

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2344

Introduced by

Senators Wardner, Heckaman

Representatives Carlson, Mock

(Approved by the Delayed Bills Committee)

1 A BILL ~~for an Act to create and enact sections 19-24-14, 19-24-15, 19-24-16, 19-24-17,~~
2 ~~19-24-18, 19-24-19, 19-24-20, 19-24-21, 19-24-22, 19-24-23, 19-24-24, 19-24-25, 19-24-26,~~
3 ~~19-24-27, 19-24-28, 19-24-29, 19-24-30, 19-24-31, 19-24-32, 19-24-33, 19-24-34, 19-24-35,~~
4 ~~19-24-36, 19-24-37, 19-24-38, 19-24-39, 19-24-40, and 19-24-41 of the North Dakota Century~~
5 ~~Code, relating to implementation of the North Dakota Compassionate Care Act to authorize~~
6 ~~medical marijuana; to amend and reenact sections 19-24-01, 19-24-02, 19-24-03, 19-24-04,~~
7 ~~19-24-05, 19-24-06, 19-24-07, 19-24-08, 19-24-09, 19-24-10, 19-24-11, 19-24-12, and 19-24-13~~
8 ~~of the North Dakota Century Code, relating to implementation of the North Dakota~~
9 ~~Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative~~
10 ~~management; to provide a penalty; to provide a continuing appropriation; and to declare an~~
11 ~~emergency.~~for an Act to create and enact chapter 19-24.1 of the North Dakota Century Code,
12 relating to medical marijuana; to amend and reenact section 54-60-03, paragraph 3 of
13 subdivision a of subsection 15 of section 57-02-08, and paragraph 2 of subdivision b of
14 subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to primary sector
15 business certification and property tax exemptions for farm buildings and residences; to repeal
16 chapter 19-24 of the North Dakota Century Code, relating to medical marijuana; to provide a
17 statement of legislative intent; to provide for a report; to provide a penalty; to provide a
18 continuing appropriation; and to declare an emergency.

19 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

20 ~~—SECTION 1. AMENDMENT. Section 19-24-01 of the North Dakota Century Code is~~
21 ~~amended and reenacted as follows:~~

1 ~~— **19-24-01. Title – Compassionate care program.**~~

2 ~~— This Act may be cited as the "North Dakota Compassionate Care Act". The state~~
3 ~~department of health shall establish a compassionate care program to implement the medical-~~
4 ~~marijuana program under this chapter.~~

5 ~~— **SECTION 2. AMENDMENT.** Section 19-24-02 of the North Dakota Century Code is~~
6 ~~amended and reenacted as follows:~~

7 ~~— **19-24-02. Definitions.**~~

8 ~~— The following words and terms, when used in these regulations, should have the following~~
9 ~~meaning, unless the context clearly indicates otherwise:~~

10 ~~— 1. "Act" means the North Dakota Compassionate Care Act.~~

11 ~~— 2. "Adulterated" means made impure or inferior by adding extraneous ingredients. Goods~~
12 ~~that are prepared in food establishments that are licensed facilities in response and~~
13 ~~that contain marijuana for medical use by a registered patient are not considered to be~~
14 ~~adulterated.~~

15 ~~— 3. "Advisory board" means a nine-member committee established, chaired, and~~
16 ~~appointed by the governor, in conjunction with the attorney general, to evaluate and~~
17 ~~make recommendations to the state legislature and the department.~~

18 ~~— 4. "Applicant" means any person applying to participate in the North Dakota~~
19 ~~Compassionate Care Act.~~

20 ~~— 5. "Cardholder" means a registered patient of any age or a registered designated~~
21 ~~caregiver who has been issued and possesses a valid registry identification card.~~

22 ~~— 6. "Compassion center agent" means a principal officer, board member, employee, or~~
23 ~~agent of a registered compassion center who is twenty-one years of age or older and~~
24 ~~has not been convicted of an excluded felony offense, and has not been convicted of a~~
25 ~~drug misdemeanor within five years.~~

26 ~~— 7. "Debilitating medical condition" means one or more of the following:~~

27 ~~— a. Cancer and its treatments;~~

28 ~~— b. Positive status for human immunodeficiency virus (HIV);~~

29 ~~— c. Acquired immune deficiency syndrome (AIDS);~~

30 ~~— d. Decompensated cirrhosis (hepatitis C);~~

31 ~~— e. Amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease);~~

- 1 ~~_____ f. Posttraumatic stress disorder (PTSD);~~
2 ~~_____ g. Agitation of Alzheimer's disease, dementia, or the treatment of these conditions;~~
3 ~~_____ h. Crohn's disease or fibromyalgia;~~
4 ~~_____ i. Spinal stenosis or chronic back pain including neuropathy or damage to the~~
5 ~~nervous tissue of the spinal cord with objective neurological indication of~~
6 ~~intractable spasticity;~~
7 ~~_____ j. Glaucoma;~~
8 ~~_____ k. Epilepsy;~~
9 ~~_____ l. A chronic or debilitating disease medical condition or its treatment that produces~~
10 ~~one or more of the following: cachexia or wasting syndrome; severe debilitating~~
11 ~~pain that has not responded to previously prescribed medication or surgical~~
12 ~~measures for more than three months or for which other treatment options~~
13 ~~produced serious side effects; intractable nausea; seizures; or severe and~~
14 ~~persistent muscle spasms, including but not limited to those characteristic of~~
15 ~~multiple sclerosis;~~
16 ~~_____ m. Any other medical condition or its treatment added by the North Dakota~~
17 ~~department of health.~~
18 ~~_____ 8. "Department" means the North Dakota department of health.~~
19 ~~_____ 9. "Designated caregiver" means a person who:~~
20 ~~_____ a. Is at least twenty-one years of age;~~
21 ~~_____ b. Has agreed to assist with a patient's medical use of marijuana;~~
22 ~~_____ c. Has not been convicted of a felony offense; and~~
23 ~~_____ d. Assists no more than five qualifying patients with their medical use of marijuana.~~
24 ~~_____ 10. "Incidental amount of marijuana" means marijuana seeds, stalks and roots of the plant~~
25 ~~that are not included when calculating the allowable amounts of marijuana specified in~~
26 ~~these rules. This includes the weight of any nonmarijuana ingredients combined with~~
27 ~~marijuana, such as ingredients added to prepare a topical ointment, food, or drink.~~
28 ~~_____ 11. "Marijuana", also known as cannabis, is an annual, dioecious, flowering herb that~~
29 ~~produces a group of chemicals called cannabinoids.~~
30 ~~_____ 12. "Marijuana paraphernalia" is limited to equipment, products, and materials that are~~
31 ~~ordinarily used in planting, propagating, cultivating, growing, harvesting, processing,~~

- 1 ~~preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting,~~
2 ~~inhaling, or otherwise introducing marijuana into the human body. It includes:~~
- 3 ~~a. Scales and balances;~~
4 ~~b. Separation gins and sifters, used or intended for use in removing twigs and~~
5 ~~seeds from, or in otherwise cleaning or refining, marijuana;~~
6 ~~c. Envelopes and other containers used or intended for use in packaging small~~
7 ~~quantities of marijuana for medical use;~~
8 ~~d. Containers and other objects used or intended for use in storing medical~~
9 ~~marijuana; and~~
10 ~~e. Objects used or intended for use in ingesting, inhaling, or otherwise introducing~~
11 ~~marijuana into the human body, including but not limited to:~~
- 12 ~~(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without~~
13 ~~screens, permanent screens, hashish heads or punctured metal bowls;~~
14 ~~(2) Water pipes;~~
15 ~~(3) Carburetion tubes and devices;~~
16 ~~(4) Smoking and carburetion masks;~~
17 ~~(5) Roach clips, meaning objects used to hold burning marijuana cigarettes that~~
18 ~~have become too small or too short to be held in the hand;~~
19 ~~(6) Chamber pipes;~~
20 ~~(7) Carburetor pipes;~~
21 ~~(8) Electric pipes;~~
22 ~~(9) Air-driven pipes;~~
23 ~~(10) Chillums;~~
24 ~~(11) Bongs designed for marijuana and not for cocaine; or~~
25 ~~(12) Ice pipes or chillers.~~
- 26 ~~13. "Medical use" means the acquisition, possession, use, delivery, transfer, or~~
27 ~~transportation of marijuana or paraphernalia relating to the administration of marijuana~~
28 ~~to treat or alleviate a registered patient's debilitating medical condition or symptoms~~
29 ~~associated with the registered patient's debilitating medical condition.~~
- 30 ~~14. "Onsite assessment" means a visit by an employee of the department for the purpose~~
31 ~~of ensuring compliance with the requirements of these rules.~~

- 1 ~~15. "Physician" means a properly licensed physician in the state of North Dakota. If the~~
2 ~~qualifying patient's debilitating medical condition is posttraumatic stress disorder, the~~
3 ~~physician must also be a licensed psychiatrist.~~
- 4 ~~16. "Posttraumatic stress disorder" means that a patient meets the diagnostic criteria for~~
5 ~~posttraumatic stress disorder (PTSD), per DSM-5 or subsequent current edition,~~
6 ~~including symptoms of intense physical reactions such as tachycardia, shortness of~~
7 ~~breath, rapid breathing, muscle tension, and sweating.~~
- 8 ~~17. "Qualifying patient" means a person who has been diagnosed by a physician as~~
9 ~~having a debilitating medical condition.~~
- 10 ~~18. "Registry identification card" means a document issued by the department that~~
11 ~~identifies a person as a registered patient or registered designated caregiver.~~
- 12 ~~19. "Tincture" means a mixture created from a concentrated extract of marijuana.~~
- 13 ~~20. "Topical treatment" means a mixture or extract of marijuana made into a balm, lotion,~~
14 ~~ointment, or rubbing alcohol solution that is applied transcutaneously.~~
- 15 ~~21. "Usable amount of medical marijuana for medical use" means three ounces or less of~~
16 ~~usable marijuana as defined below.~~
- 17 ~~22. "Usable marijuana" means the dried leaves and flowers of the marijuana plant, and~~
18 ~~any mixture or preparation of those dried leaves and flowers, including but not limited~~
19 ~~to tinctures, ointments, and other preparations. It does not include the weight of any~~
20 ~~nonmarijuana ingredients combined with marijuana, such as ingredients added to~~
21 ~~prepare a topical administration, food, or drink.~~
- 22 ~~23. "Verification system" means a phone or web-based system established and~~
23 ~~maintained by the department that is available to law enforcement personnel and~~
24 ~~compassion center agents on a twenty-four-hour basis for verification of registry~~
25 ~~identification cards.~~
- 26 ~~24. "Written certification" means a document dated and signed by a physician, stating that~~
27 ~~in the physician's opinion the patient is likely to receive therapeutic or palliative benefit~~
28 ~~from the medical use of marijuana to treat or alleviate the patient's debilitating medical~~
29 ~~condition or symptoms associated with the debilitating medical condition. A written~~
30 ~~certification shall be made only in the course of a bona fide physician-patient~~
31 ~~relationship where the qualifying patient is under the physician's care for the qualifying~~

1 patient's primary care or for the qualifying patient's debilitating condition after the
2 physician has completed an assessment of the qualifying patient's medical history and
3 current medical condition. The bona fide physician-patient relationship may not be
4 limited to authorization for the patient to use medical marijuana or consultation for that
5 purpose. The written certification shall specify the qualifying patient's debilitating
6 medical condition.

7 ~~As used in this chapter, unless the context indicates otherwise:~~

8 ~~1. "Allowable amount of usable marijuana for medical use" means the amount of usable~~
9 ~~marijuana an individual may purchase for medical use in a thirty-day period or have in~~
10 ~~the individual's possession at any time. A registered qualifying patient may not~~
11 ~~purchase or have purchased by a registered caregiver more than two and one-half~~
12 ~~ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in a~~
13 ~~combustible delivery form in a thirty-day period and may not possess more than three~~
14 ~~ounces [85.05 grams] of dried leaves or flowers of the plant of genus cannabis in a~~
15 ~~combustible delivery form at any time. A registered qualifying patient may not~~
16 ~~purchase or have purchased by a registered caregiver more than ten grams of liquid,~~
17 ~~including oil, or pill delivery form of marijuana with a maximum~~
18 ~~delta-9-tetrahydrocannabinol concentration of thirty percent in a thirty-day period and~~
19 ~~may not possess more than fifteen grams of liquid, including oil, or pill delivery form of~~
20 ~~marijuana with a maximum delta-9-tetrahydrocannabinol concentration of thirty~~
21 ~~percent at any time.~~

22 ~~2. "Bona fide physician-patient relationship" means a treatment or counseling~~
23 ~~relationship between a physician and patient in which all the following are present:~~

24 ~~a. The physician has reviewed the patient's relevant medical records and completed~~
25 ~~a full assessment of the patient's medical history and current medical condition,~~
26 ~~including a relevant, in-person, medical evaluation of the patient.~~

27 ~~b. The physician has created and maintained records of the patient's condition in~~
28 ~~accordance with medically accepted standards.~~

29 ~~c. The patient is under the physician's continued care for primary medical care for~~
30 ~~the debilitating medical condition that qualifies the patient for the use of medical~~
31 ~~marijuana.~~

- 1 ~~_____ d. The physician has a reasonable expectation the physician will provide followup-~~
2 ~~_____ care to the patient to monitor the use of medical marijuana as a treatment of the-~~
3 ~~_____ patient's debilitating medical condition.~~
- 4 ~~_____ e. The relationship is not for the sole purpose of providing written certification for the-~~
5 ~~_____ use of medical marijuana.~~
- 6 ~~_____ 3. "Cardholder" means a qualifying patient, designated caregiver, or compassion center-~~
7 ~~_____ agent who has been issued and possesses a valid registry identification card.~~
- 8 ~~_____ 4. "Compassion center" means a manufacturing facility or dispensary.~~
- 9 ~~_____ 5. "Compassion center agent" means a principal officer, board member, member,-~~
10 ~~_____ manager, governor, employee, volunteer, or agent of a compassion center.~~
- 11 ~~_____ 6. "Contaminated" means made impure or inferior by extraneous substances.~~
- 12 ~~_____ 7. "Debilitating medical condition" means one or more of the following:~~
- 13 ~~_____ a. Cancer;~~
- 14 ~~_____ b. Positive status for human immunodeficiency virus;~~
- 15 ~~_____ c. Acquired immune deficiency syndrome;~~
- 16 ~~_____ d. Decompensated cirrhosis caused by hepatitis C;~~
- 17 ~~_____ e. Amyotrophic lateral sclerosis;~~
- 18 ~~_____ f. Posttraumatic stress disorder;~~
- 19 ~~_____ g. Agitation of Alzheimer's disease or related dementia;~~
- 20 ~~_____ h. Crohn's disease;~~
- 21 ~~_____ i. Fibromyalgia;~~
- 22 ~~_____ j. Spinal stenosis or chronic back pain, including neuropathy or damage to the-~~
23 ~~_____ nervous tissue of the spinal cord with objective neurological indication of-~~
24 ~~_____ intractable spasticity;~~
- 25 ~~_____ k. Glaucoma;~~
- 26 ~~_____ l. Epilepsy; and~~
- 27 ~~_____ m. A chronic or debilitating disease or medical condition or treatment for such-~~
28 ~~_____ disease or medical condition that produces one or more of the following:~~
- 29 ~~_____ (1) Cachexia or wasting syndrome;~~

- 1 ~~————— (2) Severe debilitating pain that has not responded to previously prescribed~~
2 ~~medication or surgical measures for more than three months or for which~~
3 ~~other treatment options produced serious side effects;~~
- 4 ~~————— (3) Intractable nausea;~~
- 5 ~~————— (4) Seizures; or~~
- 6 ~~————— (5) Severe and persistent muscle spasms, including those characteristic of~~
7 ~~multiple sclerosis.~~
- 8 ~~— 8. "Department" means the state department of health.~~
- 9 ~~— 9. "Designated caregiver" means an individual who agrees to manage the well being of a~~
10 ~~registered qualifying patient with respect to the qualifying patient's medical use of~~
11 ~~marijuana.~~
- 12 ~~— 10. "Dispensary" means an entity registered with the department under this chapter to~~
13 ~~acquire, possess, store, deliver, transfer, transport, sell, supply, or dispense usable~~
14 ~~marijuana or related supplies and educational materials to a registered qualifying~~
15 ~~patient or registered designated caregiver.~~
- 16 ~~— 11. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other~~
17 ~~enclosed area equipped with locks or other security devices that permit access limited~~
18 ~~to individuals authorized under this chapter or rules adopted under this chapter.~~
- 19 ~~— 12. "Manufacturing facility" means an entity registered with the department under this~~
20 ~~chapter to acquire, possess, cultivate, or transport marijuana for the sole purpose of~~
21 ~~manufacturing usable marijuana for the delivery, supply, or sale of usable marijuana to~~
22 ~~a dispensary.~~
- 23 ~~— 13. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;~~
24 ~~the resin extracted from any part of the plant; and every compound, manufacture, salt,~~
25 ~~derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin~~
26 ~~extracted from any part of the plant.~~
- 27 ~~— 14. "Medical marijuana waste" means unused, surplus, returned, or out of date usable~~
28 ~~marijuana; recalled usable marijuana; and any marijuana plant debris, including dead~~
29 ~~plants and all unused plant parts and roots.~~
- 30 ~~— 15. "Medical use" means the acquisition, use, and possession of usable marijuana to treat~~
31 ~~or alleviate a registered qualifying patient's debilitating medical condition.~~

1 ~~16. "Minor" means an individual under the age of nineteen.~~

2 ~~17. "North Dakota identification" means a North Dakota driver's license or comparable~~
3 ~~state of North Dakota or federal issued photo identification card verifying North Dakota~~
4 ~~residence.~~

5 ~~18. "Pediatric medical marijuana oil" means cannabidiol oil, which is processed cannabis~~
6 ~~plant extract that contains no more than six percent tetrahydrocannabinol, or is a~~
7 ~~dilution of the resin of the cannabis plant which contains no more than six percent~~
8 ~~tetrahydrocannabinol.~~

9 ~~19. "Physician" means a physician licensed to practice medicine in the state of North~~
10 ~~Dakota who has the authority to prescribe drugs to humans. If the qualifying patient's~~
11 ~~debilitating medical condition is posttraumatic stress disorder, the physician must be a~~
12 ~~licensed psychiatrist. If the qualifying patient is younger than eighteen years of age,~~
13 ~~the physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric~~
14 ~~oncologist, or pediatric palliative care specialist or must be a pediatrician working in~~
15 ~~consultation with one of these pediatric specialists.~~

16 ~~20. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for~~
17 ~~posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental~~
18 ~~Disorders", American psychiatric association, fifth edition, text revision (2013), or a~~
19 ~~future edition adopted by the department, including symptoms of intense physical~~
20 ~~reactions such as tachycardia, shortness of breath, rapid breathing, muscle tension,~~
21 ~~and sweating.~~

22 ~~21. "Qualifying patient" means an individual who has been diagnosed by a physician as~~
23 ~~having a debilitating medical condition.~~

24 ~~22. "Registry identification card" means a document issued by the department which~~
25 ~~identifies an individual as a registered qualifying patient, registered designated~~
26 ~~caregiver, or registered compassion center agent.~~

27 ~~23. "Usable marijuana" means a liquid, including an oil, or a pill delivery form of marijuana~~
28 ~~or the dried leaves or flowers of the plant of the genus cannabis in a combustible~~
29 ~~delivery form. The term does not include marijuana infused food. In the case of a~~
30 ~~registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric~~
31 ~~medical marijuana oil.~~

1 ~~24. "Verification system" means the system maintained by the department under section~~
2 ~~19-24-36 for verification of registry identification cards.~~

