ARTICLE 33-44
MEDICAL MARIJUANA

Chapter
33-44-01 Medical Marijuana

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33-44-01-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling usable marijuana.

2. "Adverse reaction" means an unwanted, unexpected, or dangerous effect caused by the administration of usable marijuana dispensed pursuant to North Dakota Century Code chapter 19-24.1.

3. "Analyte" means a component, substance, or chemical or microbiological constituent that is of interest in an analytical procedure or test.

4. "Batch" means a quantity of dried leaves and flowers from a harvest lot, a quantity of cannabinoid concentrate, or medical cannabinoid product from a process lot.

5. "Compliance test" means a test required by these rules to be performed by a laboratory selected by the department in order to allow the transfer or sale of usable marijuana.

6. "Container" means a sealed, hard- or soft-bodied receptacle in which usable marijuana is placed.

7. "Container identification number" means the identification number that was generated by the manufacturing facility at the time the usable marijuana was packaged and labeled for sale to the dispensary.

8. "Cotyledons" means an embryonic leaf of a plant, one or more of which are the first leaves to appear.

9. "Date of harvest" means the date the mature marijuana plants in a harvest lot were removed from the soil or other growing media. If the harvest occurred on more than one day, the "date of harvest" is the day the last mature marijuana plant in the harvest lot was removed from the soil or other growing media.

10. "Degradation compound" or "Pesticide degradate" means a resultant product from the transformation of a parent compound to a product with different physical and chemical properties, the fate and significance of which, is altered due to the structural changes.

11. "Harvest lot" means a specifically identified quantity of the same strain of marijuana that is cultivated utilizing the same growing practices, harvested within a seventy-two-hour period at the same location, and cured under uniform conditions.

12. "Hazardous waste" means the same as defined in North Dakota Century Code chapter 23-20.3.

13. "Laboratory" means a laboratory selected by the department in accordance with section 33-44-01-36 to sample and conduct tests in accordance with these rules.

14. "Medical marijuana waste" means the same as defined in North Dakota Century Code chapter 19-24.1.

15. "Net weight" means the gross weight minus the tare weight of the packaging.

16. "Parent compound" means the original molecular structure from which other compounds can be derived through a chemical reaction or natural breakdown process.

17. "Pediatric symbol" means the image, established by the department and made available to manufacturing facilities, indicating the product complies with the pediatric medical marijuana maximum concentration limit as defined in North Dakota Century Code chapter 19-24.1.

18. "Plant" means a marijuana plant that has produced cotyledons or a cutting of a marijuana plant that has produced cotyledons.

19. "Process lot" means any amount of:

    a. Cannabinoid concentrate of the same type and processed within a forty-eight-hour period, unless prior written authorization is received from the department, using the same extraction methods, standard operating procedures, and batches, not to exceed three, of the same strain from the same or a different harvest lot; or

    b. Medical cannabinoid product of the same type and processed within a forty-eight-hour period, unless prior written authorization is received from the department, using the same ingredients, standard operating procedures, and a process lot or process lots, not to exceed three, of cannabinoid concentrate as defined in subsection a.

20. "Product identity" means a common name of the product that is contained in the package.

21. "Remediation" means a process used by a manufacturing facility to remedy a lot or batch that has failed testing.

22. "Sterilization" means the removal of all micro-organisms and other pathogens from usable marijuana by treating it with approved chemicals or subjecting it to high heat.

23. "Tentatively identified compounds" means compounds detected in a sample using gas chromatography mass spectrometry or liquid chromatography mass spectrometry that are not among the target analytes for the residual solvent analysis and pesticide and mycotoxin analysis.

24. "Test sample" means anything collected by a laboratory from a compassion center for testing.

25. "Unit of sale" means an amount of usable marijuana commonly packaged in a container for transfer to a registered qualifying patient or registered designated caregiver, or capable of being

packaged in a container for transfer to a registered qualifying patient or registered designated caregiver.

26. "Universal symbol" means the image, established by the department and made available to manufacturing facilities, indicating the product contains marijuana.

27. "Water activity" means a measure of the free moisture in usable marijuana and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol a_w.

28. "Written notice" means a notice provided to the department via letter, electronic mail, or other electronic form or medium made available on the department's website.

History: Effective April 1, 2018; amended effective October 1, 2019; amended effective July 1, 2022.
General authority: NDCC 19-24.1-01
Law Implemented: NDCC 19-24.1-01

33-44-01-02. Cardholder notification of change.

A registered qualifying patient or registered designated caregiver who is required to provide notification in accordance with subsection 1 of North Dakota Century Code section 19-24.1-10 shall provide the department written notice.

History: Effective April 1, 2018.
General Authority: NDCC 19-24.1-10
Law Implemented: NDCC 19-24.1-10

33-44-01-03. Fees for failure to provide notice.

