

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2294

Introduced by

Senators Roers, Cleary, Meyer

Representatives Dockter, M. Ruby, Vetter

1 A BILL for an Act to create and enact a new section to chapter 19-24.1 of the North Dakota
2 Century Code, relating to qualifying nonresident medical marijuana patients; to amend and
3 reenact subsection 4 of section 19-24.1-01, subsection 8 of section 19-24.1-01, subsection 26
4 of section 19-24.1-01, subsection 47 of section 19-24.1-01, and sections 19-24.1-03,
5 19-24.1-03.1, 19-24.1-11, and 19-24.1-37 of the North Dakota Century Code, relating to medical
6 marijuana recordkeeping, cannabinoid edible products, patient qualifications, and disclosure of
7 information.

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

9 **SECTION 1. AMENDMENT.** Subsection 4 of section 19-24.1-01 of the North Dakota
10 Century Code is amended and reenacted as follows:

- 11 4. "Bona fide provider-patient relationship" means a treatment or counseling relationship
12 between a health care provider and patient in which all the following are present:
- 13 a. The health care provider has reviewed the patient's relevant medical records and
14 completed a full assessment of the patient's medical history and current medical
15 condition, including a relevant, ~~in-person,~~ medical evaluation of the patient.
 - 16 b. The health care provider has created and maintained records of the patient's
17 condition in accordance with medically accepted standards.
 - 18 c. The patient is under the health care provider's continued care for the debilitating
19 medical condition that qualifies the patient for the medical use of marijuana.
 - 20 d. The health care provider has a reasonable expectation that provider will continue
21 to provide followup care to the patient to monitor the medical use of marijuana as
22 a treatment of the patient's debilitating medical condition.

- 1 e. The relationship is not for the sole purpose of providing written certification for the
2 medical use of marijuana.

3 **SECTION 2. AMENDMENT.** Subsection 8 of section 19-24.1-01 of the North Dakota
4 Century Code is amended and reenacted as follows:

- 5 8. "Cannabinoid edible product" means a ~~food or potable liquid~~ soft or hard lozenge in a
6 geometric square shape into which a cannabinoid concentrate or the dried leaves or
7 flowers of the plant of the genus cannabis is incorporated. The maximum
8 concentration or amount of tetrahydrocannabinol permitted in a serving of a
9 cannabinoid edible product is five milligrams and in a package is fifty milligrams.

10 **SECTION 3. AMENDMENT.** Subsection 26 of section 19-24.1-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

- 12 26. "Medical cannabinoid product" means a product intended for human consumption or
13 use which contains cannabinoids.

14 a. Medical cannabinoid products are limited to the following forms:

- 15 (1) Cannabinoid solution;
16 (2) Cannabinoid capsule;
17 (3) Cannabinoid transdermal patch; ~~and~~
18 (4) Cannabinoid topical; and
19 (5) Cannabinoid edible product.

20 b. "Medical cannabinoid product" does not include:

- 21 (1) ~~A cannabinoid edible product;~~
22 (2) A cannabinoid concentrate by itself; or
23 (3)(2) The dried leaves or flowers of the plant of the genus cannabis by itself.

24 **SECTION 4. AMENDMENT.** Subsection 47 of section 19-24.1-01 of the North Dakota
25 Century Code is amended and reenacted as follows:

- 26 47. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers
27 of the plant of the genus cannabis in a combustible delivery form. ~~However, the term~~
28 ~~does not include a cannabinoid edible product.~~ In the case of a registered qualifying
29 patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.

30 **SECTION 5. AMENDMENT.** Section 19-24.1-03 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **19-24.1-03. Qualifying patients - Registration.**

2 1. A qualifying patient is not eligible to purchase, use, or possess usable marijuana under
3 the medical marijuana program unless the qualifying patient has a valid registry
4 identification card.