3 ~~25. "Written certification" means a form established by the department which is executed,~~
4 ~~dated, and signed by a physician within ninety calendar days of the date of application,~~
5 ~~stating that in the physician's professional opinion the patient is likely to receive~~
6 ~~therapeutic or palliative benefit from the medical use of usable marijuana to treat or~~
7 ~~alleviate the patient's debilitating medical condition. If the physician authorizes the use~~
8 ~~of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery~~
9 ~~form, the written certification must include an attestation in the physician's professional~~
10 ~~opinion no other form of usable marijuana would be effective in providing the patient~~
11 ~~therapeutic or palliative benefits. A written certification may not be made except in the~~
12 ~~course of a bona fide physician-patient relationship.~~

13 ~~SECTION 3. AMENDMENT. Section 19-24-03 of the North Dakota Century Code is~~
14 ~~amended and reenacted as follows:~~

15 ~~19-24-03. Qualifying patient registry identification card application-Application~~
16 ~~requirements.~~

17 ~~1. The department shall issue a registry identification card to an applicant for the purpose~~
18 ~~of participating in the medical marijuana program upon the written certification of the~~
19 ~~applicant's physician, supporting application documents, and a nonrefundable~~
20 ~~application fee with a personal check or a cashier's check made out to "North Dakota~~
21 ~~department of health, compassionate care program". The following information shall~~
22 ~~be provided in the participant enrollment form submitted to the department in order for~~
23 ~~a registry identification card to be obtained and processed.~~

24 ~~2. An attached original written certification for patient eligibility form shall contain:~~

25 ~~a. The name, address, and telephone number of the applicant's physician;~~

26 ~~b. The physician's clinical licensure;~~

27 ~~c. The patient applicant's name and date of birth;~~

28 ~~d. The medical justification for the physician's certification of the patient's~~
29 ~~debilitating medical condition;~~

30 ~~e. The physician's signature and date;~~

31 ~~f. The name, address, and date of birth of the applicant;~~

- 1 ~~g. The name, address, and date of birth of the applicant's primary caregiver, if any;~~
- 2 ~~h. A reasonable photographic copy of the applicant's North Dakota driver's license-~~
- 3 ~~or comparable state of North Dakota or federal issued photo identification card-~~
- 4 ~~verifying North Dakota residence; state of North Dakota issued identification card-~~
- 5 ~~must be available for inspection or verification. Should the applicant be a minor, a-~~
- 6 ~~certificated copy of a birth record will meet the identification requirement;~~
- 7 ~~i. The length of time the applicant has been under the care of the physician-~~
- 8 ~~providing the medical provider certification for patient eligibility;~~
- 9 ~~j. The applicant's or guardian's signature and date; and~~
- 10 ~~k. A signed consent for release of medical information related to the patient's-~~
- 11 ~~debilitating medical condition, on a form provided by the North Dakota-~~
- 12 ~~department of health.~~
- 13 ~~1. A qualifying patient is not eligible to participate in the compassionate care program-~~
- 14 ~~unless the qualifying patient has a valid registry identification card issued by the-~~
- 15 ~~department.~~
- 16 ~~2. A qualifying patient application for a registry identification card is complete and eligible-~~
- 17 ~~for review if an applicant submits to the department:~~
- 18 ~~a. A nonrefundable annual application fee of two hundred dollars with a personal-~~
- 19 ~~check or cashier's check payable to "North Dakota State Department of Health,-~~
- 20 ~~Compassionate Care Program".~~
- 21 ~~b. An original written certification, which must include:~~
- 22 ~~(1) The name, address, and telephone number of the practice location of the-~~
- 23 ~~applicant's physician;~~
- 24 ~~(2) The physician's North Dakota clinical licensure number;~~
- 25 ~~(3) The physician's medical specialty;~~
- 26 ~~(4) The applicant's name and date of birth;~~
- 27 ~~(5) The applicant's debilitating medical condition and the medical justification-~~
- 28 ~~for the physician's certification of the patient's debilitating medical condition;~~
- 29 ~~(6) Attestation the written certification is made in the course of a bona fide-~~
- 30 ~~physician-patient relationship and that in the physician's professional-~~
- 31 ~~opinion the applicant is likely to receive therapeutic or palliative benefit from-~~

- 1 ~~the medical use of marijuana to treat or alleviate the applicant's debilitating-~~
2 ~~medical condition;~~
- 3 ~~(7) If the physician authorizes the patient to use the dried leaves or flowers of~~
4 ~~the plant of the genus cannabis in a combustible delivery form, attestation in~~
5 ~~the physician's professional opinion no other form of usable marijuana will~~
6 ~~be effective in providing the patient therapeutic or palliative benefits; and~~
- 7 ~~(8) The physician's signature and the date.~~
- 8 ~~c. An original qualifying patient application for a registry identification card form~~
9 ~~established by the department which must include:~~
- 10 ~~(1) The applicant's name, address, and date of birth;~~
- 11 ~~(2) The applicant's social security number;~~
- 12 ~~(3) The name, address, and date of birth of the applicant's proposed~~
13 ~~designated caregiver, if any;~~
- 14 ~~(4) A photographic copy of the applicant's North Dakota identification. The~~
15 ~~North Dakota identification must be available for inspection and verification~~
16 ~~upon request of the department. If the applicant is a minor, a certificated~~
17 ~~copy of a birth record is required; and~~
- 18 ~~(5) The applicant's or guardian's signature and the date, or in the case of a~~
19 ~~minor, the signature of the minor's parent or legal guardian with~~
20 ~~responsibility for health care decisions and the date.~~
- 21 ~~d. A signed consent for release of medical information related to the applicant's~~
22 ~~debilitating medical condition, on a form provided by the department.~~
- 23 ~~e. A recent two-by-two inch [5.08 by 5.08 centimeter] photograph of the applicant.~~
- 24 ~~3. If the applicant is unable to submit the required application information due to age or~~
25 ~~medical condition, the individual responsible for making medical decisions for the~~
26 ~~applicant may submit the application on behalf of the applicant. The individual~~
27 ~~responsible for making medical decisions:~~
- 28 ~~a. Must be identified on the qualifying patient application for a registry identification~~
29 ~~card; and~~

1 ~~_____ b. Shall provide a copy of the individual's North Dakota identification. The North-~~
2 ~~_____ Dakota identification must be available for inspection and verification upon the~~
3 ~~_____ request of the department.~~

4 ~~_____ 4. If the applicant is a minor, the department may waive the application or renewal fee if:~~

5 ~~_____ a. The parent or legal guardian of the applicant is the applicant's registered~~
6 ~~_____ designated caregiver; and~~

7 ~~_____ b. The applicant resides with the applicant's registered designated caregiver.~~

8 ~~_____ **SECTION 4. AMENDMENT.** Section 19-24-04 of the North Dakota Century Code is-~~
9 ~~_____ amended and reenacted as follows:~~

10 ~~_____ **19-24-04. Designated caregiver registry identification card application-Application**~~
11 ~~_____ **requirements.**~~

12 ~~_____ 1. The department shall issue a registry identification card to a primary caregiver-~~
13 ~~_____ applicant for the purpose of managing the well-being of one to five qualified patients,-~~
14 ~~_____ including themselves if the caregiver is a qualified patient, in response to the~~
15 ~~_____ requirements of this rule upon the completion and approval of the primary caregiver-~~
16 ~~_____ application form, available from the medical marijuana program, and a nonrefundable~~
17 ~~_____ application fee, in the form of a personal check or a cashier's check made out to~~
18 ~~_____ "North Dakota department of health, compassionate care program". In order for a~~
19 ~~_____ registry identification card to be obtained and processed, the following information-~~
20 ~~_____ shall be submitted to the medical marijuana program:~~

21 ~~_____ a. A certified copy of a birth record verifying that the applicant is at least twenty-one~~
22 ~~_____ years of age;~~

23 ~~_____ b. A reasonable photographic copy of the applicant's North Dakota driver's license-~~
24 ~~_____ or comparable state of North Dakota or federal issued photo identification card-~~
25 ~~_____ verifying North Dakota residence; state of North Dakota issued identification card-~~
26 ~~_____ must be available for inspection or verification;~~

27 ~~_____ c. Written approval by the qualified patient authorizing responsibility for managing~~
28 ~~_____ the well-being of a qualified patient with respect to the use of marijuana;~~

29 ~~_____ d. The name, address, telephone number, and date of birth of the qualified patient;~~

30 ~~_____ e. The name, address, and telephone number for each of the qualified patient's~~
31 ~~_____ physicians;~~

- 1 ~~_____ f. The name, address, and telephone number of the applicant; and~~
2 ~~_____ g. The applicant's signature and date.~~
3 ~~_____ 2. Designated caregiver application requirements:~~
4 ~~_____ a. Criminal history screening requirements:~~
5 ~~_____ (1) All designated caregiver applicants are required to consent to a nationwide~~
6 ~~_____ and statewide criminal history screening background check. All applicable~~
7 ~~_____ application fees associated with the nationwide and statewide criminal~~
8 ~~_____ history screening background check shall be paid by the primary caregiver~~
9 ~~_____ applicant.~~
10 ~~_____ (2) Individuals convicted of an excluded felony offense are prohibited from~~
11 ~~_____ serving as a designated caregiver. The applicant and qualified patient shall~~
12 ~~_____ be notified by registered mail of his or her disqualification from being a~~
13 ~~_____ designated caregiver.~~
14 ~~_____ 1. A designated caregiver is not eligible to participate in the compassionate care program~~
15 ~~_____ unless the designated caregiver has a valid registry identification card issued by the~~
16 ~~_____ department.~~
17 ~~_____ 2. A designated caregiver application is complete and eligible for review if an applicant~~
18 ~~_____ submits to the department:~~
19 ~~_____ a. A nonrefundable annual application fee of two hundred dollars with a personal~~
20 ~~_____ check or cashier's check made payable to "North Dakota State Department of~~
21 ~~_____ Health, Compassionate Care Program".~~
22 ~~_____ b. An original designated caregiver application for a registry identification card form~~
23 ~~_____ established by the department which must include:~~
24 ~~_____ (1) A certified copy of a birth record verifying the applicant is at least twenty-one~~
25 ~~_____ years of age;~~
26 ~~_____ (2) A photographic copy of the applicant's North Dakota identification. The~~
27 ~~_____ North Dakota identification must be available for inspection and verification~~
28 ~~_____ upon request of the department;~~
29 ~~_____ (3) The name, address, telephone number, and date of birth of the qualifying~~
30 ~~_____ patient;~~

1 ~~_____ (4) The name, address, and telephone number for the qualifying patient's~~
2 ~~physician;~~

3 ~~_____ (5) The name, address, and telephone number of the applicant;~~

4 ~~_____ (6) The applicant's social security number; and~~

5 ~~_____ (7) The applicant's signature and the date.~~

6 ~~_____ c. An original designated caregiver authorization form established by the~~
7 ~~department which must be executed by a registered qualifying patient providing~~
8 ~~the designated caregiver applicant with the responsibility of managing the well-~~
9 ~~being of the registered qualifying patient with respect to the registered qualifying~~
10 ~~patient's medical use of marijuana. The form must include:~~

11 ~~_____ (1) The name and date of birth of the designated caregiver applicant; and~~

12 ~~_____ (2) The registered qualifying patient's signature and the date.~~

13 ~~_____ d. A recent two-by-two inch [5.08 by 5.08 centimeter] photograph of the applicant.~~

14 ~~_____ 3. A criminal history record check conducted under section 12-60-24 must be performed~~
15 ~~upon initial application and biennially thereafter and at any other time upon the request~~
16 ~~of the department. All fees associated with the criminal history record check must be~~
17 ~~paid by the applicant.~~

18 ~~_____ 4. An individual convicted of a drug-related misdemeanor offense within the five years~~
19 ~~preceding the date of application, or of a felony offense is prohibited from serving as a~~
20 ~~designated caregiver.~~

21 ~~_____ 5. An applicant shall submit a separate and complete application for each of the~~
22 ~~applicant's registered qualifying patients. A registered designated caregiver may assist~~
23 ~~no more than five registered qualifying patients. A designated caregiver who is a~~
24 ~~registered qualifying patient may assist no more than four additional registered~~
25 ~~qualifying patients.~~

26 ~~_____ 6. A registered designated caregiver may not purchase or possess more than the~~
27 ~~allowable amount of usable marijuana for medical use for each of the registered~~
28 ~~designated caregiver's registered qualifying patients and for the registered designated~~
29 ~~caregiver if the caregiver is a registered qualifying patient.~~

30 ~~_____ **SECTION 5. AMENDMENT.** Section 19-24-05 of the North Dakota Century Code is~~
31 ~~amended and reenacted as follows:~~

~~19-24-05. Registry~~~~Qualifying patient and designated caregiver registry identification cards - Issuance and denial.~~

~~1. Department inquiry:~~

~~a. The department may verify information on each application and accompanying documentation by the following methods:~~

~~(1) Contacting each applicant by telephone, mail, or if proof of identity is uncertain, the department shall require a face-to-face meeting and the production of additional identification materials;~~

~~(2) Contacting the North Dakota board of medicine to verify that the physician is licensed to practice medicine in North Dakota and is in good standing; and~~

~~(3) Contacting the physician to obtain further documentation that the applicant's medical diagnosis and medical condition qualify the applicant for enrollment in the compassionate care program.~~

~~2. Upon verification of the information contained in an application submitted in response to this subsection, the department shall approve or deny an application within forty-five calendar days of receipt.~~

~~3. Department registry identification card: The department shall issue a registry identification card within thirty calendar days of approving an application. A registry identification card shall contain a ten-digit alphanumeric identification, maintained by the department, which identifies the qualified patient or primary caregiver. Unless suspended or revoked, or if the physician stated in the written certification that the qualifying patient would benefit from marijuana until a specified earlier date, a registry identification card shall be valid for a period of one year from the date of issuance and shall expire at midnight on the day indicated on the registry identification card as the expiration date.~~

~~4. Supplemental requirement:~~

~~a. A registered qualifying patient or registered designated caregiver who possesses a registry identification card shall notify the department of any of the following within ten calendar days of the change. An extension shall be granted by the medical marijuana program upon the showing of good cause.~~

~~(1) A change in card holder's name or address;~~

- 1 ~~————— (2) Knowledge of a change that would render the patient no longer qualified to~~
2 ~~participate in the program, such as a cure of the debilitating condition~~
3 ~~causing the need for medical marijuana;~~
- 4 ~~————— (3) Knowledge of a change that renders the patient's physician no longer a~~
5 ~~qualified "physician" as defined in subsection 15 of section 19-24-02 of~~
6 ~~these regulations; or~~
- 7 ~~————— (4) Knowledge of a change that renders the patient's caregiver no longer~~
8 ~~eligible as defined in these regulations.~~
- 9 ~~————— b. Before a registered qualifying patient changes his or her designated caregiver,~~
10 ~~the qualifying patient must notify the department in writing.~~
- 11 ~~————— c. If a cardholder loses his or her registry identification card, he or she shall notify~~
12 ~~the department in writing within ten days of becoming aware the card has been~~
13 ~~lost. Upon notification, the department shall issue a new registry identification~~
14 ~~card. Unless documentation in the initial application has changed, the qualified~~
15 ~~patient or designated caregiver shall not be required to submit a new application.~~
- 16 ~~————— d. When a cardholder notifies the department of items listed in subsection 4 but~~
17 ~~remains eligible, the department shall issue the cardholder a new registry~~
18 ~~identification card with a new random ten-digit alphanumeric identification~~
19 ~~number within ten days of receiving the updated information and the cardholder~~
20 ~~shall pay a twenty-five dollar fee. If the person notifying the department is a~~
21 ~~registered qualifying patient, the department shall also issue his or her registered~~
22 ~~designated caregiver, if any, a new registry identification card within ten days of~~
23 ~~receiving the updated information.~~
- 24 ~~————— e. If a registered qualifying patient ceases to be a registered qualifying patient or~~
25 ~~changes his or her registered designated caregiver, the department shall~~
26 ~~promptly notify the designated caregiver by certified, registered mail. The~~
27 ~~registered designated caregiver's protections under this chapter as to that~~
28 ~~qualifying patient shall expire fifteen days after notification by the department.~~
- 29 ~~————— f. A cardholder who fails to make a notification to the department that is required by~~
30 ~~subsection 4 is subject to a civil infraction, punishable by a penalty of no more~~

1 than one hundred fifty dollars and is also subject to the immediate revocation of
2 the registry identification card and all lawful privileges provided under the Act.

3 ~~g. If the registered qualifying patient's certifying physician notifies the department in~~
4 ~~writing that either the registered qualifying patient has ceased to suffer from a~~
5 ~~debilitating medical condition or that the physician no longer believes the patient~~
6 ~~would receive therapeutic or palliative benefit from the medical use of marijuana,~~
7 ~~the card shall become null and void. However, the registered qualifying patient~~
8 ~~shall have fifteen days to dispose of the patient's marijuana.~~

9 ~~5. Registry identification card application denial: The state health officer or designee shall~~
10 ~~deny an application if the applicant fails to provide the information required, if the~~
11 ~~department determines that the information provided is false, or if the patient does not~~
12 ~~have a debilitating medical condition eligible for enrollment in the program, as~~
13 ~~determined by the state health officer. A person whose application has been denied~~
14 ~~shall not reapply for six months from the date of the denial, unless otherwise~~
15 ~~authorized by the department, and is prohibited from all lawful privileges provided by~~
16 ~~this rule and Act.~~

17 ~~6. The department shall deny an application or renewal of a qualifying patient's registry~~
18 ~~identification card if the applicant:~~

19 ~~a. Did not provide the required information and materials;~~

20 ~~b. Previously had a registry identification card revoked; or~~

21 ~~c. Provided false or falsified information.~~

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

24 ~~a. The designated caregiver does not meet the requirements of subsection 2 of~~
25 ~~section 19-24-04;~~

26 ~~b. The applicant did not provide the information required;~~

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

28 ~~d. The applicant or the designated caregiver provides false or falsified information.~~

29 ~~8. The department shall notify the qualifying patient who has designated someone to~~
30 ~~serve as his or her designated caregiver if a registry identification card will not be~~
31 ~~issued to the designated caregiver.~~

- 1 ~~9. Denial of an application or renewal is considered a final department action, subject to~~
2 ~~judicial review. Jurisdiction and venue for judicial review are vested in the district court.~~
- 3 ~~10. Registry identification card renewal application: Each registry identification card issued~~
4 ~~by the department is valid in accordance with subsection 2 of section 19-24-03. A~~
5 ~~qualified patient or primary caregiver shall apply for a registry identification card~~
6 ~~renewal no less than forty five calendar days prior to the expiration date of the existing~~
7 ~~registry identification card in order to prevent interruption of possession of a valid~~
8 ~~(unexpired) registry identification card.~~
- 9 ~~11. Nontransferable registration of registry identification card: A registry identification card~~
10 ~~shall not be transferred, by assignment or otherwise, to other persons or locations.~~
11 ~~Any attempt shall result in the immediate revocation of the registry identification card~~
12 ~~and all lawful privileges provided by this rule and Act.~~
- 13 ~~12. Automatic expiration of registry identification card by administrative withdrawal: Upon~~
14 ~~request the qualified patient or designated caregiver shall discontinue the medical~~
15 ~~marijuana program by an administrative withdrawal. A qualified patient or designated~~
16 ~~caregiver that intends to seek an administrative withdrawal shall notify the licensing~~
17 ~~authority in writing no less than thirty calendar days prior to withdrawal.~~
- 18 ~~1. Upon receipt of a complete application for or renewal of a qualifying patient or~~
19 ~~designated caregiver registry identification card, the department shall verify the~~
20 ~~submitted information.~~
- 21 ~~2. The verification methods used by the department on an application or renewal and~~
22 ~~accompanying documentation may include:~~
- 23 ~~a. Contacting an applicant by telephone or mail, or if proof of identity is uncertain,~~
24 ~~the department shall require a face to face meeting and the production of~~
25 ~~additional identification materials;~~
- 26 ~~b. Contacting the North Dakota board of medicine to verify the certifying physician is~~
27 ~~licensed to practice medicine in the state, has the authority to prescribe drugs to~~
28 ~~humans, and is in good standing; and~~
- 29 ~~c. Contacting the physician to obtain additional documentation verifying the~~
30 ~~qualifying patient applicant's medical diagnosis and medical condition qualify the~~
31 ~~applicant for participation in the compassionate care program.~~

