submitting a complete renewal application no less than forty-five calendar days before the expiration date of the existing registry identification card.

SECTION 3. AMENDMENT. Section 19-24.1-19 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-19. Cardholders - Compassion centers - Revocation.

1. The department may suspend or revoke a cardholder's registry identification card or a compassion center's registration certificate for a material misstatement by an applicant in an application or renewal.

2. The department may suspend or revoke a registry identification card or registration certificate for a violation of this chapter or rules adopted under this chapter.

3. If a compassion center agent or a compassion center sells or otherwise transfers marijuana or usable marijuana to a person not authorized to possess marijuana or usable marijuana under this chapter, the department shall revoke the cardholder's registry identification card or the compassion center's registration certificate, or both. If the department revokes a cardholder's registry identification card under this subsection, the cardholder <u>may not reapply for one year from the date of an initial revocation and five years from the date of a second revocation. Upon a third revocation or if the revocation under this subsection involved unauthorized minor transfer, use, or access to usable marijuana or the use of usable marijuana which allowed the smoke or vapor to be inhaled by a minor, the cardholder</u> is disqualified from further participation under this chapter.

4. The department shall provide written notice of suspension or revocation of a registry identification card or registration certificate.

   a. A suspension may not be for a period longer than six months.

   b. A manufacturing facility may continue to produce and process and to possess marijuana and usable marijuana during a suspension, but may not transfer or sell usable marijuana.

   c. A dispensary may continue to possess usable marijuana during a suspension, but may not purchase, dispense, or transfer usable marijuana.

   d. The cardholder or the compassion center may appeal a denial or revocation of a registry identification card or registry certificate to the district court of Burleigh County for hearing. The court may authorize the cardholder or compassion center to appear by reliable electronic means.

SECTION 4. AMENDMENT. Section 19-24.1-34 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-34. Acts not prohibited - Acts not required.

1. This chapter does not require:

   a. A government medical assistance program or private insurer to reimburse a person for costs associated with the medical use of marijuana;

   b. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume usable marijuana on or in that property;

   c. A landlord to allow production or processing on rental property; or

   d. A health care provider to provide a written certification or otherwise recommend marijuana to a patient.

2. This chapter does not prohibit an employer from disciplining an employee for possessing or consuming usable marijuana in the workplace ~~or for,~~ working while under the influence of marijuana, or working with marijuana in the employee's system.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate | Speaker of the House

Secretary of the Senate | Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2388 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate | Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 77 Nays 16 Absent 1

Speaker of the House | Chief Clerk of the House

Received by the Governor at _____M. on _____, 2023.

Approved at _____M. on _____, 2023.

Governor

Filed in this office this _____day of _____, 2023,

at _____ o'clock _____M.

Secretary of State