5 2. A qualifying patient application for a registry identification card is complete and eligible
6 for review if an applicant submits to the department:

7 a. A nonrefundable application fee in an amount not to exceed ~~twenty-five~~:

8 (1) Twenty-five dollars for a registry identification card valid for one year; or

9 (2) Forty dollars for a registry identification card valid for two years.

10 b. An original written certification, which must include:

11 (1) The name, address, and telephone number of the practice location of the
12 applicant's health care provider;

13 (2) The health care provider's North Dakota license number;

14 (3) The health care provider's medical or nursing specialty;

15 (4) The applicant's name and date of birth;

16 (5) The applicant's debilitating medical condition and the medical justification
17 for the health care provider's certification of the patient's debilitating medical
18 condition;

19 (6) Attestation the written certification is made in the course of a bona fide
20 provider-patient relationship;

21 (7) Whether the health care provider authorizes the patient to use an enhanced
22 amount of the dried leaves or flowers of the plant of the genus cannabis in a
23 combustible delivery form to treat or alleviate the patient's debilitating
24 medical condition of cancer; and

25 (8) The health care provider's signature and the date.

26 c. An original qualifying patient application for a registry identification card form
27 established by the department which must include all of the following:

28 (1) The applicant's name, address, and date of birth.

29 (2) The name, address, and date of birth of the applicant's proposed
30 designated caregiver, if any.

- 1 (3) A photographic copy of the applicant's North Dakota identification. The
2 North Dakota identification must be available for inspection and verification
3 upon request of the department. If the applicant is a minor, a certified copy
4 of a birth record or a photographic copy of the minor's North Dakota
5 identification is required.
- 6 (4) The applicant's or guardian's signature and the date, or in the case of a
7 minor, the signature of the minor's parent or legal guardian with
8 responsibility for health care decisions and the date.
- 9 (5) A disclosure that possession of a firearm by a person who possesses
10 marijuana may be a violation of federal law.
- 11 d. A signed consent for release of medical information related to the applicant's
12 debilitating medical condition, on a form provided by the department.
- 13 e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- 14 f. Any other information or material required by rule adopted under this chapter.
- 15 3. If the applicant is unable to submit the required application information due to age or
16 medical condition, the individual responsible for making medical decisions for the
17 applicant may submit the application on behalf of the applicant. The individual
18 responsible for making medical decisions:
 - 19 a. Must be identified on the qualifying patient application for a registry identification
20 card; and
 - 21 b. Shall provide a photographic copy of the individual's department-approved
22 identification. The identification must be available for inspection and verification
23 upon the request of the department.
- 24 4. If the applicant is a minor, the department may waive the application or renewal fee if:
 - 25 a. The parent or legal guardian of the applicant is the applicant's registered
26 designated caregiver; and
 - 27 b. The applicant resides with the applicant's registered designated caregiver.

28 **SECTION 6. AMENDMENT.** Section 19-24.1-03.1 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **19-24.1-03.1. Qualifying patients - Veterans.**

2 In lieu of the written certification required under section 19-24.1-03, a veteran receiving
3 ~~treatment from a federal veterans' affairs entity~~ may submit to the department a copy of the
4 ~~veterans' affairs medical records identifying a diagnosis of a debilitating medical condition and a~~
5 ~~copy of military discharge documents~~ and an attestation the veteran is diagnosed with a
6 debilitating medical condition. The department may use the ~~medical records and~~ discharge
7 documents and attestation in place of a written certification to approve or deny the application
8 under section 19-24.1-05. The department shall issue a registry identification card within thirty
9 calendar days of approving an application under this section.