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

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

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

9 ~~a. The department receives documentation the minor's physician has explained to~~
10 ~~the parent or legal guardian with responsibility for health care decisions for the~~
11 ~~minor the potential risks and benefits of the medical use of marijuana; and~~

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

14 ~~(1) Allow the minor's medical use of marijuana;~~

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

17 ~~(3) Control the acquisition of usable marijuana, and the dosage and frequency~~
18 ~~of the use of usable marijuana by the minor; and~~

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

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

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

27 ~~a. Does not meet the requirements of this section or section 19-24-03;~~

28 ~~b. Did not provide the required information and materials;~~

29 ~~c. Previously had a registry identification card revoked; or~~

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

- 1 ~~8. The department shall deny an application for or renewal of a designated caregiver~~
2 ~~registry identification card if the designated caregiver applicant:~~
- 3 ~~a. Does not meet the requirements of this section or section 19-24-04;~~
4 ~~b. Did not provide the required information and materials;~~
5 ~~c. Previously had a registry identification card revoked; or~~
6 ~~d. Provided false or falsified information or made a material misstatement.~~
- 7 ~~9. The department shall notify the qualifying patient or designated caregiver in writing of~~
8 ~~the reason for denying an application.~~
- 9 ~~10. The department shall notify the following in writing:~~
- 10 ~~a. A registered qualifying patient if that patient's designated caregiver's application~~
11 ~~or renewal is denied; and~~
- 12 ~~b. A registered designated caregiver if the caregiver's qualifying patient's application~~
13 ~~or renewal is denied.~~
- 14 ~~11. Denial of an application or renewal is a final department action, subject to judicial~~
15 ~~review. Jurisdiction and venue for judicial review are vested in the Burleigh County~~
16 ~~district court.~~
- 17 ~~**SECTION 6. AMENDMENT.** Section 19-24-06 of the North Dakota Century Code is~~
18 ~~amended and reenacted as follows:~~
- 19 ~~**19-24-06. Addition of debilitating medical conditionsRegistry identification card --**~~
20 ~~**Renewal application.**~~
- 21 ~~1. Any citizen may petition the department to add conditions or treatments to the list of~~
22 ~~debilitating medical conditions listed in subsection 7 of section 19-24-02.~~
- 23 ~~2. The department shall not add a condition or treatment to the list of debilitating medical~~
24 ~~conditions unless it finds that:~~
- 25 ~~a. The medical condition or treatment is debilitating; and~~
26 ~~b. Marijuana is more likely than not to have the potential to be beneficial to treat or~~
27 ~~alleviate the debilitation associated with the medical condition or treatment.~~
- 28 ~~3. Contents of the petition: In connection with any petition to add conditions or treatments~~
29 ~~to the list of debilitating medical conditions listed in subsection 7 of section 19-24-02, a~~
30 ~~petitioner shall provide the following information to the department:~~

- 1 ~~_____ a. The extent to which the condition is generally accepted by the medical-~~
- 2 ~~community and other experts as a valid, existing debilitating medical condition;~~
- 3 ~~_____ b. If one or more treatments of the condition, rather than the condition itself, are-~~
- 4 ~~alleged to be the cause of the patient's suffering, the extent to which the-~~
- 5 ~~treatments causing suffering are generally accepted by the medical community-~~
- 6 ~~and other experts as valid treatments for the condition;~~
- 7 ~~_____ c. The extent to which the condition or treatments cause severe suffering, such as-~~
- 8 ~~severe or chronic pain or severe nausea or vomiting, or otherwise severely impair-~~
- 9 ~~the patient's ability to carry on activities of daily living;~~
- 10 ~~_____ d. The ability of conventional medical therapies other than those that cause-~~
- 11 ~~suffering to alleviate suffering caused by the condition or treatment;~~
- 12 ~~_____ e. The extent to which evidence that is generally accepted among the medical-~~
- 13 ~~community and other experts supports a finding that the use of marijuana-~~
- 14 ~~alleviates suffering caused by the condition or treatment; and~~
- 15 ~~_____ f. Letters of support from physicians or other licensed health care professionals-~~
- 16 ~~knowledgeable about the condition or treatment.~~
- 17 ~~_____ 4. Evaluation of a petition.~~
- 18 ~~_____ a. Upon review of materials submitted in response to subsection 3 above, the-~~
- 19 ~~department shall make a determination as to whether the petition has merit.~~
- 20 ~~_____ b. A petition will be determined to have merit if it contains all of the material required-~~
- 21 ~~in subsection 3 above and the debilitating condition that is the subject of the-~~
- 22 ~~petition has not been considered through this process in the prior two years,-~~
- 23 ~~unless significant, generally accepted, scientific discoveries have been made that-~~
- 24 ~~are substantially likely to reverse the prior decision.~~
- 25 ~~_____ c. A decision that a petition does not have merit will be made in writing, stating the-~~
- 26 ~~reason it has been determined not to have merit and that it is the final decision,-~~
- 27 ~~subject to judicial review.~~
- 28 ~~_____ d. A final decision on a petition determined to have merit will be made within one-~~
- 29 ~~hundred eighty days of receipt of the petition in response to the following-~~
- 30 ~~process.~~

- 1 ~~_____ (1) The department will post the complete petition on the department's website-~~
2 ~~for a sixty-day public comment period.~~
- 3 ~~_____ (2) The department will post notice of a public hearing no fewer than ten days-~~
4 ~~prior to the public hearing.~~
- 5 ~~_____ (3) The department will hold a public hearing within the sixty-day public-~~
6 ~~comment period.~~
- 7 ~~_____ (4) After the public hearing and closure of the sixty-day public comment period,-~~
8 ~~the department will review the petition and comments. During this review,-~~
9 ~~the department may conduct additional research, including consultation with-~~
10 ~~additional experts.~~
- 11 ~~_____ (5) The department of health will draft a written decision on whether to grant the-~~
12 ~~petition and add the debilitating medical condition for review and ultimate-~~
13 ~~decision by the state health officer. This written decision will be detailed-~~
14 ~~enough to provide the specific grounds and references to support the-~~
15 ~~decision. The state health officer will issue the final decision on the petition.~~
- 16 ~~_____ (6) If the petition to add a debilitating medical condition is granted, draft-~~
17 ~~regulations adding the condition to subsection 7 of section 19-24-02 will be-~~
18 ~~drafted and published in response to the Administrative Agencies Practice-~~
19 ~~Act process.~~
- 20 ~~_____ 5. The approval or denial of any petition is a final decision of the department subject to-~~
21 ~~judicial review. Jurisdiction and venue are vested in the district court.~~
- 22 ~~_____ A registered qualifying patient or registered designated caregiver shall apply for a registry-~~
23 ~~identification card renewal by submitting a complete application as provided under section-~~
24 ~~19-24-03 or 19-24-04 no less than forty-five calendar days before the expiration date of the-~~
25 ~~existing registry identification card to prevent interruption of possession of a valid registry-~~
26 ~~identification card.~~
- 27 ~~_____ **SECTION 7. AMENDMENT.** Section 19-24-07 of the North Dakota Century Code is-~~
28 ~~amended and reenacted as follows:~~
- 29 ~~_____ **19-24-07. Registration and operation of compassion centers**Registry identification-~~
30 ~~card – Nontransferable.~~
- 31 ~~_____ 1. Requirements for operation of a compassion center.~~

1 ~~_____ a. General requirements:~~

2 ~~_____ (1) No person shall operate a compassion center without a department issued~~
3 ~~certificate of registration. The application and renewal requirements for a~~
4 ~~certificate of registration are in subsections 6 and 10 of section 19-24-07 of~~
5 ~~these regulations.~~

6 ~~_____ (2) A compassion center shall be operated on a not-for-profit basis. A~~
7 ~~compassion center need not be recognized as a tax-exempt organization by~~
8 ~~the internal revenue service and is not required to incorporate in response~~
9 ~~to title 8; however, a compassion center shall maintain appropriate~~
10 ~~documentation of its not-for-profit status, and such documentation shall be~~
11 ~~available for inspection in response to subdivision g of subsection 2 of~~
12 ~~section 19-24-07 of these regulations.~~

13 ~~_____ (3) A compassion center shall not acquire, possess, cultivate, manufacture,~~
14 ~~deliver, transfer, transport, supply, or dispense marijuana for any purpose~~
15 ~~except to assist registered qualifying patients with the medical use of~~
16 ~~marijuana directly or through the qualifying patient's registered designated~~
17 ~~caregiver.~~

18 ~~_____ (4) Use of pesticides is prohibited:~~

19 ~~_____ (a) There are no pesticides authorized for use on marijuana; as such, a~~
20 ~~compassion center shall not apply pesticides in the cultivation of~~
21 ~~marijuana.~~

22 ~~_____ (b) Prohibited pesticides include but are not limited to the following:~~

23 ~~_____ [1] Organochlorines;~~

24 ~~_____ [2] Organophosphates;~~

25 ~~_____ [3] Gargamates; and~~

26 ~~_____ [4] Insecticidal, fungicidal, or growth-regulatory compounds.~~

27 ~~_____ b. Location of a compassion center: A compassion center shall not be located within~~
28 ~~one thousand feet of the property line of a pre-existing public or private school.~~

29 ~~_____ c. Bylaws:~~

- 1 ~~————— (1) A compassion center shall as part of its initial application, provide to the~~
2 ~~department a true, correct, and current copy of its bylaws, and shall~~
3 ~~maintain such bylaws in accordance with the Act and these regulations.~~
- 4 ~~————— (2) The bylaws of a compassion center shall include at a minimum:~~
- 5 ~~————— (a) The ownership structure of the compassion center;~~
6 ~~————— (b) The composition of the board of directors; and~~
7 ~~————— (c) Such provisions relative to the disposition of revenues to establish~~
8 ~~and maintain the not-for-profit character of the compassion center.~~
- 9 ~~————— d. Maintenance of accurate books and records:~~
- 10 ~~————— (1) Registered compassion centers shall keep detailed financial reports of~~
11 ~~proceeds and expenses.~~
- 12 ~~————— (2) Registered compassion centers shall maintain all inventory, sales, and~~
13 ~~financial records in accordance with generally accepted accounting~~
14 ~~principles (GAAP).~~
- 15 ~~————— (3) The department or an audit firm contracted by the department shall at all~~
16 ~~times have access to all books and records kept by any compassion center.~~
- 17 ~~————— 2. Security requirements: A compassion center shall implement appropriate security and~~
18 ~~safety measures to deter and prevent the unauthorized entrance into areas containing~~
19 ~~marijuana and the theft of marijuana. Such measures shall include the following:~~
- 20 ~~————— a. Exterior of premises: With respect to the exterior of a compassion center:~~
- 21 ~~————— (1) Access from outside the premises shall be kept to a minimum and be well-~~
22 ~~controlled.~~
- 23 ~~————— (2) The outside perimeter of the premises shall be well lighted.~~
- 24 ~~————— (3) Entry into any area where marijuana is held shall be limited to authorized~~
25 ~~personnel.~~
- 26 ~~————— b. Alarm system:~~
- 27 ~~————— (1) A compassion center shall have a fully operational security alarm system at~~
28 ~~each authorized physical address that will provide suitable protection~~
29 ~~against theft and diversion. For the purpose of these regulations, a fully-~~
30 ~~operational security alarm system shall include:~~

- 1 ~~_____ (a) Immediate automatic or electronic notification to alert local or~~
2 ~~_____ municipal law enforcement agencies to an unauthorized breach of~~
3 ~~_____ security at the compassion center or at any other authorized physical~~
4 ~~_____ address;~~
- 5 ~~_____ (b) Immediate automatic or electronic notification to local or municipal~~
6 ~~_____ public safety personnel of a loss of electrical support backup system;~~
7 ~~_____ and~~
- 8 ~~_____ (c) When appropriate, the security system shall provide protection~~
9 ~~_____ against theft or diversion that is facilitated or hidden by tampering with~~
10 ~~_____ computers or electronic records.~~
- 11 ~~_____ (2) A compassion center shall conduct a maintenance inspection or test of the~~
12 ~~_____ alarm system for each authorized location at intervals not to exceed thirty~~
13 ~~_____ days from the previous inspection or test. A compassion center shall~~
14 ~~_____ promptly make all necessary repairs to ensure the proper operation of the~~
15 ~~_____ alarm system.~~
- 16 ~~_____ (3) In the event of a failure of the security system, due to loss of electrical~~
17 ~~_____ support or mechanical malfunction, that is expected to exceed an eight-hour~~
18 ~~_____ period, a compassion center shall:~~
- 19 ~~_____ (a) Within twenty-four hours of discovery of the event, notify the~~
20 ~~_____ department by telephone; and~~
- 21 ~~_____ (b) Provide alternative security measures approved by the department or~~
22 ~~_____ close the authorized physical address impacted by the failure or~~
23 ~~_____ malfunction until the security alarm system has been restored to full~~
24 ~~_____ operation.~~
- 25 ~~_____ (4) A compassion center shall maintain documentation in an auditable form for~~
26 ~~_____ a period of at least twenty-four months after the event for:~~
- 27 ~~_____ (a) All maintenance inspections and tests conducted in response to~~
28 ~~_____ paragraph 2 of subdivision b of subsection 2 of section 19-24-07 of~~
29 ~~_____ these regulations, and any servicing, modification, or upgrade~~
30 ~~_____ performed on the security alarm system. The record shall include, as~~
31 ~~_____ a minimum, the date of the action, a summary of the action~~

- 1 performed, and the name, signature, and title of the individual who
2 performed the action;
- 3 ~~(b) Any alarm activation or other event which requires response by public~~
4 ~~safety personnel; and~~
- 5 ~~(c) Any unauthorized breach of security.~~
- 6 ~~c. Video surveillance: A compassion center shall provide an appropriate video~~
7 ~~surveillance system that includes the following areas and access to recorded~~
8 ~~surveillance:~~
- 9 ~~(1) Video surveillance should record access areas, customer service areas,~~
10 ~~growing areas, and anywhere the marijuana is handled, to include~~
11 ~~processing and packaging areas.~~
- 12 ~~(2) Video footage will be digitally recorded and held for an appropriate time~~
13 ~~period consistent with the state department of health records retention~~
14 ~~policy.~~
- 15 ~~d. Inventory controls.~~
- 16 ~~(1) Coding and computer interface: A compassion center shall:~~
- 17 ~~(a) Employ a bar coding inventory control system to track batch, strain,~~
18 ~~and amounts of marijuana in inventory and amounts sold, to include~~
19 ~~patient's card registration numbers.~~
- 20 ~~(b) Be responsible for developing and hosting a secure computer~~
21 ~~interface to receive patient card user data from the department.~~
- 22 ~~(2) Storage of marijuana: A compassion center shall ensure that usable~~
23 ~~marijuana is stored in a locked area with adequate security. For purpose of~~
24 ~~these regulations "adequate security", at a minimum, should be assessed,~~
25 ~~established, and maintained based on:~~
- 26 ~~(a) The quantity of usable marijuana that will be kept on hand at each~~
27 ~~authorized location;~~
- 28 ~~(b) The compassion center's inventory system for tracking and dispensing~~
29 ~~usable marijuana;~~

- 1 ~~_____ (c) The number of principal officers, board members, agents, volunteers,~~
2 ~~or employees who have or could have access to the usable~~
3 ~~marijuana;~~
4 ~~_____ (d) The geographic location of the compassion center, i.e., high-crime or~~
5 ~~low-crime area;~~
6 ~~_____ (e) The scope and sustainability of the alarm system; and~~
7 ~~_____ (f) The root cause analysis of any breach of security or inventory~~
8 ~~discrepancy for usable marijuana at that location.~~
9 ~~_____ e. Comprehensive and monthly inventories:~~
10 ~~_____ (1) A compassion center shall:~~
11 ~~_____ (a) Notify the department and local law enforcement within twenty-four~~
12 ~~hours any time there is a suspected loss of marijuana and shall~~
13 ~~cooperate fully with any investigation into the suspected loss.~~
14 ~~_____ (b) Conduct an initial comprehensive inventory of all medical marijuana,~~
15 ~~including usable marijuana available for dispensing, mature marijuana~~
16 ~~plants, and unusable marijuana, at each authorized location on the~~
17 ~~date the compassion center first dispenses medical marijuana.~~
18 ~~_____ (c) Conduct the comprehensive inventory required by subdivision e of~~
19 ~~subsection 2 of section 19-24-07 of these regulations at intervals not~~
20 ~~to exceed twenty-four months from the date of the previous~~
21 ~~comprehensive inventory.~~
22 ~~_____ (d) Conduct a monthly inventory review of stored, usable marijuana.~~
23 ~~_____ (2) If an inventory conducted in response to paragraph 1 of subdivision e of~~
24 ~~subsection 2 of section 19-24-07 of these regulations identifies a~~
25 ~~discrepancy, the department and appropriate local law enforcement~~
26 ~~authorities will be notified of the discrepancy within twenty-four hours of~~
27 ~~discovery of the event.~~
28 ~~_____ (3) Documentation of all inventories conducted in response to paragraph 1 of~~
29 ~~subdivision e of subsection 2 of section 19-24-07 of these regulations shall~~
30 ~~include, as a minimum, the date of the inventory, a summary of the~~

1 inventory findings, and the name, signature, and title of the individual who
2 conducted the inventory.

3 ~~f. Maximum amount of compassion center inventory. A registered compassion
4 center:~~

5 ~~(1) Shall possess no more than one thousand marijuana plants irrespective of
6 the stages of growth.~~

7 ~~(2) Shall possess no more than three thousand five hundred ounces of usable
8 marijuana regardless of formulation.~~

9 ~~(3) May not purchase usable marijuana or mature marijuana plants from any
10 person other than another registered compassion center.~~

11 ~~g. Inspection. Compassion centers are subject to random inspection by the
12 department.~~

13 ~~(1) During an inspection, the department may review the compassion center's
14 confidential records, including its financial and dispensing records, which
15 may track transactions according to qualifying patient's registry identification
16 numbers to protect their confidentiality and its security protocols.~~

17 ~~(2) The department will review the facility to ensure compliance with
18 subsections 2 and 3 of section 19-24-07 of these regulations.~~

19 ~~(3) The department will inspect the facility for the presence of pesticides listed
20 in paragraph 4 of subdivision a of subsection 1 of section 19-24-07, fungus
21 and molds.~~

22 ~~(4) The department will collect samples for random quality sampling by a
23 laboratory selected by the department.~~

24 ~~(5) Sample results will be compared to compassion center test results.~~

25 ~~(6) The compassion center will be invoiced for the cost of random sampling
26 testing.~~

27 ~~h. Dispensing marijuana:~~

28 ~~(1) Design and security features of medical marijuana containers:~~

29 ~~(a) Marijuana shall be dispensed in sealed, tamper-proof containers
30 clearly identified as having been issued by the compassion center and~~

1 that meet the requirements in paragraph 7 of subdivision j of
2 subsection 3 of section 19-24-07 of these regulations.