A compassion center that fails to provide notice as required by North Dakota Century Code chapter 19-24.1 and these rules, is subject to a fee in the amount of one hundred fifty dollars.

History: Effective April 1, 2018.
General Authority: NDCC 19-24.1-20
Law Implemented: NDCC 19-24.1-20

33-44-01-03.1. Minor Application.

The department may process a qualifying patient application for a registry identification card without the signature of the minor's parent or legal guardian if the applicant is eighteen years of age and the department determines the minor has no parent or legal guardian with responsibility for health care decisions of the minor.

History: Effective July 1, 2022
General Authority: NDCC 19-24.1-03
Law Implemented: NDCC 19-24.1-03

33-44-01-03.2. Application fees for registry identification cards.

The department shall collect nonrefundable original application fees and nonrefundable renewal application fees for registry identification cards as follows:

1. For qualifying patient applications, twenty-five dollars.
2. For compassion center agent application fees, two hundred dollars.

History: Effective

General Authority: NDCC 19-24.1-03, NDCC 19-24.1-18
Law Implemented: NDCC 19-24.1-03, NDCC 19-24.1-18

33-44-01-03.3. Replacement fees for registry identification cards.

The department shall collect fees for issuing new registry identification cards when an original application or renewal application is not submitted as follows:

1. For a lost qualifying patient registry identification card or compassion center registry identification card, twenty-five dollars.

2. For a change in name of a registered qualifying patient or registered compassion center agent, five dollars.

History: Effective
General Authority: NDCC 19-24.1-10, NDCC 19-24.1-18
Law Implemented: NDCC 19-24.1-10, NDCC 19-24.1-18

33-44-01-04. Cardholder disposal of usable marijuana.

1. An individual who is no longer registered with the department or a cardholder who is no longer eligible shall dispose of any usable marijuana in their possession by:

   a. Returning it to a dispensary; or

   b. Rendering it unusable in accordance with subsection 4 of section 33-44-01-15.

2. Except as provided in this section, an individual who is no longer registered with the department or a cardholder who is no longer eligible may not transfer, share, give, sell, or deliver any usable marijuana in their possession to anyone, regardless of whether the individual possesses a valid registry identification card.

3. An individual who is no longer registered with the department or a cardholder who is no longer eligible may not dispose of usable marijuana in any manner other than as permitted by these rules.

4. After the death of a registered qualifying patient, any usable marijuana that was in the cardholder's possession or in the possession of the registered qualifying patient's registered designated caregiver must be disposed of within fifteen days. The registered qualifying patient's registered designated caregiver or next of kin shall dispose of any usable marijuana by rendering it unusable in accordance with subsection 4 of section 33-44-01-15.

5. After the death of a registered designated caregiver, any usable marijuana that was in the cardholder's possession must be disposed of within fifteen days. The registered designated caregiver's next of kin shall dispose of any usable marijuana by:

   a. Allowing the registered qualifying patient for whom it was dispensed to take possession of the usable marijuana; or

   b. Rendering it unusable in accordance with subsection 4 of section 33-44-01-15.

History: Effective April 1, 2018.
General Authority: NDCC 19-24.1-10
Law Implemented: NDCC 19-24.1-10

33-44-01-05. Expiration of registry identification cards.

An initial registry identification card expires one year after the date of issuance, unless the health care provider's written certification identifies the benefit from the medical use of marijuana is less than a year. To prevent interruption of possession of a valid registry identification card, a renewal of a registry identification card may have an expiration date from date of issuance in excess of one year.

History: Effective April 1, 2018.
General Authority: NDCC 19-24.1-11
Law Implemented: NDCC 19-24.1-11

33-44-01-06. Compassion center application process.

1. The department shall announce the open application period for the submission of compassion center applications. The announcement may be made using the department's website, electronic mail, press release, or any other means determined by the department. The announcement must include:

   a. Instructions;

   b. Forms;

   c. Deadline for submission;

   d. Criteria and score sheet to be used to review applications;

   e. Number, and category, of compassion centers eligible for registration; and

   f. Department contact information.

2. The department shall announce a change to the application requirements in the same manner used to announce the open application period.

3. The department may use a separate open application period for each category of compassion center.

4. Each proposed compassion center must be a separate legal entity and must submit a complete application.

5. The department shall establish a panel to evaluate all complete compassion center applications received before the deadline. The panel must be comprised of at least ~~five~~three, but no more than ~~twelve~~five, members. Panel members shall execute a conflict of interest form developed by the department. An individual with a conflict of interest, as determined by the department, may not participate as a panel member.