10 **SECTION 7.** A new section to chapter 19-24.1 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Qualifying patients - Nonresidents.**

13 In lieu of the written certification required under section 19-24.1-03, a nonresident who
14 holds a valid out-of-state medical marijuana card issued by the state in which the nonresident
15 resides, may submit to the department a copy of the nonresident's out-of-state department-
16 approved identification and a copy of an out-of-state medical marijuana card. The department-
17 approved identification and out-of-state medical marijuana card must be issued by the same
18 state. The department may use the out-of-state department-approved identification and
19 out-of-state medical marijuana card in place of a written certification to approve or deny the
20 application under section 19-24.1-05. The department shall issue a registry identification card
21 within thirty calendar days of approving an application under this section. The issued registry
22 identification card expiration date must be the same as the out-of-state medical marijuana card.

23 **SECTION 8. AMENDMENT.** Section 19-24.1-11 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **19-24.1-11. Registry identification cards.**

- 26 1. The contents of a registry identification card must include:
- 27 a. The name of the cardholder;
 - 28 b. A designation as to whether the cardholder is a qualifying patient, designated
29 caregiver, or compassion center agent;
 - 30 c. A designation as to whether a qualifying patient is a minor;

- 1 d. A designation as to whether a qualifying patient or a designated caregiver's
- 2 qualifying patient is authorized to use an enhanced amount of dried leaves or
- 3 flowers of the plant of the genus cannabis to treat or alleviate the patient's
- 4 debilitating medical condition of cancer;
- 5 e. The date of issuance and expiration date;
- 6 f. A random ten-digit alphanumeric identification number containing at least four
- 7 numbers and at least four letters which is unique to the cardholder;
- 8 g. If the cardholder is a designated caregiver, the random identification number of
- 9 the qualifying patient the designated caregiver is authorized to assist;
- 10 h. A photograph of the cardholder; and
- 11 i. The phone number or website address at which the card can be verified.
- 12 2. Except as otherwise provided in this section or rule adopted under this chapter, a
- 13 registry identification card ~~expiration date must be~~ valid for one year after ~~from the~~
- 14 date of issuance for first time qualifying patients.
- 15 3. ~~If a health care provider limits the written certification until a specified date, less than~~
- 16 ~~one year, the registry identification card expires on that date~~ A registry identification
- 17 card renewal is valid for two years from the date of issuance for a qualifying patient
- 18 who previously was issued a registry identification card.

19 **SECTION 9. AMENDMENT.** Section 19-24.1-37 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **19-24.1-37. Confidentiality.**

- 22 1. Except as provided under subsection 2, information kept or maintained by the
- 23 department is confidential, including information in a registration application or renewal
- 24 and supporting information submitted by a qualifying patient, designated caregiver,
- 25 compassion center, proposed compassion center, or compassion center agent,
- 26 including information on designated caregivers and health care providers.
- 27 2. Information kept or maintained by the department may be disclosed as necessary for:
- 28 a. The verification of registration certificates and registry identification cards under
- 29 this chapter;
- 30 b. Submission of the annual report required by this chapter;
- 31 c. Submission to the North Dakota prescription drug monitoring program;

- 1 d. Notification of state or local law enforcement of apparent criminal violation;
- 2 e. Notification of state and local law enforcement about falsified or fraudulent
- 3 information submitted for purposes of obtaining or renewing a registry
- 4 identification card;
- 5 f. Notification of the North Dakota board of medicine or North Dakota board of
- 6 nursing if there is a reason to believe a health care provider provided a written
- 7 certification and the department has reason to believe the health care provider
- 8 otherwise violated this chapter; or
- 9 g. Data for statistical purposes in a manner such that an individual or compassion
- 10 center is not identified.
- 11 3. Upon a cardholder's written request, the department may confirm the cardholder's
- 12 status as a registered qualifying patient or a registered designated caregiver to a third
- 13 party, such as a landlord, school, medical professional, or court.
- 14 4. Information submitted to a local government to demonstrate compliance with any
- 15 security requirements required by local zoning ordinances or regulations is
- 16 confidential.
- 17 5. Upon written request of a compassion center or a compassion center's designee, the
- 18 department shall comply with a request for information to a third party when necessary
- 19 for the business operation of a compassion center.