3 ~~(b) Patients and designated caregivers should receive written instruction~~
4 ~~that the marijuana shall remain in this container when it is not being~~
5 ~~prepared for ingestion or being ingested.~~

6 ~~(2) No marijuana shall be dispensed unless or until the patient or caregiver~~
7 ~~identification card has been verified as valid in the computer system~~
8 ~~identified in paragraph 1 of subdivision d of subsection 2 of section 19-24-07~~
9 ~~of these regulations.~~

10 ~~(3) Maximum amount of usable marijuana to be dispensed:~~

11 ~~(a) A compassion center or principal officer, board member, agent,~~
12 ~~volunteer, or employee of a compassion center:~~

13 ~~[1] Shall not dispense, deliver, or otherwise transfer marijuana to a~~
14 ~~person other than a qualifying patient who has designated the~~
15 ~~compassion center as a primary caregiver or to such patient's~~
16 ~~other primary caregiver.~~

17 ~~[2] Shall not dispense more than three ounces of usable marijuana~~
18 ~~to a qualifying patient directly or through a qualifying patient's~~
19 ~~caregiver during a fourteen-day period.~~

20 ~~[3] Shall not dispense an amount of usable marijuana to a qualifying~~
21 ~~patient or a qualifying patient's caregiver that the compassion~~
22 ~~center principal officer, board member, agent, volunteer, or~~
23 ~~employee knows would cause the recipient to possess more~~
24 ~~marijuana than is permitted under the Act or these regulations.~~

25 ~~(b) In addition to any other penalties that may be applicable under the Act~~
26 ~~or these regulations, any person found to have violated subdivision h~~
27 ~~of subsection 2 of section 19-24-07 of these regulations is not eligible~~
28 ~~to be an employee, agent, principal officer, or board member of any~~
29 ~~compassion center and such person's registry identification card shall~~
30 ~~be immediately revoked.~~

- 1 ~~3. Operations manual. A compassion center shall, as part of its initial application, provide~~
2 ~~to the department a true, correct, and current copy of its operating manual, and shall~~
3 ~~maintain such operating manual in accordance with the Act and these regulations.~~
4 ~~Such manual shall include, as a minimum, the following requirements:~~
- 5 ~~a. Procedures for the oversight of the compassion center including, but not limited~~
6 ~~to, documentation of the reporting and management structure of the compassion~~
7 ~~center;~~
 - 8 ~~b. Procedures for safely dispensing medical marijuana to registered qualifying~~
9 ~~patients or their registered primary caregiver;~~
 - 10 ~~c. Procedures to ensure accurate recordkeeping, including protocols to ensure that~~
11 ~~quantities purchased do not suggest redistribution;~~
 - 12 ~~d. Employee security policies;~~
 - 13 ~~e. Safety and security procedures, including a disaster plan with procedures to be~~
14 ~~followed in case of fire or other emergencies;~~
 - 15 ~~f. Personal safety and crime prevention techniques;~~
 - 16 ~~g. A job description or employment contract developed for all employees and a~~
17 ~~volunteer agreement for all volunteers which includes duties, responsibilities,~~
18 ~~authority, qualification, and supervision;~~
 - 19 ~~h. The compassion center's alcohol and drug free workplace policy;~~
 - 20 ~~i. A description of the compassion center's outreach activities to registered~~
21 ~~qualifying patients or their registered primary caregiver, which shall, as a~~
22 ~~minimum, include:~~
 - 23 ~~(1) Providing each new registered patient who visits the compassion center with~~
24 ~~frequently asked questions, designed by the department, that explain the~~
25 ~~limitations on the right to use medical marijuana under state law;~~
 - 26 ~~(2) Ingestion options of usable marijuana provided by the compassion center;~~
 - 27 ~~(3) Safe smoking techniques shall be provided to registered qualifying patients;~~
28 ~~and~~
 - 29 ~~(4) Potential side effects and how this information shall be communicated.~~
 - 30 ~~j. A description of the packaging of the useable marijuana that the compassion~~
31 ~~center shall be utilizing, as a minimum, include:~~

- 1 ~~_____ (1) Employee security policies;~~
- 2 ~~_____ (2) Safety and security procedures, including a disaster plan with procedures to~~
- 3 ~~_____ be followed in case of fire or other emergencies;~~
- 4 ~~_____ (3) Personal safety and crime prevention techniques;~~
- 5 ~~_____ (4) A job description or employment contract developed for all employees and a~~
- 6 ~~_____ volunteer agreement for all volunteers which includes duties,~~
- 7 ~~_____ responsibilities, authority, qualification, and supervision;~~
- 8 ~~_____ (5) The compassion center's alcohol and drug free workplace policy;~~
- 9 ~~_____ (6) A description of the compassion center's outreach activities to registered~~
- 10 ~~_____ qualifying patients or their registered primary caregiver, which shall, as a~~
- 11 ~~_____ minimum, include:~~
- 12 ~~_____ (a) Providing each new registered patient who visits the compassion-~~
- 13 ~~_____ center with frequently asked questions, designed by the department,~~
- 14 ~~_____ that explain the limitations on the right to use medical marijuana under~~
- 15 ~~_____ state law;~~
- 16 ~~_____ (b) Ingestion options of usable marijuana provided by the compassion-~~
- 17 ~~_____ center;~~
- 18 ~~_____ (c) Safe smoking techniques that shall be provided to registered-~~
- 19 ~~_____ qualifying patients; and~~
- 20 ~~_____ (d) Potential side effects and how this information shall be communicated.~~
- 21 ~~_____ (7) A description of the packaging of the useable marijuana that the~~
- 22 ~~_____ compassion center shall be utilizing which shall, as a minimum, include:~~
- 23 ~~_____ (a) The name of the strain, batch, and quantity;~~
- 24 ~~_____ (b) The statement "this product is for medical use only, not for resale";~~
- 25 ~~_____ and~~
- 26 ~~_____ (c) Details indicating:~~
- 27 ~~_____ [1] The medical marijuana is free of contaminants; and~~
- 28 ~~_____ [2] The levels of active ingredients in the product within plus or~~
- 29 ~~_____ minus error of five percentage points.~~
- 30 ~~_____ (8) A description of the documentation that will accompany a registered-~~
- 31 ~~_____ compassion center agent when transporting marijuana on behalf of the~~

1 registered compassion center. The documentation must specify, at least, the
2 amount of marijuana being transported, the date the marijuana is being
3 transported, the registry identification number of the registered compassion
4 center, and a contact number to verify that the marijuana is being
5 transported on behalf of the registered compassion center.

6 ~~(9) Detailed procedures regarding the testing of medical marijuana. As part of~~
7 ~~its initial application, a compassion center shall provide to the department~~
8 ~~detailed procedures regarding the testing of medical marijuana and shall~~
9 ~~adhere to such procedures in connection with the operation of the~~
10 ~~compassion center. Such procedures shall include a description of how the~~
11 ~~marijuana will be tested, including:~~

12 ~~(a) Whether the testing will be conducted in house or through a~~
13 ~~contracted facility;~~

14 ~~(b) How marijuana will be transported securely in connection with such~~
15 ~~testing;~~

16 ~~(c) What tests are conducted, including what testing procedures are~~
17 ~~used;~~

18 ~~(d) How results are tracked and how samples are disposed; and~~

19 ~~(e) The selection process and the number of samples tested.~~

20 ~~4. Required training. Each compassion center shall develop, implement, and maintain on~~
21 ~~the premises an on-site training curriculum, or enter into contractual relationships with~~
22 ~~outside resources capable of meeting employee, agent, and volunteer training needs.~~
23 ~~Each employee, agent, or volunteer, at the time of initial appointment, shall receive, as~~
24 ~~a minimum, training in the following:~~

25 ~~a. Professional conduct, ethics, and state and federal laws regarding patient~~
26 ~~confidentiality;~~

27 ~~b. Informational developments in the field of medical use of marijuana;~~

28 ~~c. The proper use of security measures and controls that have been adopted; and~~

29 ~~d. Specific procedural instructions for responding to an emergency, including~~
30 ~~robbery or violent accident.~~

31 ~~5. Personnel.~~

- 1 ~~a. Records: Each compassion center shall maintain:~~
- 2 ~~(1) A personnel record for each employee, agent, or volunteer for a period of at~~
- 3 ~~least six months after termination of the individual's affiliation with the~~
- 4 ~~compassion center. The record shall include, as a minimum, the following:~~
- 5 ~~(a) An application for employment or to volunteer;~~
- 6 ~~(b) A record of any disciplinary action taken;~~
- 7 ~~(c) Documentation of all required training. Documentation shall include a~~
- 8 ~~signed statement from the individual indicating the date, time, and~~
- 9 ~~place of said training and topics discussed, including the name and~~
- 10 ~~title of presenters;~~
- 11 ~~(2) A record of the source of any funds that will be used to open or maintain the~~
- 12 ~~compassion center, including the name, address, and date of birth of any~~
- 13 ~~investor contributing more than five thousand dollars; and~~
- 14 ~~(3) A record of any instances in which a business or not-for-profit that any of the~~
- 15 ~~prospective board members managed or served on the board was~~
- 16 ~~convicted, fined, censured, or had a registration or license suspended or~~
- 17 ~~revoked in any administrative or judicial proceeding.~~
- 18 ~~b. Registry identification cards and background checks for principal officers, board~~
- 19 ~~members, agents, volunteers, or employees of a compassion center.~~
- 20 ~~(1) In response to the requirements of this rule, and upon the approval of the~~
- 21 ~~submitted application, the department shall issue a registry photo~~
- 22 ~~identification card to each principal officer, board member, agent, volunteer,~~
- 23 ~~or employee of a compassion center who is associated with the compassion~~
- 24 ~~center and meets the requirements under these regulations. In order for a~~
- 25 ~~registry identification card to be obtained, the following items shall be~~
- 26 ~~submitted to the medical marijuana program:~~
- 27 ~~(a) A certified copy of a birth record verifying that the applicant is at least~~
- 28 ~~twenty-one years of age;~~
- 29 ~~(b) A reasonable photographic copy of the applicant's North Dakota~~
- 30 ~~driver's license or comparable state of North Dakota or federal issued~~

- 1 photo identification card verifying North Dakota residence;
2 identification card must be available for inspection and verification;
- 3 ~~(c) A written and signed statement from an officer or executive staff~~
4 ~~member of the compassion center stating that the applicant is~~
5 ~~associated with the compassion center and in what capacity;~~
- 6 ~~(d) The name, address, and telephone number of the applicant;~~
- 7 ~~(e) The name, address, and telephone number of the compassion center~~
8 ~~with which the agent is associated;~~
- 9 ~~(f) The applicant's signature and date;~~
- 10 ~~(g) A nonrefundable, nonreturnable application or renewal fee of one~~
11 ~~hundred twenty-five dollars in the form of a check made out to "North~~
12 ~~Dakota department of health, compassionate care program".~~
- 13 ~~(2) Each principal officer, board member, agent, volunteer, or employee of a~~
14 ~~compassion center shall consent to a full nationwide and statewide criminal~~
15 ~~history screening background check.~~
- 16 ~~(a) Each applicant shall submit a full state of North Dakota criminal~~
17 ~~history screening check and a full nationwide criminal history~~
18 ~~screening check to demonstrate compliance with the eligibility~~
19 ~~requirements of these regulations.~~
- 20 ~~(b) All applicable fees associated with the required criminal history~~
21 ~~screening background checks shall be paid by the compassion center~~
22 ~~or the applicant.~~
- 23 ~~(c) Individuals convicted of a felony offense, within five years from the~~
24 ~~date of application, are prohibited from being a compassion center~~
25 ~~agent.~~
- 26 ~~(3) The department may verify information on each application and the~~
27 ~~accompanying documentation as set forth in subsection 1 of section~~
28 ~~19-24-04 of these regulations.~~
- 29 ~~(4) The department shall notify the compassion center in writing of the purpose~~
30 ~~for denying the registry identification card. The state health officer or~~
31 ~~designee shall deny an application if the applicant fails to provide the~~

1 information required or if the department determines that the information
2 provided is false. Denial of an application or renewal is considered a final
3 department action, subject to judicial review. Jurisdiction and venue for
4 judicial review are vested in the district court.

5 ~~(5) The department shall issue each principal officer, board member, agent,~~
6 ~~volunteer, or employee of a compassion center a registry identification card~~
7 ~~within thirty days of receipt of the information required by paragraphs 1 and~~
8 ~~2 of subdivision b of subsection 5 of section 19-24-07. The registry~~
9 ~~identification card shall contain such information as set forth in subdivision b~~
10 ~~of subsection 5 of section 19-24-07 of these regulations.~~

11 ~~(6) Each compassion center shall notify the department in writing within ten~~
12 ~~days of when a principal officer, board member, agent, volunteer, or~~
13 ~~employee ceases to work at the compassion center. The individual's registry~~
14 ~~identification card shall be deemed null and void and the individual shall be~~
15 ~~liable for any other penalties that may apply to the individual's nonmedical~~
16 ~~use of marijuana.~~

17 ~~c. Expiration date of registry identification cards. The registry identification card of a~~
18 ~~principal officer, board member, agent, volunteer, or employee shall expire one~~
19 ~~year after its issuance or upon the expiration of the compassion center's~~
20 ~~registration certificate, whichever comes first.~~

21 ~~6. Application for operation of a compassion center. Applicants shall only be accepted~~
22 ~~during an open application period announced by the department and shall include the~~
23 ~~following items:~~

24 ~~a. A nonrefundable application fee, made payable to the "North Dakota department~~
25 ~~of health, compassionate care program", in the amount of five thousand dollars;~~

26 ~~b. The proposed legal name, articles of incorporation, and bylaws of the~~
27 ~~compassion center;~~

28 ~~c. The proposed physical address of the compassion center, including any~~
29 ~~additional address to be used for the secure cultivation of medical marijuana, and~~
30 ~~with the following details:~~

- 1 ~~_____ (1) If precise addresses are known, evidence of compliance to the following-~~
2 ~~rules shall be included:~~
- 3 ~~_____ (a) Compliance to the local zoning laws for each physical address to be-~~
4 ~~utilized as a compassion center or for the secure cultivation of medical~~
5 ~~marijuana;~~
- 6 ~~_____ (b) Evidence that all of the physical addresses identified in this section-~~
7 ~~are not located within one thousand feet of a property line of a pre-~~
8 ~~existing public or private school.~~
- 9 ~~_____ (2) If precise addresses have not been determined, identification of the general-~~
10 ~~location where it would be sited, and when it would be established;~~
- 11 ~~_____ d. A description of the enclosed, locked facility, meeting all requirements of~~
12 ~~subsection 2 of section 19-24-07 that would be used in the cultivation of~~
13 ~~marijuana, including steps to ensure that the marijuana production shall not be~~
14 ~~visible from the street or other public areas;~~
- 15 ~~_____ e. Evidence of the compassion center's not-for-profit status, which can be:~~
- 16 ~~_____ (1) Documentation of recognition as a tax-exempt organization by the United~~
17 ~~States Internal Revenue Service; or~~
- 18 ~~_____ (2) Other written materials which will allow the department to determine the~~
19 ~~compassion center's ability to comply with the revenue criteria.~~
- 20 ~~_____ f. The name, address, and date of birth of each principal officer and board member~~
21 ~~of the compassion center;~~
- 22 ~~_____ g. A description of proposed security and safety measures, which demonstrate~~
23 ~~compliance with subsection 2 of section 19-24-07 of these regulations;~~
- 24 ~~_____ h. A draft operations manual, which demonstrates compliance with subsection 3 of~~
25 ~~section 19-24-07 of these regulations;~~
- 26 ~~_____ i. An example of the design and security features of medical marijuana containers-~~
27 ~~which demonstrates compliance with subdivision h of subsection 2 of section-~~
28 ~~19-24-07 of these regulations;~~
- 29 ~~_____ j. A list of all persons or business entities having direct or indirect authority over the~~
30 ~~management or policies of the compassion center;~~

- 1 ~~_____ k. A list of all persons or business entities having five percent or more ownership in~~
2 ~~the compassion center, whether direct or indirect and whether the interest is in~~
3 ~~profits, land, or building, including owners of any business entity which owns all~~
4 ~~or part of the land or building; and~~
- 5 ~~_____ l. The identities of all creditors holding a security interest in the premises, if any.~~
- 6 ~~_____ 7. Complete application required. Only applications, which the department has~~
7 ~~determined to be complete, shall be eligible for review.~~
- 8 ~~_____ 8. Compassion center application review criteria. The department shall evaluate~~
9 ~~applications for a compassion center registration certificate using an impartial and~~
10 ~~numerically scored competitive bidding process developed by the department. The~~
11 ~~department shall consider the following criteria:~~
- 12 ~~_____ a. Documentation of not for profit status, consistent with subdivision e of~~
13 ~~subsection 5 of section 19-24-07 of these regulations;~~
- 14 ~~_____ b. The suitability of the proposed location or locations, including but not limited to~~
15 ~~compliance with any local zoning laws and the geographic convenience to~~
16 ~~patients from throughout the state of North Dakota to compassion centers if the~~
17 ~~applicant were approved;~~
- 18 ~~_____ c. The principal officer and board members' character and relevant experience,~~
19 ~~including any training or professional licensing related to medicine,~~
20 ~~pharmaceuticals, natural treatments, botany, food science, food safety, or~~
21 ~~marijuana cultivation and preparation and their experience running business or~~
22 ~~not for profit entities;~~
- 23 ~~_____ d. The proposed compassion center's plan for operations and services, including its~~
24 ~~staffing and training plans, whether it has sufficient capital to operate, and its~~
25 ~~ability to provide an adequate supply and variety of medical marijuana and~~
26 ~~medical marijuana-based products to the registered patients in the state;~~
- 27 ~~_____ e. The sufficiency of the applicant's plans for recordkeeping;~~
- 28 ~~_____ f. The sufficiency of the applicant's plans for safety, security, and the prevention of~~
29 ~~diversion, including proposed locations and security devices employed;~~

- 1 ~~g. The applicant's plan for making medical marijuana available on an affordable-~~
2 ~~basis to registered qualifying patients enrolled in medicaid or receiving-~~
3 ~~supplemental security income or social security disability insurance;~~
- 4 ~~h. The applicant's plan for safe and accurate packaging and labeling of medical-~~
5 ~~marijuana, which shall include, without limitations, these minimum requirements-~~
6 ~~for packaging and labeling:~~
- 7 ~~(1) The name of the strain, batch, and quantity of the medical marijuana;~~
8 ~~(2) A statement providing that "this product is for medical use only, not for-~~
9 ~~resale";~~
- 10 ~~(3) Details indicating the medical marijuana is free of contaminants; and~~
11 ~~(4) Details indicating the levels of active ingredients in the product.~~
- 12 ~~i. The applicant's plan for testing medical marijuana for contaminants and potency-~~
13 ~~of active ingredients; and~~
- 14 ~~j. The applicant's ability to grow marijuana without use of pesticides.~~
- 15 ~~9. Issuance of a registration certificate authorizing operation of a compassion center.-~~
16 ~~When an applicant to operate a compassion center is notified that the department has-~~
17 ~~approved its application, it shall submit the following additional items to the department-~~
18 ~~before the registration certificate authorizing operation of a compassion center will be-~~
19 ~~issued.~~
- 20 ~~a. A certification fee, made payable to the "North Dakota department of health,-~~
21 ~~compassion care program", in the amount of twenty-five thousand dollars;~~
- 22 ~~b. The legal name, articles of incorporation, and bylaws of the compassion center;~~
- 23 ~~c. The physical address of the compassion center and any additional address to be-~~
24 ~~used for the secure cultivation of marijuana, including:~~
- 25 ~~(1) Evidence demonstrating the following:~~
- 26 ~~(a) Compliance with all local zoning laws for each physical address to be-~~
27 ~~utilized as a compassion center or for the secure cultivation of medical-~~
28 ~~marijuana; and~~
- 29 ~~(b) That none of the physical addresses identified in subdivision c of~~
30 ~~subsection 9 of section 19-24-08 of these regulations are located~~

1 ~~c. Suspension: The department will suspend a registration certificate authorizing the~~
2 ~~operation of a compassion center, with or without notice, for any violation of an~~
3 ~~applicable law or regulation.~~

4 ~~d. Termination: Upon receipt of written notice that a registration certificate has been~~
5 ~~terminated, the compassion center has thirty business days to request, in writing,~~
6 ~~a hearing, for the purpose of review of such action. The hearing process shall~~
7 ~~follow the procedures in subsection 8 through subsection 17 of section 19-24-09~~
8 ~~of these regulations:~~