6. The panel shall evaluate all complete compassion center applications using an impartial and numerical scoring system. The panel must include the criteria in subsection 2 of North Dakota Century Code section 19-24.1-14 when reviewing compassion center applications. The department may include additional criteria in the review as long as the criteria is included in the open application period announcement.

7. Each panel member shall review and score every complete application.

8. The cumulative total of all the scores assigned to an application by each panel member is the final score. The final score will determine which applicants are eligible for registration.

9. The department shall notify, in writing, the highest scoring applicants for each category of compassion center of their eligibility for registration. Upon approval of the criteria in subsection 1

of North Dakota Century Code section 19-24.1-15 the department shall issue a compassion center registration certificate to the eligible compassion centers in each category. A separate legal entity may possess only one compassion center registration certificate. The department shall notify, in writing, compassion center applicants who are not selected for registration.

10. The department shall determine the amount and acceptable evidence of the financial assurance or security bond required in subsection 1 of North Dakota Century Code section 19-24.1-15. The amount may not exceed one hundred thousand dollars for a dispensary and may not exceed one million dollars for a manufacturing facility.

11. If a compassion center applicant eligible for registration does not meet the criteria in subsection 1 of North Dakota Century Code section 19-24.1-15, the department may select the next highest scoring compassion center applicant in the category for registration, or establish a new open application period.

History: Effective April 1, 2018; amended effective.
General Authority: NDCC 19-24.1-12
Law Implemented: NDCC 19-24.1-12

33-44-01-07. Establishing additional compassion centers.

If the department determines additional compassion centers are necessary to increase access to usable marijuana by registered qualifying patients and registered designated caregivers, the department may register additional compassion centers as follows:

1. The application and selection process for establishing additional compassion centers must be in accordance with section 33-44-01-06.

2. In addition to the criteria in subsection 2 of North Dakota Century Code section 19-24.1-14, the department also shall consider the location of the proposed compassion center, including its proximity to previously approved compassion centers of the same category and whether the population of registered qualifying patients supports the need for an additional facility in the area.

History: Effective April 1, 2018.
General Authority: NDCC 19-24.1-12
Law Implemented: NDCC 19-24.1-12

33-44-01-07.1. Additional categories of medical marijuana establishments.

The department may use the compassion center application and selection process in accordance with North Dakota Century Code chapter 19-24.1 and section 33-44-01-06 to register a manufacturing facility as a specific category of a medical marijuana establishment. A manufacturing facility selected and registered as a specific category of medical marijuana establishment shall comply with applicable compassion center requirements of North Dakota Century Code chapter 19-24.1 and these rules. The category of medical marijuana establishments are as follows:

1. A production only authorized manufacturing facility is a specific category of manufacturing facility. The activities of a production only authorized manufacturing facility are limited to producing and to related activities, including acquiring, possessing, storing, transferring, and transporting marijuana and the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form for the sole purpose of selling dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form to a dispensary.

2. A medical marijuana product processor only authorized manufacturing facility is a specific category of manufacturing facility. The activities of a medical marijuana product processor only

authorized manufacturing facility are limited to producing and processing and to related activities, including acquiring, possessing, storing, transferring, and transporting marijuana and medical marijuana products for the sole purpose of selling medical marijuana products to a dispensary.

History: Effective
General Authority: NDCC 19-24.1-36
Law Implemented: NDCC 19-24.1-36

33-44-01-07.2. Compassion center application fees.

The department shall collect nonrefundable application fees for compassion centers as follows:

1. For a manufacturing facility, five thousand dollars.

2. For a dispensary, five thousand dollars.

History: Effective
General Authority: NDCC 19-24.1-14
Law Implemented: NDCC 19-24.1-14

33-44-01-07.3. Compassion center certification fees.

The department shall collect certification fees for compassion center registrations as follows:

1. For a manufacturing facility, one hundred ten thousand dollars.

2. For a dispensary located in a city with a population of more than ten thousand, ninety thousand dollars.

3. For a dispensary located in a city with a population of ten thousand or less, thirty thousand dollars.

4. For a production only authorized manufacturing facility, seventy thousand dollars.

5. For a medical marijuana product processor only authorized manufacturing facility, thirty thousand dollars.

History: Effective
General Authority: NDCC 19-24.1-15
Law Implemented: NDCC 19-24.1-15

33-44-01-08. Compassion center inventory limits.

1. A manufacturing facility shall grow an amount of marijuana sufficient to meet the qualifying patient population demands. A manufacturing facility may possess up to fifty plants for the purpose of department-authorized research and development related to production and processing. Plants for research and development shall:

   a. Be included in inventory;

   b. Be located in a restricted area separate from the restricted area containing plants used for producing and processing of usable marijuana; and

   c. Not be used in the production and processing of usable marijuana that is sold to a dispensary for patient consumption unless authorized by the department in writing.