9 ~~(1) A written decision will be issued by the department within thirty days of the~~
10 ~~completion of the hearing. The decision will lift the suspension or terminate~~
11 ~~a registration certificate. The written decision will state with specificity the~~
12 ~~reasons for the decision.~~

13 ~~(2) The termination of a registration certificate is a final decision of the~~
14 ~~department, subject to judicial review. Jurisdiction and venue are vested in~~
15 ~~the district court.~~

16 ~~11. Nontransferable registration certificate authorizing operation of a compassion center.~~

17 ~~a. A registration certificate authorizing operation of a compassion center shall not be~~
18 ~~transferred by assignment or otherwise to other persons or locations. Unless the~~
19 ~~compassion center applies for and receives an amended registration certificate~~
20 ~~authorizing operation of a compassion center, the registration certificate shall be~~
21 ~~void and returned to the department when one or more of the following situations~~
22 ~~occur:~~

23 ~~(1) A change in ownership of the compassion center;~~

24 ~~(2) A change in one or more authorized physical locations; or~~

25 ~~(3) The compassion center discontinues its operation.~~

26 ~~b. A compassion center shall provide the department with a written notice of any~~
27 ~~change described in subsection 11 of section 19-24-07 of these regulations at~~
28 ~~least sixty days prior to the proposed effective date of the change. The~~
29 ~~department may waive all or part of the required advance notice to address~~
30 ~~emergent or emergency situations.~~

- 1 ~~_____ c. Transactions which usually do not constitute a change of ownership include the~~
2 ~~following:~~
3 ~~_____ (1) Changes in the membership of the board of directors or board of trustees; or~~
4 ~~_____ (2) Two or more legal entities merge and the entity to whom the registration~~
5 ~~certificate authorizing operation of a compassion center was issued~~
6 ~~survives.~~
7 ~~_____ d. Management agreements are generally not considered a change in ownership if~~
8 ~~the entity to whom the registration certificate authorizing operation of a~~
9 ~~compassion center was issued continues to retain ultimate authority for the~~
10 ~~operation of the compassion center; however, if the ultimate authority is~~
11 ~~surrendered and transferred from the entity to whom the registration certificate~~
12 ~~authorizing operation of a compassion center was issued to a new manager, then~~
13 ~~a change of ownership has occurred.~~

14 ~~_____ A registry identification card is not transferable, by assignment or otherwise, to another~~
15 ~~person. If a person attempts to transfer a card in violation of this section, the registry~~
16 ~~identification card is void and the person is prohibited from all privileges provided under this~~
17 ~~chapter.~~

18 ~~_____ **SECTION 8. AMENDMENT.** Section 19-24-08 of the North Dakota Century Code is~~
19 ~~amended and reenacted as follows:~~

20 ~~_____ **19-24-08. Cultivation and growing of marijuana**Registry identification card - Voluntary~~
21 ~~withdrawal.~~

22 ~~_____ 1. If the qualifying patient's home is located more than forty miles from the nearest~~
23 ~~compassionate care center, the qualified patient or designated caregiver may cultivate~~
24 ~~up to eight marijuana plants in an enclosed, locked facility.~~

25 ~~_____ 2. The enclosed, locked facility shall not be within one thousand feet of a public school.~~

26 ~~_____ 3. The qualified patient or designated caregiver must give local law enforcement officials~~
27 ~~a notice of intent to grow marijuana in an enclosed, locked facility. The notice must~~
28 ~~include qualified patient name, a copy of the written certification from the physician,~~
29 ~~and the address of the location where the marijuana will be cultivated.~~

30 ~~_____ A registered qualifying patient or registered designated caregiver may voluntarily withdraw~~
31 ~~from participation in the compassionate care program. A registered qualifying patient or~~

1 ~~registered designated caregiver seeking to withdraw from the compassionate care program~~
2 ~~shall notify the department in writing no less than thirty calendar days before withdrawal.~~

3 ~~— **SECTION 9. AMENDMENT.** Section 19-24-09 of the North Dakota Century Code is~~
4 ~~amended and reenacted as follows:~~

5 ~~— **19-24-09. Onsite visits and interviews**Cardholders – Eligibility and compliance.~~

6 ~~— 1.— The department or its designee may perform onsite interviews of a qualified patient or~~
7 ~~primary caregiver to determine eligibility for the program. The department may enter~~
8 ~~the premises of a qualified patient or primary caregiver during business hours for~~
9 ~~purposes of interviewing a program applicant. Twenty-four hours notice will be~~
10 ~~provided to the qualified patient or primary caregiver prior to an onsite interview.~~

11 ~~— 2.— All qualified patients or primary caregivers shall provide the department or the~~
12 ~~department's designee immediate access to any material and information necessary~~
13 ~~for determining eligibility with these requirements.~~

14 ~~— 3.— Failure by the qualified patient or primary caregiver to provide the department access~~
15 ~~to the premises or information may result in action up to and including the revocation~~
16 ~~of the qualified patient or primary caregiver registry identification card and referral to~~
17 ~~state law enforcement.~~

18 ~~— 4.— Any failure to adhere to these rules, documented by the department during an~~
19 ~~interview, may result in sanctions, including suspension, revocation, nonrenewal or~~
20 ~~denial of licensure, and referral to state or local law enforcement.~~

21 ~~— 5.— The department shall refer credible criminal complaints against a qualified patient or~~
22 ~~primary caregiver to the appropriate North Dakota state or appropriate local~~
23 ~~authorities.~~

24 ~~— 6.— Corrective action:~~

25 ~~— a.— If violations of these requirements are cited as a result of monitoring, the qualified~~
26 ~~patient or primary caregiver shall be provided with an official written report of the~~
27 ~~findings following the monitoring visit.~~

28 ~~— b.— Unless otherwise specified by the department, the qualified patient or primary~~
29 ~~caregiver shall correct the violation within five calendar days of receipt of the~~
30 ~~official written report citing the violation.~~

- 1 ~~_____ c. The violation shall not be deemed corrected until the department verifies in-~~
2 ~~_____ writing after receiving notice of the corrective action that the corrective action is~~
3 ~~_____ satisfactory.~~
- 4 ~~_____ d. If the violation has not been corrected, the department may issue a notice of~~
5 ~~_____ contemplated action to revoke the qualified patient's or designated caregiver's~~
6 ~~_____ registry identification card.~~
- 7 ~~_____ e. Suspension of registry identification card without prior hearing: If immediate~~
8 ~~_____ action is required to protect the health and safety of the general public, the~~
9 ~~_____ department may suspend the qualified patient or designated caregiver registry~~
10 ~~_____ identification card without notice.~~
- 11 ~~_____ (1) A qualified patient or primary caregiver whose registry identification card has~~
12 ~~_____ been summarily suspended is entitled to a record review not later than thirty~~
13 ~~_____ calendar days after the registry identification card was summarily~~
14 ~~_____ suspended.~~
- 15 ~~_____ (2) The record review requested subsequent to a summary suspension shall be~~
16 ~~_____ conducted by the department.~~
- 17 ~~_____ (3) The department shall conduct the record review on the summary~~
18 ~~_____ suspension by reviewing all documents submitted by both the card holder~~
19 ~~_____ and the department.~~
- 20 ~~_____ (4) The sole issue at a record review on a summary suspension is whether the~~
21 ~~_____ card holder's registry identification card shall remain suspended pending a~~
22 ~~_____ final adjudicatory hearing and ruling.~~
- 23 ~~_____ (5) A card holder given notice of summary suspension by the department may~~
24 ~~_____ submit a written request for a record review. To be effective, the written~~
25 ~~_____ request shall:~~
- 26 ~~_____ (a) Be made within thirty calendar days, as determined by the postmark,~~
27 ~~_____ from the date of the notice issued by the department;~~
- 28 ~~_____ (b) Be properly addressed to the medical marijuana program;~~
- 29 ~~_____ (c) State the applicant's name, address, and telephone number;~~
- 30 ~~_____ (d) Provide a brief narrative rebutting the circumstances of the~~
31 ~~_____ suspension; and~~

1 ~~_____ (e) Additional documentation must be included with the request for a~~
2 ~~_____ record review.~~

3 ~~_____ 7. Summary suspension. Revocation and appeal process:~~

4 ~~_____ a. Participation in the medical marijuana program by a qualified patient or primary~~
5 ~~_____ caregiver does not relieve the qualified patient or primary caregiver from:~~

6 ~~_____ (1) Criminal prosecution or civil penalties for activities not authorized in this rule~~
7 ~~_____ and Act;~~

8 ~~_____ (2) Liability for damages or criminal prosecution arising out of the operation of a~~
9 ~~_____ vehicle while under the influence of marijuana; or~~

10 ~~_____ (3) Criminal prosecution or civil penalty for possession, distribution, or transfers~~
11 ~~_____ of marijuana or use of marijuana:~~

12 ~~_____ (a) In a school bus or public vehicle;~~

13 ~~_____ (b) On school grounds or property;~~

14 ~~_____ (c) In the workplace of the qualified patient's or primary caregiver's~~
15 ~~_____ employment;~~

16 ~~_____ (d) At a public park, recreation center, youth center, or other public place;~~

17 ~~_____ (e) To a person not approved by the department pursuant to this rule;~~

18 ~~_____ (f) Outside North Dakota or attempts to obtain or transport marijuana~~
19 ~~_____ from outside North Dakota; or~~

20 ~~_____ (g) That exceeds the allotted amount of usable medical use marijuana.~~

21 ~~_____ b. Revocation of registry identification card: Violation of any provision of this rule~~
22 ~~_____ may result in either the summary suspension of the qualified patient's or primary~~
23 ~~_____ caregiver's registry identification card, or a notice of contemplated action to~~
24 ~~_____ suspend or revoke the qualified patient's or primary caregiver's registry~~
25 ~~_____ identification card, and all lawful privileges under the Act.~~

26 ~~_____ c. Grounds for revocation or suspension of registry identification card, denial of~~
27 ~~_____ renewal application for registry identification card. A registry identification card~~
28 ~~_____ may be revoked or suspended, and a renewal application may be denied for:~~

29 ~~_____ (1) Failure to comply with any provisions of these requirements;~~

30 ~~_____ (2) Failure to allow a monitoring visit by authorized representatives of the~~
31 ~~_____ department;~~

1 ~~_____ (3) The discovery of repeated violations of these requirements during~~
2 ~~monitoring visits.~~

3 ~~8. Request for hearing: A qualified patient or primary caregiver whose registry~~
4 ~~identification card has been summarily suspended, or who has received a notice of~~
5 ~~contemplated action to suspend or revoke, may request a hearing, in addition to a~~
6 ~~request for a record review, for the purpose of review of such action. The request for~~
7 ~~hearing shall be filed within thirty calendar days of the date the action is taken or the~~
8 ~~notice of contemplated action is received. The request shall include the following:~~

9 ~~_____ a. A statement of the facts relevant to the review of the action;~~

10 ~~_____ b. A statement of the provision of the Act and the rules promulgated under the Act~~
11 ~~that are relevant to the review of the action;~~

12 ~~_____ c. A statement of the arguments that the qualified patient and primary caregiver~~
13 ~~considers relevant to the review of the action; and~~

14 ~~_____ d. Any other evidence considered relevant.~~

15 ~~9. Hearing process:~~

16 ~~_____ a. All formal adjudicatory hearings held in response to these regulations shall be~~
17 ~~conducted by a hearing officer duly appointed by the state health officer.~~

18 ~~_____ b. Except for telephonic hearings, hearings shall be conducted in Bismarck at the~~
19 ~~state department of health or, upon written request by an aggrieved person, in~~
20 ~~the place or area affected.~~

21 ~~_____ c. All hearings held pursuant to this section shall be open to the public.~~

22 ~~_____ d. The hearing shall be recorded on audiotape or other means of sound~~
23 ~~reproduction, or by a certified court reporter. The decision as to the type of~~
24 ~~recording shall be at the discretion of the department.~~

25 ~~_____ e. Any hearing provided for in this rule may be held telephonically, in the interest of~~
26 ~~a speedy resolution.~~

27 ~~_____ f. The department shall schedule and hold the hearing as soon as practicable;~~
28 ~~however, in any event no later than sixty calendar days from the date the~~
29 ~~department receives the request for hearing. The hearing officer shall extend the~~
30 ~~sixty-day time period upon motion for good cause shown or the parties shall~~
31 ~~extend the sixty-day time period by mutual agreement. The department shall~~

- 1 issue notice of hearing, not less than twenty days prior to the hearing, which shall
2 include:
- 3 ~~———— (1) A statement of the time, place, and nature of the hearing;~~
4 ~~———— (2) A statement of the legal authority and jurisdiction under which the hearing is~~
5 ~~to be held;~~
6 ~~———— (3) A short and plain statement of the matters of fact and law asserted;~~
7 ~~———— (4) Notice to any other parties to give prompt notice of issues controverted in~~
8 ~~fact or law; and~~
9 ~~———— (5) All necessary telephone numbers if a telephonic hearing shall be conducted.~~
10 ~~—10. All parties shall be given the opportunity to respond and present evidence and~~
11 ~~argument on all relevant issues.~~
12 ~~—11. Record of proceeding: The record of the proceeding shall include the following:~~
13 ~~———— a. All pleadings, motions, and intermediate rulings;~~
14 ~~———— b. Evidence received or considered;~~
15 ~~———— c. A statement of matters officially noticed;~~
16 ~~———— d. Questions and offers of proof, objections, and rulings thereon;~~
17 ~~———— e. Proposed findings and conclusions; and~~
18 ~~———— f. Any action recommended by the hearing officer.~~
19 ~~—12. A party may request a transcription of the proceedings. The party requesting the~~
20 ~~transcript shall bear the cost of transcription.~~
21 ~~—13. Procedures and evidence:~~
22 ~~———— a. Any party shall be represented by a person licensed to practice law in North~~
23 ~~Dakota or an individual may represent him or herself.~~
24 ~~———— b. The rules of evidence as applied in the courts do not apply in these proceedings.~~
25 ~~Any relevant evidence shall be admitted and such evidence shall be sufficient in~~
26 ~~itself to support a finding if the evidence is reliable, regardless of the existence of~~
27 ~~any statutory or common law rule that shall make admission of such evidence~~
28 ~~improper in a civil action. Irrelevant, immaterial, or unduly repetitious evidence~~
29 ~~shall be excluded at a party's request or on the hearing officer's own initiative.~~
30 ~~———— c. Documentary evidence shall be received in evidence in the form of true copies of~~
31 ~~the original.~~

- 1 ~~_____ d. Documentary and other physical evidence shall be authenticated or identified by~~
2 ~~any reasonable means that shows that the matter in question is what the~~
3 ~~proponent claims it to be.~~
- 4 ~~_____ e. The experience, technical competence, and specialized knowledge of the hearing~~
5 ~~officer, the department, or the department's staff shall be used in the evaluation~~
6 ~~of evidence.~~
- 7 ~~_____ f. Evidence on which the hearing officer shall base his or her decision is limited to~~
8 ~~the following:~~
- 9 ~~_____ (1) All evidence, including any records, investigation reports, and documents in~~
10 ~~the department's possession of which the department desires to avail itself~~
11 ~~as evidence in making a decision that is offered and made a part of the~~
12 ~~record of the proceeding; and~~
- 13 ~~_____ (2) Testimony and exhibits introduced by the parties.~~
- 14 ~~_____ g. The record shall include all briefs, proposed findings, and exceptions and shall~~
15 ~~show the ruling on each finding, exception, or conclusion presented.~~
- 16 ~~_____ h. A party to a hearing shall submit to the hearing officer, and to all other parties to~~
17 ~~the hearing, all documents to be introduced at the hearing no later than five~~
18 ~~business days from the scheduled hearing date to ensure the hearing officer and~~
19 ~~other parties receive the documents prior to the hearing.~~
- 20 ~~_____ i. The department may choose to:~~
- 21 ~~_____ (1) Issue subpoenas for witnesses and other sources of evidence, either on the~~
22 ~~agency's initiative or at the request of any party; and~~
- 23 ~~_____ (2) Administer oaths to witnesses; limit unduly repetitive proof, rebuttal, and~~
24 ~~cross-examination.~~
- 25 ~~_____ 14. Conduct of proceeding: Unless the hearing officer reasonably determines a different~~
26 ~~procedure is appropriate, the hearing shall be conducted in accordance with the~~
27 ~~procedures set forth in this rule. The following procedures shall apply:~~
- 28 ~~_____ a. The department shall present an opening statement on the merits and the~~
29 ~~cardholder shall make a statement of the defense or reserve the statement until~~
30 ~~presentation of that party's case;~~

- 1 ~~_____ b. After the opening statements, if made, the department shall present its case in-~~
2 ~~chief in support of the department's petition;~~
- 3 ~~_____ c. Upon the conclusion of the department's case, the cardholder shall present its-~~
4 ~~case in defense;~~
- 5 ~~_____ d. Upon conclusion of the cardholder's case, the department shall present rebuttal-~~
6 ~~evidence;~~
- 7 ~~_____ e. After presentation of the evidence by the parties, the department shall present a-~~
8 ~~closing argument; the cardholder then shall present its closing argument and the~~
9 ~~department shall present a rebuttal argument; and~~
- 10 ~~_____ f. Thereafter, the matter shall be submitted for recommendation by the hearing-~~
11 ~~officer.~~
- 12 ~~_____ 15. Continuances: The hearing officer shall not grant a continuance except for good cause-~~
13 ~~shown. A motion to continue a hearing shall be made at least ten calendar days before-~~
14 ~~the hearing date.~~
- 15 ~~_____ 16. Telephonic hearings:~~
- 16 ~~_____ a. Any party requesting a telephonic hearing shall do so within ten business days of-~~
17 ~~the date of the notice. Immediately after the parties agree to conduct the hearing-~~
18 ~~by telephone, notice of the telephonic hearing shall be made to all parties and-~~
19 ~~shall include all necessary telephone numbers.~~
- 20 ~~_____ b. Any party that has agreed to a telephonic hearing, but subsequently requests an-~~
21 ~~in-person hearing shall do so in writing to the hearing officer no later than ten-~~
22 ~~calendar days before the scheduled date of the hearing. The decision to grant or-~~
23 ~~deny the request for an in-person hearing shall be at the discretion of the hearing-~~
24 ~~officer for good cause shown. The hearing officer's decision to grant or deny the-~~
25 ~~hearing shall be issued in writing and shall include the specific reasons for-~~
26 ~~granting or denying the request. Should the hearing officer grant the request, the-~~
27 ~~hearing shall be rescheduled to a time convenient for all parties. Should the-~~
28 ~~hearing officer deny the request, the telephonic hearing shall proceed as-~~
29 ~~scheduled.~~

- 1 ~~_____ c. The location or locations of the parties during the hearing shall have a speaker-~~
2 ~~telephone and facsimile machine available so that all shall hear the proceedings-~~
3 ~~and documents shall be transmitted between witnesses and the hearing officer.~~
- 4 ~~_____ d. The cardholder shall initiate the telephone call. The department is responsible for~~
5 ~~ensuring the telephone number to the department's location for the telephonic~~
6 ~~hearing is accurate and the department representative is available at said~~
7 ~~telephone number at the time the hearing is to commence. Failure to provide the~~
8 ~~correct telephone number or failure to be available at the commencement of the~~
9 ~~hearing shall be treated as a failure to appear and shall subject the petitioner to a~~
10 ~~default judgment.~~
- 11 ~~_____ e. The in-person presence of some parties or witnesses at the hearing does not~~
12 ~~prevent the participation of other parties or witnesses by telephone with prior~~
13 ~~approval of the hearing officer.~~
- 14 ~~_____ 17. Recommended action and final decision:~~
- 15 ~~_____ a. At the request of the hearing officer or upon motion by either party granted by the~~
16 ~~hearing officer, and before the hearing officer recommends action by the~~
17 ~~secretary, the parties shall submit briefs including findings of fact and conclusions~~
18 ~~of law for consideration by the hearing officer. The hearing officer holds the~~
19 ~~discretion to request briefs or grant a motion to submit briefs on any point of law~~
20 ~~deemed appropriate by the hearing officer. Briefs submitted shall include~~
21 ~~supporting reasons for any findings or legal conclusions and citations to the~~
22 ~~record and to relevant law. Should the hearing officer request briefs or grant a~~
23 ~~party's motion to submit briefs, the hearing shall be continued until the hearing~~
24 ~~officer has given the briefs sufficient consideration and brings the hearing to a~~
25 ~~close. The hearing, however, shall be completed no later than forty-five calendar~~
26 ~~days from the date of continuance.~~
- 27 ~~_____ b. No more than thirty calendar days after completion of the hearing, the hearing~~
28 ~~officer shall prepare a written decision containing recommendation of action to be~~
29 ~~taken by the secretary. The recommendation shall propose to sustain, modify, or~~
30 ~~reverse the initial decision of the department or the department's agent.~~

- 1 ~~_____ c. The secretary shall accept, reject, or modify the hearing officer's recommendation-~~
2 ~~no later than ten calendar days after receipt of the hearing officer's-~~
3 ~~recommendation. The final decision or order shall be issued in writing and shall~~
4 ~~include:~~
- 5 ~~_____ (1) A brief summary of the evidence;~~
6 ~~_____ (2) A statement of findings of fact based upon the evidence;~~
7 ~~_____ (3) Conclusions and the reasons thereof, on all material issues of fact, law, or~~
8 ~~discretion involved;~~
9 ~~_____ (4) Any other conclusions required by law of the department; and~~
10 ~~_____ (5) A concise statement of the department's specific determination or action-~~
11 ~~taken to sustain, modify, or reverse the initial decision of the department or~~
12 ~~the department's agent.~~
- 13 ~~_____ d. Service shall be made by registered or certified mail.~~
- 14 ~~_____ e. The final decision or order shall be public information and shall become a part of~~
15 ~~the record.~~
- 16 ~~_____ 1. The department or the department's designee may conduct an onsite interview of a~~
17 ~~cardholder or registry identification card applicant to determine application or renewal~~
18 ~~eligibility under this chapter. The department may enter the premises of a qualifying~~
19 ~~patient, designated caregiver, or compassion center agent for purposes of interviewing~~
20 ~~the cardholder or applicant. Before conducting an onsite interview, the department~~
21 ~~shall provide the cardholder or applicant at least twenty four hours' notice.~~
- 22 ~~_____ 2. The department or the department's designee may conduct an onsite assessment of a~~
23 ~~compassion center based on the department's reasonable suspicion the compassion-~~
24 ~~center is violating this chapter. The compassion center shall provide the department~~
25 ~~with immediate access to determine compliance with this chapter.~~
- 26 ~~_____ 3. A cardholder shall provide the department or the department's designee immediate~~
27 ~~access to any material and information necessary for determining eligibility and~~
28 ~~compliance with this chapter.~~
- 29 ~~_____ 4. Failure of the cardholder to provide the department access to the premises, material,~~
30 ~~or information as provided under this chapter may result in the department taking-~~

1 ~~action, which may include the revocation of the cardholder registry identification card~~
2 ~~and referral to state or local law enforcement.~~

3 ~~5. Failure of a registered qualifying patient or registered designated caregiver to comply~~
4 ~~with the requirements under this section which is documented by the department, may~~
5 ~~result in sanctions, including suspension, revocation, nonrenewal, or denial of~~
6 ~~registration, and referral to state or local law enforcement.~~

7 ~~6. The department shall refer credible criminal complaints against a registered qualifying~~
8 ~~patient or registered designated caregiver to appropriate state or local law~~
9 ~~enforcement authorities.~~

10 ~~7. a. If a violation of the requirements under this section is cited as a result of~~
11 ~~compliance monitoring, the department shall provide the registered qualifying~~
12 ~~patient or registered designated caregiver with written notice of the findings~~
13 ~~following the compliance monitoring visit.~~

14 ~~b. Unless otherwise specified by the department, the registered qualifying patient or~~
15 ~~registered designated caregiver shall correct the violation within five calendar~~
16 ~~days of receipt of the notice citing the violation.~~

17 ~~c. The department shall verify whether the registered qualifying patient or registered~~
18 ~~designated caregiver corrected the violation.~~

19 ~~d. The violation is not deemed corrected until the department provides written~~
20 ~~verification the corrective action is satisfactory.~~

21 ~~e. If the violation is not corrected within the required time, the department may~~
22 ~~revoke the registry identification card of the registered qualifying patient or~~
23 ~~registered designated caregiver.~~

24 ~~**SECTION 10. AMENDMENT.** Section 19-24-10 of the North Dakota Century Code is~~
25 ~~amended and reenacted as follows:~~

26 ~~**19-24-10. Severability**~~Change notifications - Responses.~~~~

27 ~~In the event any particular clause or section of these regulations should be declared invalid~~
28 ~~or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in~~
29 ~~full effect.~~

- ~~1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:~~
 - ~~a. A change in the cardholder's name or address;~~
 - ~~b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the compassionate care program;~~
 - ~~c. Knowledge of a change that results in the registered qualifying patient's physician no longer meeting the definition of the term "physician" as defined in section 19-24-02; or~~
 - ~~d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the compassionate care program.~~
- ~~2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.~~
- ~~3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.~~
- ~~4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.~~
- ~~5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, 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 twenty-five dollar fee. If a cardholder notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.~~
- ~~6. If the department receives notification of an item listed in this section and the nature of the item reported makes the cardholder ineligible, the cardholder's registry~~

~~identification card becomes void immediately upon notification of the department and the registered cardholder shall dispose of any usable marijuana in the cardholder's possession within fifteen calendar days, in accordance with rules adopted under this chapter.~~

~~7. A registered qualifying patient's certifying physician shall notify the department in writing if the physician's registered qualifying patient no longer suffers from a debilitating medical condition or if the physician no longer believes the patient will receive therapeutic or palliative benefit from the medical use of marijuana. The qualifying patient's registry identification card becomes void immediately upon the physician's notification of the department and the registered qualifying patient shall dispose of any usable marijuana in the cardholder's possession within fifteen calendar days, in accordance with rules adopted under this chapter.~~

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

~~19-24-11. Privacy of the compassionate care Act records and paperworkRegistry identification cards.~~

~~The department cannot release any records, paperwork, or details of any applicant, cardholder, compassionate care agent, or registered designated caregiver without their written permission except as necessary for authorized employees of the department to perform official duties of the department. In the event written permission is given to the department, the department is only allowed to give out the information requested for a thirty-day period.~~

~~1. Annual report. The department shall submit to the legislature an annual report that does not disclose any identifying information about cardholders, compassionate care centers, or physicians but contains at least all of the following information:~~

~~a. The number of registry identification card applications and renewals.~~

~~b. The number of qualifying patients and designated caregivers approved in each county.~~

~~c. The nature of the debilitating medical conditions of the qualifying patients.~~

~~d. The number of registry identification cards revoked.~~

~~e. The number of physicians providing written certifications for qualifying patients.~~

~~f. The number of registered nonprofit, compassionate care centers.~~

- 1 ~~1. Registry identification cards must contain:~~
- 2 ~~a. The name of the cardholder;~~
- 3 ~~b. A designation as to whether the cardholder is a qualifying patient, designated~~
- 4 ~~caregiver, or compassion center agent;~~
- 5 ~~c. A designation as to whether a qualifying patient is a minor;~~
- 6 ~~d. A designation as to whether a qualifying patient or a designated caregiver's~~
- 7 ~~qualifying patient is authorized to use the dried leaves or flowers of the plant of~~
- 8 ~~the genus cannabis;~~
- 9 ~~e. The date of issuance and expiration date;~~
- 10 ~~f. A random ten-digit alphanumeric identification number containing at least four~~
- 11 ~~numbers and at least four letters which is unique to the cardholder;~~
- 12 ~~g. If the cardholder is a designated caregiver, the random identification number of~~
- 13 ~~the qualifying patient the designated caregiver is authorized to assist;~~
- 14 ~~h. A photograph of the cardholder; and~~
- 15 ~~i. The phone number or website address at which the card can be verified.~~
- 16 ~~2. Except as otherwise provided in this section, a registry identification card expiration~~
- 17 ~~date must be one year after the date of issuance.~~
- 18 ~~3. If a physician states in the written certification that the qualifying patient would benefit~~
- 19 ~~from the medical use of marijuana until a specified date, less than one year, the~~
- 20 ~~registry identification card expires on that date.~~

21 ~~**SECTION 12. AMENDMENT.** Section 19-24-12 of the North Dakota Century Code is~~
22 ~~amended and reenacted as follows:~~

23 ~~**19-24-12. Facility restrictions**Cultivation, manufacturing, and dispensing~~
24 ~~Compassion centers - Prohibition - Registration.~~

- 25 ~~1. Any nursing care institution, hospice, assisted living center, assisted living facility,~~
- 26 ~~assisted living home, residential care institution, adult day health care facility, or adult~~
- 27 ~~foster care home licensed in the state of North Dakota may adopt reasonable~~
- 28 ~~restrictions on the use of marijuana by their residents or persons receiving inpatient~~
- 29 ~~services, including:~~
- 30 ~~a. That the facility will not store or maintain the patient's supply of marijuana.~~

- 1 ~~_____ b. That the facility, caregivers, or hospice agencies serving the facility's residents-~~
2 ~~are not responsible for providing the marijuana for qualifying patients.~~
- 3 ~~_____ c. That marijuana can be consumed by a method other than smoking.~~
- 4 ~~_____ d. That marijuana is consumed only in a place specified by the facility.~~
- 5 ~~_____ 2. Nothing in the section requires a facility listed in subsection 1 to adopt restrictions on-~~
6 ~~the medical use of marijuana.~~
- 7 ~~_____ 3. A facility listed in subsection 1 may not unreasonably limit a registered, qualifying-~~
8 ~~patient's access to or use of marijuana authorized under this chapter unless failing to~~
9 ~~do so would cause the facility to lose a monetary or licensing-related benefit under~~
10 ~~federal law or regulations.~~
- 11 ~~_____ 1. A person may not cultivate, manufacture, or dispense marijuana or otherwise act as a~~
12 ~~compassion center in this state unless the person is registered as a compassion-~~
13 ~~center.~~
- 14 ~~_____ 2. Except as otherwise provided under this section, the department shall register no-~~
15 ~~more than:~~
- 16 ~~_____ a. Four compassion centers with the sole purpose of operating as a manufacturing~~
17 ~~facility; and~~
- 18 ~~_____ b. Eight compassion centers with the sole purpose of operating as a dispensary.~~
- 19 ~~_____ 3. The department shall establish an open application period for the submission of~~
20 ~~compassion center applications. At the completion of the open application period, the~~
21 ~~department shall review each complete application using a competitive process~~
22 ~~established in accordance with rules adopted under this chapter and shall determine~~
23 ~~which applicants to register as compassion centers.~~
- 24 ~~_____ 4. The department may register additional dispensaries if the department determines~~
25 ~~additional dispensaries are necessary to increase access to usable marijuana by~~
26 ~~registered qualifying patients and registered designated caregivers.~~
- 27 ~~_____ 5. If the department revokes or does not renew a compassion center registration~~
28 ~~certificate, the department may establish an open application period for the~~
29 ~~submission of compassion center applications.~~
- 30 ~~_____ **SECTION 13. AMENDMENT.** Section 19-24-13 of the North Dakota Century Code is~~
31 ~~amended and reenacted as follows:~~

~~19-24-13. Compassionate care fund -- Private donations~~Compassion centers --

~~Dispensaries -- Manufacturing facilities -- Authority.~~

~~1. The compassionate care fund is established consisting of fees collected, civil penalties imposed, and private donations received under this chapter. The department shall administer the fund. Monies in the fund are continuously appropriated.~~

~~2. The state health officer may accept and spend private grants, gifts, donations, contributions, and devises to assist in carrying out the provisions of this chapter, including but not limited to providing funds for the individuals who are financially distressed for purchase of medical cannabis products.~~

~~3. Monies in the compassionate care fund do not revert to the state of North Dakota's general fund at the end of the fiscal year.~~

~~1. The activities of a manufacturing facility are limited to acquiring, possessing, cultivating, and transporting marijuana for the sole purpose of manufacturing usable marijuana for delivery, supply, or sale of usable marijuana to a dispensary.~~

~~2. The activities of a dispensary are limited to acquiring, possessing, storing, delivering, transferring, transporting, selling, supplying, and dispensing usable marijuana or related supplies and educational materials to a registered qualifying patient directly or through the registered qualifying patient's registered designated caregiver.~~

~~**SECTION 14.** Section 19-24-14 of the North Dakota Century Code is created and enacted as follows:~~

~~19-24-14. Compassion centers -- Application.~~

~~1. The department shall establish forms for an application to be registered as a compassion center. For a compassion center registration application to be complete and eligible for review, the applicant shall submit to the department:~~

~~a. A nonrefundable application fee of five thousand dollars, made payable to the "North Dakota State Department of Health, Compassionate Care Program";~~

~~b. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement of the proposed compassion center applicant;~~

~~c. Evidence of the proposed compassion center applicant's registration with the secretary of state and certificate of good standing;~~

- 1 ~~_____ d. The physical address of the proposed location of the proposed compassion-~~
2 ~~center and:~~
- 3 ~~_____ (1) Evidence of approval from local officials as to the proposed compassion-~~
4 ~~center applicant's compliance with local zoning laws for the physical~~
5 ~~address to be used by the proposed compassion center; and~~
- 6 ~~_____ (2) Evidence the physical address of the proposed compassion center is not~~
7 ~~located within one thousand feet [604.80 meters] of a property line of a~~
8 ~~pre-existing public or private school;~~
- 9 ~~_____ e. For a manufacturing facility applicant, a description of the enclosed, locked~~
10 ~~facility that would be used in the cultivation of marijuana, including steps that will~~
11 ~~be taken to ensure the marijuana cultivation and production is not visible from the~~
12 ~~street or other public areas;~~
- 13 ~~_____ f. The name, address, and date of birth of each principal officer and board member,~~
14 ~~or of each member-manager, manager, or governor, of the proposed compassion-~~
15 ~~center applicant and verification each officer and board member, or each~~
16 ~~member-manager, manager, or governor, has consented to a criminal history~~
17 ~~record check conducted under section 12-60-24;~~
- 18 ~~_____ g. For each of the proposed compassion center applicant's principal officers and~~
19 ~~board members, or for each of the proposed compassion center applicant's~~
20 ~~member-managers, managers, or governors, a description of that individual's~~
21 ~~relevant experience, including training or professional licensing related to~~
22 ~~medicine, pharmaceuticals, natural treatments, botany, food science, food safety,~~
23 ~~and marijuana cultivation and preparation and the individual's experience running~~
24 ~~a business entity;~~
- 25 ~~_____ h. A description of proposed security and safety measures, which demonstrate~~
26 ~~compliance with the security and safety requirements under section 19-24-24;~~
- 27 ~~_____ i. An example of the design and security features of usable marijuana containers~~
28 ~~which demonstrates compliance with section 19-24-20;~~
- 29 ~~_____ j. A complete operations manual, which demonstrates compliance with section~~
30 ~~19-24-26;~~

- 1 ~~k. A description of the plans for making usable marijuana available on an affordable~~
2 ~~basis to registered qualifying patients enrolled in medical assistance or receiving~~
3 ~~supplemental security income or social security disability insurance;~~
- 4 ~~l. A list of all individuals and business entities having direct or indirect authority over~~
5 ~~the management or policies of the proposed compassion center applicant;~~
- 6 ~~m. A list of all individuals and business entities having an ownership interest in the~~
7 ~~proposed compassion center applicant, whether direct or indirect, and whether~~
8 ~~the interest is in profits, land, or building, including owners of any business entity~~
9 ~~that owns all or part of the land or building; and~~
- 10 ~~n. The identity of any creditor holding a security interest in the proposed~~
11 ~~compassion center premises.~~
- 12 ~~2. The department is not required to review an application submitted under this section~~
13 ~~unless the department determines the application is complete. The criteria considered~~
14 ~~by the department in reviewing an application must include:~~
- 15 ~~a. The suitability of the proposed compassion center location, including compliance~~
16 ~~with any local zoning laws, and the geographic convenience to access~~
17 ~~compassion centers for registered qualifying patients and registered designated~~
18 ~~caregivers from throughout the state;~~
- 19 ~~b. The character and relevant experience of the principal officers and board~~
20 ~~members, or of the member managers, managers, or governors, including~~
21 ~~training or professional licensing and business experience;~~
- 22 ~~c. The applicant's plan for operations and services, including staffing and training~~
23 ~~plans, whether the applicant has sufficient capital to operate, and the applicant's~~
24 ~~ability to provide an adequate supply of usable marijuana to registered qualifying~~
25 ~~patients and registered designated caregivers;~~
- 26 ~~d. The sufficiency of the applicant's plans for recordkeeping;~~
- 27 ~~e. The sufficiency of the applicant's plans for safety, security, and the prevention of~~
28 ~~diversion, including the proposed location and security devices employed;~~
- 29 ~~f. The applicant's plan for making usable marijuana available on an affordable basis~~
30 ~~to registered qualifying patients with limited financial resources;~~

- 1 ~~g. The applicant's plan for safe and accurate packaging and labeling of usable~~
2 ~~marijuana; and~~
- 3 ~~h. The applicant's plans for testing medical marijuana.~~
- 4 ~~3. Following completion of the review under subsection 2, the department shall select the~~
5 ~~applicants eligible for registration under section 19-24-15.~~
- 6 ~~**SECTION 15.** Section 19-24-15 of the North Dakota Century Code is created and enacted~~
7 ~~as follows:~~
- 8 ~~**19-24-15. Compassion centers – Registration certification.**~~
- 9 ~~1. Upon receipt of notification by the department a compassion center application is~~
10 ~~eligible for registration, the applicant shall submit the following additional items to the~~
11 ~~department to qualify for registration:~~
- 12 ~~a. A certification fee, made payable to the "North Dakota State Department of~~
13 ~~Health, Compassionate Care Program", in the amount of sixty thousand dollars~~
14 ~~for a dispensary and eighty thousand dollars for a manufacturing facility;~~
- 15 ~~b. A financial assurance or security bond to ensure the protection of the public~~
16 ~~health and safety and the environment in the event of abandonment, default, or~~
17 ~~other inability or unwillingness to meet the requirements of this chapter;~~
- 18 ~~c. The legal name, articles of incorporation or articles of organization, and bylaws or~~
19 ~~operating agreement, of the proposed compassion center applicant;~~
- 20 ~~d. The physical address of the proposed compassion center; confirmation the~~
21 ~~information in the application regarding the physical location of the proposed~~
22 ~~compassion center has not changed, and if the information has changed the~~
23 ~~department shall determine whether the new information meets the requirements~~
24 ~~of this chapter; and a current certificate of occupancy, or equivalent document, to~~
25 ~~demonstrate compliance with the provisions of state and local fire code for the~~
26 ~~physical address of the proposed compassion center. It is not necessary for an~~
27 ~~applicant to resubmit any information provided in the initial application unless~~
28 ~~there has been a change in that information; and~~
- 29 ~~e. An update to previously submitted information, including information about~~
30 ~~compassion center agents and compliance with section 19-24-28.~~

1 ~~2. If an applicant complies with subsection 1, the department shall issue the applicant a~~
2 ~~registration certificate.~~

3 ~~**SECTION 16.** Section 19-24-16 of the North Dakota Century Code is created and enacted~~
4 ~~as follows:~~

5 ~~**19-24-16. Compassion centers - Registration certificate - Renewal.**~~

6 ~~1. A compassion center's registration expires two years after issuance. A compassion~~
7 ~~center may submit a renewal application at any time beginning ninety calendar days~~
8 ~~before the expiration of the registration certificate. A compassion center shall submit a~~
9 ~~renewal application a minimum of sixty calendar days before the expiration of the~~
10 ~~registration certificate to avoid suspension of the certificate.~~

11 ~~2. The department shall approve a compassion center's renewal application within sixty~~
12 ~~calendar days of submission if the following conditions are satisfied:~~

13 ~~a. The compassion center submits a renewal fee of sixty thousand dollars for a~~
14 ~~dispensary and eighty thousand dollars for a manufacturing facility, which the~~
15 ~~department shall refund if the department rejects the renewal application;~~

16 ~~b. The compassion center submits a complete renewal application;~~

17 ~~c. The department has at no time suspended the compassion center's registration~~
18 ~~for violation of this chapter;~~

19 ~~d. Inspections conducted under this chapter do not raise any serious concerns~~
20 ~~about the continued operation of the compassion center; and~~

21 ~~e. The compassion center continues to meet all the requirements for the operation~~
22 ~~of a compassion center as set forth in this chapter.~~

23 ~~3. If a compassion center does not meet the requirements for renewal, the department~~
24 ~~may not issue a registration certificate and the department shall provide the~~
25 ~~compassion center with written notice of the determination. If a compassion center's~~
26 ~~certificate is not renewed, the compassion center shall dispose all marijuana and~~
27 ~~usable marijuana in accordance with rules adopted under this chapter.~~

28 ~~**SECTION 17.** Section 19-24-17 of the North Dakota Century Code is created and enacted~~
29 ~~as follows:~~

1 ~~— **19-24-17. Compassion centers – Registration certificate – Nontransferable.**~~

2 ~~— 1. A registration certificate authorizing operation of a compassion center may not be~~
3 ~~transferred to another person. Unless a compassion center applies for and receives an~~
4 ~~amended registration certificate authorizing operation of a compassion center, the~~
5 ~~registration certificate is void if there is a change in ownership of the compassion~~
6 ~~center, there is a change in the authorized physical location of the compassion center,~~
7 ~~or if the compassion center discontinues operation.~~

8 ~~— 2. A compassion center shall provide the department a written notice of any change~~
9 ~~described under this section at least sixty calendar days before the proposed effective~~
10 ~~date of the change. The department may waive all or part of the required advance~~
11 ~~notice to address emergent or emergency situations.~~

12 ~~— **SECTION 18.** Section 19-24-18 of the North Dakota Century Code is created and enacted~~
13 ~~as follows:~~

14 ~~— **19-24-18. Compassion centers – Bylaws or operating agreement.**~~

15 ~~— As part of a proposed compassion center's initial application, the applicant shall provide to~~
16 ~~the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of~~
17 ~~a registration certificate, a compassion center shall maintain the bylaws or operating agreement~~
18 ~~in accordance with this chapter. In addition to any other requirements, the bylaws or operating~~
19 ~~agreement must include the ownership or management structure of the compassion center, the~~
20 ~~composition of the board of directors, board of governors, member-managers, or managers,~~
21 ~~and provisions relative to the disposition of revenues and earnings.~~

22 ~~— **SECTION 19.** Section 19-24-19 of the North Dakota Century Code is created and enacted~~
23 ~~as follows:~~

24 ~~— **19-24-19. Compassion centers – Financial reports.**~~

25 ~~— A compassion center shall keep detailed financial reports of proceeds and expenses. A~~
26 ~~compassion center shall maintain all inventory, sales, and financial records in accordance with~~
27 ~~generally accepted accounting principles. The compassion center shall maintain for a period of~~
28 ~~seven years all reports and records required under this section. A compassion center shall allow~~
29 ~~the department, or an audit firm contracted by the department, access at all times to all books~~
30 ~~and records kept by the compassion center.~~

1 — ~~**SECTION 20.** Section 19-24-20 of the North Dakota Century Code is created and enacted~~
2 ~~as follows:~~

3 — ~~**19-24-20. Compassion centers – Dispensing.**~~

4 — ~~1. A compassion center shall comply with the dispensing requirements of this section.~~

5 — ~~2. Design and security features of usable marijuana containers must be in accordance~~
6 ~~with rules adopted under this section.~~

7 — ~~3. A manufacturing facility or agent of the manufacturing facility may not dispense~~
8 ~~marijuana, except the manufacturing facility or agent may dispense usable marijuana~~
9 ~~to a dispensary.~~

10 — ~~4. A dispensary or agent of the dispensary may not dispense usable marijuana unless~~
11 ~~the dispensary first uses the verification system to confirm the registered qualifying~~
12 ~~patient or registered designated caregiver identification card is valid. A dispensary or~~
13 ~~agent of the dispensary:~~

14 — ~~a. May not dispense usable marijuana to a person other than a registered qualifying~~
15 ~~patient or a registered qualifying patient's registered designated caregiver. If a~~
16 ~~registered qualifying patient is a minor:~~

17 — ~~(1) The dispensary or agent of the dispensary may not dispense usable~~
18 ~~marijuana to a minor; and~~

19 — ~~(2) The usable marijuana dispensed to the minor's designated caregiver must~~
20 ~~be in the form of pediatric medical marijuana oil.~~

21 — ~~b. May not dispense to a registered qualifying patient or registered caregiver more~~
22 ~~than the allowable amount of usable marijuana for medical use and may not~~
23 ~~dispense an amount if it is known that amount would cause the recipient to~~
24 ~~possess more marijuana than is permitted as usable marijuana.~~

25 — ~~c. May not dispense to a registered qualifying patient or registered caregiver the~~
26 ~~dried leaves or flowers of the plant of the genus cannabis in a combustible~~
27 ~~delivery form unless the registry identification card and verification system~~
28 ~~authorize this form of useable marijuana.~~

29 — ~~**SECTION 21.** Section 19-24-21 of the North Dakota Century Code is created and enacted~~
30 ~~as follows:~~

1 — ~~**19-24-21. Compassion centers – Inspections.**~~

2 — ~~1. A compassion center is subject to random inspection by the department. During an~~
3 ~~inspection, the department may review the compassion center's records, including the~~
4 ~~compassion center's financial and dispensing records, which may track transactions~~
5 ~~according to registered qualifying patient and registered designated caregiver registry~~
6 ~~identification numbers.~~

7 — ~~2. The department shall conduct inspections of compassion centers to ensure~~
8 ~~compliance with this chapter.~~

9 — ~~3. The department shall conduct inspections of manufacturing facilities for the presence~~
10 ~~of pesticides, fungi, and molds.~~

11 — ~~4. The department shall select a certified laboratory to conduct random quality sampling~~
12 ~~testing, in accordance with rules adopted under this chapter. A compassion center~~
13 ~~shall pay the cost of all random quality sampling testing.~~

14 — ~~**SECTION 22.** Section 19-24-22 of the North Dakota Century Code is created and enacted~~
15 ~~as follows:~~

16 — ~~**19-24-22. Compassion centers – Pesticide testing.**~~

17 — ~~A manufacturing facility shall test marijuana at a manufacturing facility for the presence of~~
18 ~~pesticides. If a marijuana pesticide test or a random quality sampling test under section~~
19 ~~19-24-21 indicates the presence of a pesticide, the manufacturing facility shall report the test~~
20 ~~result immediately to the department and to the agriculture commissioner. Upon the order of the~~
21 ~~department or agriculture commissioner, the manufacturing facility immediately shall destroy all~~
22 ~~affected or contaminated marijuana inventory in accordance with rules adopted under this~~
23 ~~chapter, and shall certify to the department and to the agriculture commissioner that all affected~~
24 ~~or contaminated marijuana inventory has been destroyed.~~

25 — ~~**SECTION 23.** Section 19-24-23 of the North Dakota Century Code is created and enacted~~
26 ~~as follows:~~

27 — ~~**19-24-23. Compassion centers – Marijuana plants.**~~

28 — ~~The department shall adopt rules establishing the maximum amount of marijuana a~~
29 ~~compassion center may possess. The rules may not allow a manufacturing facility to possess~~
30 ~~more than one thousand marijuana plants, regardless of the stage of growth, and may not allow~~

1 ~~a dispensary to possess more than three thousand five hundred ounces [99.22 kilograms] of~~
2 ~~usable marijuana at any time, regardless of formulation.~~

3 ~~— **SECTION 24.** Section 19-24-24 of the North Dakota Century Code is created and enacted~~
4 ~~as follows:~~

5 ~~— **19-24-24. Compassion centers – Security and safety measures.**~~

6 ~~— 1. A compassion center shall implement appropriate security and safety measures to~~
7 ~~deter and prevent the unauthorized entrance to areas containing marijuana and the~~
8 ~~theft of marijuana. The measures must comply with this section and rules adopted~~
9 ~~under this chapter.~~

10 ~~— 2. The compassion center shall keep access from outside the compassion center~~
11 ~~premises to the minimum required by local fire or building regulations and access must~~
12 ~~be controlled. The outside perimeter of the premises must be well lighted in a manner~~
13 ~~determined appropriate by local ordinance to ensure public safety and security. The~~
14 ~~compassion center shall limit to authorized personnel the entry to any areas in which~~
15 ~~marijuana is cultivated or manufactured or in which usable marijuana is held.~~

16 ~~— 3. A compassion center must have a fully operational security alarm system at the~~
17 ~~authorized physical address which includes an electrical support backup system for~~
18 ~~the alarm system to provide suitable protection against theft and diversion. For the~~
19 ~~purpose of this subsection, a fully operational security alarm system must include:~~

20 ~~— a. Immediate automatic or electronic notification sent directly to local or municipal~~
21 ~~law enforcement agencies to alert such entities of an unauthorized breach of~~
22 ~~security;~~

23 ~~— b. Immediate automatic or electronic notification sent directly to local or municipal~~
24 ~~public safety personnel to alert such entities of a loss of electrical support backup~~
25 ~~system; and~~

26 ~~— c. Protection against theft or diversion facilitated or hidden by tampering with~~
27 ~~computers or electronic records.~~

28 ~~— 4. A compassion center shall conduct a maintenance inspection and test of the security~~
29 ~~alarm system for the compassion center's authorized location at intervals not to~~
30 ~~exceed thirty calendar days from the previous inspection and test. The compassion~~

1 ~~center shall make all necessary repairs in a timely manner to ensure the proper~~
2 ~~operation of the security alarm system.~~

3 ~~5. In the event of a failure of the security alarm system due to loss of electrical support or~~
4 ~~mechanical malfunction, the compassion center shall:~~

5 ~~a. Immediately upon discovery of the event, notify the department and local or~~
6 ~~municipal law enforcement by telephone; and~~

7 ~~b. Provide alternative security measures approved by the department or close the~~
8 ~~compassion center until the security alarm system is restored to full operation.~~

9 ~~6. The compassion center shall maintain documentation in an auditable form for:~~

10 ~~a. All maintenance inspections and tests conducted under this section, and any~~
11 ~~servicing, modification, or upgrade performed on the security alarm system. The~~
12 ~~documentation must include the date of the action, a summary of each action~~
13 ~~performed, and the name, signature, and title of the individual who performed the~~
14 ~~actions;~~

15 ~~b. An alarm activation or other event that requires response by public safety~~
16 ~~personnel; and~~

17 ~~c. Any breach of security.~~

18 ~~7. A compassion center shall use a video surveillance system that includes access to~~
19 ~~recorded surveillance and meets the requirements of this subsection and rules~~
20 ~~adopted under this chapter.~~

21 ~~a. Video surveillance quality must be a minimum of seven hundred twenty~~
22 ~~progressive scan;~~

23 ~~b. Video surveillance must record:~~

24 ~~(1) All access areas;~~

25 ~~(2) Any customer service and dispensing areas;~~

26 ~~(3) Any growing areas and manufacturing areas, including processing and~~
27 ~~packaging areas; and~~

28 ~~(4) All areas marijuana or usable marijuana is handled;~~

29 ~~c. Video footage must be digitally recorded and the compassion center shall hold~~
30 ~~the recordings for at least one hundred twenty calendar days; and~~

1 ~~_____ d. The compassion center shall allow the department access to the video~~
2 ~~surveillance footage at all times. A search warrant or consent from the~~
3 ~~compassion center is not required for the department to obtain access to video~~
4 ~~surveillance footage.~~

5 ~~— SECTION 25. Section 19-24-25 of the North Dakota Century Code is created and enacted~~
6 ~~as follows:~~

7 ~~— **19-24-25. Compassion centers - Inventory controls.**~~

8 ~~— 1. A compassion center shall comply with the inventory control requirements provided~~
9 ~~under this section and rules adopted under this chapter.~~

10 ~~— 2. A manufacturing facility shall:~~

11 ~~— a. Employ a bar coding inventory control system to track batch, strain, and amounts~~
12 ~~of marijuana and usable marijuana in inventory and to track amounts of usable~~
13 ~~marijuana sold to dispensaries; and~~

14 ~~— b. Host a secure computer interface to transfer inventory amounts and dispensary~~
15 ~~purchase information to the department.~~

16 ~~— 3. A dispensary shall:~~

17 ~~— a. Employ a bar coding inventory control system to track batch, strain, and amounts~~
18 ~~of usable marijuana in inventory and to track amounts sold to registered~~
19 ~~qualifying patients and registered designated caregivers; and~~

20 ~~— b. Host a secure computer interface to transfer inventory amounts and registered~~
21 ~~qualifying patient and registered designated caregiver purchase information to~~
22 ~~the department.~~

23 ~~— 4. A compassion center shall store the compassion center's marijuana and usable~~
24 ~~marijuana in an enclosed locked facility with adequate security, in accordance with~~
25 ~~rules adopted under this chapter.~~

26 ~~— 5. A compassion center shall:~~

27 ~~— a. Conduct an initial comprehensive inventory of any marijuana and usable~~
28 ~~marijuana at the authorized location before the date the compassion center first~~
29 ~~sells or dispenses usable marijuana;~~

30 ~~— b. Conduct a comprehensive inventory at intervals not to exceed twelve months~~
31 ~~from the date of the previous comprehensive inventory;~~

- 1 ~~c. Conduct a monthly inventory review of any marijuana and usable marijuana at~~
2 ~~the authorized location; and~~
- 3 ~~d. Conduct each inventory in a manner that includes two individuals. One of the two~~
4 ~~individuals may not be involved in the manufacturing of marijuana, the dispensing~~
5 ~~of usable marijuana, or the preparation of the compassion center financial~~
6 ~~records.~~
- 7 ~~6. If an inventory results in the identification of a discrepancy, the compassion center~~
8 ~~shall notify the department and appropriate law enforcement authorities immediately.~~
- 9 ~~7. Inventory documentation must include:~~
- 10 ~~a. The date of the inventory;~~
- 11 ~~b. A summary of the inventory findings;~~
- 12 ~~c. The name, signature, and title of the individuals who conducted the inventory and~~
13 ~~an attestation by both individuals as to the accuracy of the inventory; and~~
- 14 ~~d. The name, signature, and title of the individual who conducted the independent~~
15 ~~review.~~
- 16 ~~**SECTION 26.** Section 19-24-26 of the North Dakota Century Code is created and enacted~~
17 ~~as follows:~~
- 18 ~~**19-24-26. Compassion centers – Operation manual.**~~
- 19 ~~1. A compassion center shall maintain a current copy of the compassion center's~~
20 ~~operating manual that meets the requirements of this section and rules adopted under~~
21 ~~this chapter. The operating manual must include:~~
- 22 ~~a. Procedures for the oversight of the compassion center, including documentation~~
23 ~~of the reporting and management structure of the compassion center.~~
- 24 ~~b. Procedures to ensure accurate recordkeeping, including protocols to ensure~~
25 ~~quantities purchased do not suggest redistribution.~~
- 26 ~~c. Employee security policies.~~
- 27 ~~d. Safety and security procedures, including a disaster plan with procedures to be~~
28 ~~followed in case of fire or other emergency.~~
- 29 ~~e. Personal safety and crime prevention techniques.~~
- 30 ~~f. An overview of inventory control provisions consistent with section 19-24-25.~~

- 1 ~~g. A job description or employment contract developed for all employees and a~~
2 ~~volunteer agreement for all volunteers which includes duties, responsibilities,~~
3 ~~authority, qualification, and supervision.~~
- 4 ~~h. The compassion center's alcohol free and drug free workplace policy;~~
- 5 ~~i. A description of the usable marijuana packaging the compassion center utilizes,~~
6 ~~in accordance with section 19-24-20 and rules adopted under this chapter.~~
- 7 ~~j. A description of the documentation required to accompany a registered~~
8 ~~compassion center agent while transporting usable marijuana on behalf of the~~
9 ~~compassion center. The documentation must be in accordance with any rules~~
10 ~~adopted under this chapter.~~
- 11 ~~2. A manufacturing facility's operating manual must include detailed procedures~~
12 ~~regarding the growing, manufacturing, and testing of marijuana and usable marijuana.~~
13 ~~The procedures must include a description of how the marijuana will be sampled and~~
14 ~~tested in accordance with rules adopted under this chapter.~~
- 15 ~~3. A dispensary's operating manual must include:~~
- 16 ~~a. Procedures for safely dispensing usable marijuana to a registered qualifying~~
17 ~~patient and registered designated caregiver;~~
- 18 ~~b. A distribution plan to provide registered qualifying patients and designated~~
19 ~~registered caregivers access to usable marijuana;~~
- 20 ~~c. A description of the dispensary's outreach activities to registered qualifying~~
21 ~~patients and registered designated caregivers which must include:~~
- 22 ~~(1) Providing each new registered qualifying patient who visits the dispensary~~
23 ~~with a department-designed document of frequently asked questions which~~
24 ~~explains the state and federal law limitations on the right to use medical~~
25 ~~marijuana;~~
- 26 ~~(2) Providing information regarding forms of usable marijuana provided by the~~
27 ~~dispensary;~~
- 28 ~~(3) Providing information regarding potential side effects of marijuana; and~~
- 29 ~~(4) A plan on how the outreach activities will be implemented.~~
- 30 ~~**SECTION 27.** Section 19-24-27 of the North Dakota Century Code is created and enacted~~
31 ~~as follows:~~

1 ~~19-24-27. Compassion centers – Training curriculum.~~

2 ~~1. A compassion center shall develop, implement, and maintain on the premises an~~
3 ~~onsite training curriculum or shall enter contractual relationships with outside~~
4 ~~resources capable of meeting compassion center agent training needs.~~

5 ~~2. A compassion center shall ensure each compassion center agent receives training~~
6 ~~that includes:~~

7 ~~a. Education regarding professional conduct, ethics, and state and federal laws~~
8 ~~regarding patient confidentiality;~~

9 ~~b. Informational developments in the field of medical use of marijuana;~~

10 ~~c. All safety and security measures required as part of section 19-24-24;~~

11 ~~d. Specific procedural instructions for responding to an emergency, including~~
12 ~~robbery or violent accident; and~~

13 ~~e. The compassion center's operations manual and all requirements related to~~
14 ~~recordkeeping.~~

15 ~~SECTION 28. Section 19-24-28 of the North Dakota Century Code is created and enacted~~
16 ~~as follows:~~

17 ~~19-24-28. Compassion centers – Records – Agents.~~

18 ~~1. Each compassion center shall maintain:~~

19 ~~a. A personnel record for each compassion center agent for a period of at least~~
20 ~~three years following termination of the individual's affiliation with the compassion~~
21 ~~center. The personnel record must include:~~

22 ~~(1) An application for employment or to volunteer;~~

23 ~~(2) A record of each disciplinary action;~~

24 ~~(3) Documentation of completion of all required training. Documentation must~~
25 ~~include a signed statement from the agent indicating the date, time, and~~
26 ~~place of the training, the topics discussed, and the name and title of~~
27 ~~presenters; and~~

28 ~~(4) Documentation of the agent's registry identification card.~~

29 ~~b. A record of the source of funds that will be used to open or maintain the~~
30 ~~compassion center, including the name, address, and date of birth of any~~
31 ~~investor.~~

- 1 ~~c. A record of each instance in which a current or prospective board member,~~
2 ~~member-manager, manager, or governor, who managed or served on the board~~
3 ~~of a business or not-for-profit entity and in the course of that service was~~
4 ~~convicted, fined, or censured or had a registration or license suspended or~~
5 ~~revoked in any administrative or judicial proceeding.~~
- 6 ~~2. A compassion center agent must hold a valid registry identification card. Upon~~
7 ~~issuance of a compassion center registry certificate, the department shall issue a~~
8 ~~registry identification card to each qualified compassion center agent associated with~~
9 ~~the compassion center. To qualify to be issued a registry identification card, each~~
10 ~~compassion center agent shall submit the following registry identification card~~
11 ~~application material to the department:~~
- 12 ~~a. A certified copy of a birth record verifying the agent is at least twenty-one years of~~
13 ~~age;~~
- 14 ~~b. A photographic copy of the agent's North Dakota identification verifying North~~
15 ~~Dakota residence. The agent shall make the license or identification card~~
16 ~~available for inspection and verification by the department;~~
- 17 ~~c. A recent two-by-two inch [5.08 by 5.08 centimeter] photograph of the agent;~~
- 18 ~~d. A written and signed statement from an officer or executive staff member of the~~
19 ~~compassion center stating the applicant is associated with the compassion center~~
20 ~~and the capacity of the association;~~
- 21 ~~e. The name, address, and telephone number of the agent;~~
- 22 ~~f. The agent's social security number;~~
- 23 ~~g. The name, address, and telephone number of the compassion center with which~~
24 ~~the agent is associated;~~
- 25 ~~h. The agent's signature and the date; and~~
- 26 ~~i. A nonrefundable application or renewal fee of two hundred dollars in the form of a~~
27 ~~check made out to "North Dakota State Department of Health, Compassionate~~
28 ~~Gare Program".~~
- 29 ~~3. Each compassion center agent shall consent to a criminal history record check~~
30 ~~conducted under section 12-60-24 to demonstrate compliance with the eligibility~~
31 ~~requirements.~~

- ~~1 a. All applicable fees associated with the required criminal history record checks~~
~~2 must be paid by the compassion center or the agent.~~
- ~~3 b. A criminal history record check must be performed upon initial application and~~
~~4 biennially upon renewal. A compassion center agent shall consent to a criminal~~
~~5 history record check at any time the department determines necessary.~~
- ~~6 c. An individual convicted of a drug-related misdemeanor offense within the five-~~
~~7 year period before the date of application or a felony offense is prohibited from~~
~~8 being a compassion center agent.~~
- ~~9 4. The department may conduct an onsite assessment to verify information in a~~
~~10 compassion center agent application and the accompanying documentation as~~
~~11 authorized under section 19-24-09.~~
- ~~12 5. The department shall notify the compassion center in writing of the purpose for~~
~~13 denying a compassion center agent application for a registry identification card. The~~
~~14 department shall deny an application if the agent fails to meet the registration~~
~~15 requirements or to provide the information required, or if the department determines~~
~~16 the information provided is false. Denial of an application or renewal is considered a~~
~~17 final department action, subject to judicial review. Jurisdiction and venue for judicial~~
~~18 review are vested in the Burleigh County district court.~~
- ~~19 6. The department shall issue a compassion center agent a registry identification card~~
~~20 within thirty calendar days of approval of an application.~~
- ~~21 7. A compassion center agent with a registry identification card shall notify the~~
~~22 department of any of the following within ten calendar days of the change, in a manner~~
~~23 prescribed by the department:~~
 - ~~24 a. A change in the cardholder's name or address; and~~
 - ~~25 b. Knowledge of a change that would render the compassion center agent no longer~~
~~26 eligible to be a cardholder.~~
- ~~27 8. If a compassion center agent loses the agent's registry identification card, that agent~~
~~28 shall notify the department in writing within twenty-four hours of becoming aware the~~
~~29 card has been lost.~~
- ~~30 9. If a cardholder notifies the department of items listed in this section but the nature of~~
~~31 the item reported results in the cardholder remaining eligible, the department shall~~

~~1 issue the cardholder a new registry identification card with a new random ten-digit
2 alphanumeric identification number within twenty calendar days of approving the
3 updated information and the cardholder shall pay a twenty-five dollar fee. If a
4 cardholder notifies the department of an item that results in the cardholder being
5 ineligible, the registry identification card immediately becomes void.~~

~~6 10. A compassion center shall notify the department in writing within two calendar days of
7 the date a compassion center agent ceases to work for or be associated with the
8 compassion center. That individual's registry identification card becomes void.~~

~~9 11. The registry identification card of a compassion center agent expires one year after
10 issuance or upon the termination of the compassion center's registration certificate,
11 whichever occurs first. A compassion center agent shall renew a registry identification
12 card by submitting a complete renewal application no less than forty-five calendar
13 days before the expiration date of the existing registry identification card to prevent
14 interruption of possession of a valid registry identification card.~~

~~15 12. Notwithstanding subsection 2, the department may issue a registry identification card
16 to an otherwise qualified compassion center agent who is a compassion center
17 employee or volunteer and who is not a North Dakota resident.~~

~~18 SECTION 29. Section 19-24-29 of the North Dakota Century Code is created and enacted
19 as follows:~~

~~20 19-24-29. Cardholders - Compassion centers - Revocation.~~

~~21 1. The department may suspend or revoke a cardholder's registry identification card or a
22 compassion center's registration certificate for a material misstatement by an applicant
23 in an application or renewal.~~

~~24 2. The department may suspend or revoke a registry identification card or registration
25 certificate for a violation of this chapter or rules adopted under this chapter.~~

~~26 3. If a compassion center agent or a compassion center sells or otherwise transfers
27 marijuana or usable marijuana to a person not authorized to possess marijuana under
28 this chapter, the department shall revoke the cardholder's registry identification card or
29 the compassion center's registration certificate, or both. If the department revokes a
30 cardholder's registry identification card under this subsection, the cardholder is
31 disqualified from further participation under this chapter.~~

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

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

4 ~~b. A manufacturing facility may continue to cultivate and possess marijuana during a~~
5 ~~suspension, but may not dispense, transfer, or sell usable marijuana.~~

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

8 ~~d. Revocation is a final decision of the department and may be subject to judicial~~
9 ~~review. Jurisdiction and venue of an appeal is vested in Burleigh County district~~
10 ~~court.~~

11 ~~**SECTION 30.** Section 19-24-30 of the North Dakota Century Code is created and enacted~~
12 ~~as follows:~~

13 ~~**19-24-30. Violations - Penalties.**~~

14 ~~1. A cardholder or compassion center that fails to provide a notice as required under this~~
15 ~~chapter shall pay to the department a fee in the amount of one hundred fifty dollars.~~

16 ~~2. In addition to any other penalty applicable in law, a manufacturing facility or a~~
17 ~~manufacturing facility agent is guilty of a class B felony for intentionally selling or~~
18 ~~otherwise transferring marijuana in any form, in exchange for anything of value, to a~~
19 ~~person other than a dispensary or for internationally selling or otherwise transferring~~
20 ~~marijuana in any form other than usable marijuana, in exchange for anything of value~~
21 ~~to a dispensary. A person convicted under this subsection may not continue to be~~
22 ~~affiliated with a compassion center and is disqualified from further participation under~~
23 ~~this chapter.~~

24 ~~3. In addition to any other penalty applicable in law, a dispensary or a dispensary agent~~
25 ~~is guilty of a class B felony for intentionally selling or otherwise transferring usable~~
26 ~~marijuana, in exchange for anything of value, to a person other than a registered~~
27 ~~qualifying patient or a registered designated caregiver, to a registered qualifying~~
28 ~~patient who is a minor, or in a form not allowed under this chapter. A person convicted~~
29 ~~under this subsection may not continue to be affiliated with a compassion center and~~
30 ~~is disqualified from further participation under this chapter.~~

1 ~~4. In addition to any other penalty applicable in law, a dispensary or a dispensary agent~~
2 ~~is guilty of a class B felony for intentionally selling or otherwise transferring usable~~
3 ~~marijuana, in exchange for anything of value, in a form other than pediatric medical~~
4 ~~marijuana oil, to a registered designated caregiver, for use by a registered qualifying~~
5 ~~patient who is a minor. A person convicted under this subsection may not continue to~~
6 ~~be affiliated with a compassion center and is disqualified from further participation~~
7 ~~under this chapter.~~

8 ~~5. A compassion center or compassion center agent that knowingly submits false records~~
9 ~~or documentation required by the department to certify a compassion center under this~~
10 ~~chapter is guilty of a class C felony. A person convicted under this subsection may not~~
11 ~~continue to be affiliated with a compassion center and is disqualified from further~~
12 ~~participation under this chapter.~~

13 ~~6. In addition to any other penalty applicable in law, if a compassion center violates this~~
14 ~~chapter the department may fine the compassion center up to one thousand dollars for~~
15 ~~each violation.~~

16 ~~7. In addition to any other penalty applicable in law, a registered qualifying patient who~~
17 ~~intentionally sells or otherwise transfers usable marijuana, in exchange for anything of~~
18 ~~value, to another person, is guilty of a class B felony. An individual convicted under~~
19 ~~this subsection is disqualified from further participation under this chapter.~~

20 ~~8. In addition to any other penalty applicable in law, a registered designated caregiver~~
21 ~~who intentionally sells or otherwise transfers usable marijuana, in exchange for~~
22 ~~anything of value, to a person other than a registered qualifying patient to which the~~
23 ~~caregiver is associated with registration, is guilty of a class B felony. A person~~
24 ~~convicted under this subsection is disqualified from further participation under this~~
25 ~~chapter.~~

26 ~~9. An individual who knowingly submits false records or documentation required by the~~
27 ~~department to receive a registry identification card under this chapter is guilty of a~~
28 ~~class C felony. A person convicted under this subsection may not continue to be~~
29 ~~affiliated with a compassion center and is disqualified from further participation under~~
30 ~~this chapter.~~

1 ~~10. An individual who intentionally makes a false statement to a law enforcement official~~
2 ~~about any fact or circumstance relating to the medical use of marijuana to avoid arrest~~
3 ~~or prosecution is guilty of a class A misdemeanor. This penalty is in addition to any~~
4 ~~other penalty that may apply for making a false statement or for the possession,~~
5 ~~cultivation, or sale of marijuana not protected by this chapter. If an individual convicted~~
6 ~~of violating this section is a cardholder, the individual is disqualified from further~~
7 ~~participation under this chapter.~~

8 ~~11. A physician who holds a financial interest in a compassion center may not knowingly~~
9 ~~refer a patient to a compassion center or to a registered designated caregiver,~~
10 ~~advertise in a compassion center, or issue a written certification. A physician who~~
11 ~~violates this subsection must be fined up to one thousand dollars.~~

12 ~~**SECTION 31.** Section 19-24-31 of the North Dakota Century Code is created and enacted~~
13 ~~as follows:~~

14 ~~**19-24-31. Protections.**~~

15 ~~Except as provided in sections 19-24-30 and 19-24-32:~~

16 ~~1. A registered qualifying patient is not subject to arrest or prosecution for the acquisition,~~
17 ~~use, or possession of usable marijuana under this chapter.~~

18 ~~2. A registered designated caregiver is not subject to arrest or prosecution:~~

19 ~~a. For assisting a registered qualifying patient with the acquisition, use, or~~
20 ~~possession of usable marijuana under this chapter, if the registered designated~~
21 ~~caregiver is connected to the registered qualifying patient through the~~
22 ~~department's registration process.~~

23 ~~b. For receiving compensation for costs associated with assisting a registered~~
24 ~~qualifying patient with the acquisition, use, or possession of usable marijuana~~
25 ~~under this chapter, if the registered designated caregiver is connected to the~~
26 ~~registered qualifying patient through the department's registration process.~~

27 ~~3. It is presumed a registered qualifying patient is engaged in, or a registered designated~~
28 ~~caregiver is assisting with, the acquisition, use, or possession in accordance with this~~
29 ~~chapter if the registered qualifying patient or registered designated caregiver is in~~
30 ~~possession of a valid registry identification card and is in possession of usable~~
31 ~~marijuana in an amount that does not exceed what is authorized under this chapter.~~

~~This presumption may be rebutted by evidence the conduct related to acquisition, use, or possession of usable marijuana was not for the purpose of treating or alleviating the registered qualifying patient's debilitating medical condition under this chapter.~~

~~4. A person is not subject to arrest or prosecution, for being in the presence or vicinity of the medical use of marijuana under this chapter.~~

~~5. A manufacturing facility is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee under this chapter for acting under this chapter to:~~

~~a. Acquire, possess, cultivate, or transport marijuana for purposes of manufacturing usable marijuana;~~

~~b. Transfer, transport, supply, or sell usable marijuana to a dispensary; or~~

~~c. Transfer marijuana and usable marijuana to and from a department designee or manufacturing facility in accordance with this chapter.~~

~~6. A dispensary is not subject to prosecution, search or inspection, or seizure, except by the department or a department designee under this chapter for acting under this chapter to:~~

~~a. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense usable marijuana or related supplies and educational materials to registered qualifying patients and designated caregivers; or~~

~~b. Transfer usable marijuana to and from a department designee or related marijuana facility in accordance with this chapter.~~

~~7. A registered compassion center agent is not subject to arrest or prosecution for working or volunteering for a compassion center if the action performed by the compassion center agent on behalf of the compassion center is authorized under this chapter.~~

~~8. The medical use of marijuana by a registered cardholder or the manufacturing and dispensing of marijuana by a compassion center is lawful if in accordance with this chapter.~~

~~9. A person in possession of medical marijuana waste in the course of transporting or disposing of the waste under this chapter and rules adopted under this chapter may not be subject to arrest or prosecution for that possession.~~

1 ~~10. A person in possession of marijuana or medical marijuana in the course of performing~~
2 ~~laboratory tests as provided under this chapter and rules adopted under this chapter~~
3 ~~may not be subject to arrest or prosecution for that possession.~~

4 ~~SECTION 32. Section 19-24-32 of the North Dakota Century Code is created and enacted~~
5 ~~as follows:~~

6 ~~**19-24-32. Limitation.**~~

7 ~~This chapter does not authorize a person to engage in, and does not prevent the imposition~~
8 ~~of any civil liability or criminal liability or other penalties for engaging in the following conduct:~~

9 ~~1. Undertaking an activity under the influence of marijuana if doing so would constitute~~
10 ~~negligence or professional malpractice.~~

11 ~~2. Possessing or consuming usable marijuana:~~

12 ~~a. On a school bus or school van that is used for school purposes;~~

13 ~~b. On the grounds of any public or private school;~~

14 ~~c. In any correctional facility; or~~

15 ~~d. On the grounds of a child care facility or home daycare.~~

16 ~~3. Undertaking any activity prohibited by sections 23-12-09, 23-12-10, 23-12-10.2,~~
17 ~~23-12-10.4, 23-12-10.5, or 23-12-11.~~

18 ~~4. Using a combustible delivery form of usable marijuana or vaporizing usable marijuana~~
19 ~~under this chapter if the smoke or vapor would be inhaled by a minor.~~

20 ~~5. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft,~~
21 ~~train, or motorboat, while under the influence of marijuana. However, a registered~~
22 ~~qualifying patient may not be considered to be under the influence of marijuana solely~~
23 ~~because of the presence of metabolites or components of marijuana that appear in~~
24 ~~insufficient concentration to cause impairment.~~

25 ~~SECTION 33. Section 19-24-33 of the North Dakota Century Code is created and enacted~~
26 ~~as follows:~~

27 ~~**19-24-33. Acts not required – Acts not prohibited.**~~

28 ~~1. This chapter does not require:~~

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

- 1 ~~_____ b. A person in lawful possession of property to allow a guest, client, customer, or~~
2 ~~other visitor to possess or consume usable marijuana on or in that property; or~~
3 ~~_____ c. A landlord to allow the cultivation of marijuana for medical use on rental property.~~
4 ~~_____ 2. This chapter does not prohibit an employer from disciplining an employee for~~
5 ~~possessing or consuming usable marijuana in the workplace or for working while~~
6 ~~under the influence of marijuana.~~

7 ~~_____ **SECTION 34.** Section 19-24-34 of the North Dakota Century Code is created and enacted~~
8 ~~as follows:~~

9 ~~_____ **19-24-34. Facility restrictions.**~~

- 10 ~~_____ 1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or~~
11 ~~adult foster care home licensed in the state may adopt reasonable restrictions on the~~
12 ~~medical use of marijuana by residents or individuals receiving inpatient services,~~
13 ~~including:~~
14 ~~_____ a. The facility will not store or maintain the registered qualifying patient's supply of~~
15 ~~usable marijuana.~~
16 ~~_____ b. The facility, caregivers, or hospice agencies serving the facility's residents are not~~
17 ~~responsible for providing the usable marijuana for registered qualifying patients~~
18 ~~or assisting with the medical use of marijuana.~~
19 ~~_____ c. Usable marijuana can be consumed by a method other than vaporizing or~~
20 ~~combustion.~~
21 ~~_____ d. Consumption of usable marijuana is limited to a place specified by the facility.~~
22 ~~_____ 2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying~~
23 ~~patient's access to or use of marijuana as authorized under this chapter unless failing~~
24 ~~to do so would cause the facility to lose a monetary or licensing related benefit under~~
25 ~~federal law or regulations.~~
26 ~~_____ **SECTION 35.** Section 19-24-35 of the North Dakota Century Code is created and enacted~~
27 ~~as follows:~~
28 ~~_____ **19-24-35. Rules.**~~
29 ~~_____ 1. The health council shall adopt rules as necessary for the implementation and~~
30 ~~administration of this chapter.~~

1 — ~~2. The health council may adopt rules regarding the operation and governance of~~
2 ~~additional categories of registered medical marijuana establishments.~~

3 — ~~3. The health council shall adopt rules to establish requirements for reporting incidents of~~
4 ~~individuals not authorized to possess marijuana or usable marijuana under this~~
5 ~~chapter and who are found in possession of marijuana or usable marijuana. The rules~~
6 ~~must identify professionals required to report, the information the reporter is required~~
7 ~~to report, and actions the reporter shall take to secure the marijuana or usable~~
8 ~~marijuana.~~

9 — ~~4. The health council shall adopt rules to establish requirements for law enforcement~~
10 ~~officials and health care professionals to report to the department incidents involving~~
11 ~~overdose or adverse reaction related to the use of usable marijuana.~~

12 — ~~**SECTION 36.** Section 19-24-36 of the North Dakota Century Code is created and enacted~~
13 ~~as follows:~~

14 — ~~**19-24-36. Verification system.**~~

15 — ~~1. The department shall maintain a confidential list of cardholders and each cardholder's~~
16 ~~address, phone number, and registry identification number.~~

17 — ~~2. The department shall establish a secure verification system. The verification system~~
18 ~~must allow law enforcement personnel, physicians, pharmacists, compassion centers,~~
19 ~~and compassion center agents twenty-four-hour access to enter a registry~~
20 ~~identification number to determine whether the number corresponds with a current~~
21 ~~valid registry identification card. The system may disclose:~~

22 — ~~a. Whether an identification card is valid;~~

23 — ~~b. The name of the cardholder;~~

24 — ~~c. Whether the cardholder is a registered qualifying patient, registered designated~~
25 ~~caregiver, or registered compassion center agent;~~

26 — ~~d. Whether a registered qualifying patient is a minor; and~~

27 — ~~e. The registry identification number of any affiliated registered qualifying patient,~~
28 ~~registered designated caregiver, or compassion center.~~

29 — ~~**SECTION 37.** Section 19-24-37 of the North Dakota Century Code is created and enacted~~
30 ~~as follows:~~

1 ~~19-24-37. Confidentiality.~~

2 ~~1. Data in a registration application or renewal and supporting data submitted by a~~
3 ~~qualifying patient, designated caregiver, compassion center, proposed compassion-~~
4 ~~center, or compassion center agent, including data on designated caregivers and~~
5 ~~physicians, is confidential.~~

6 ~~2. Data kept or maintained by the department may be disclosed for:~~

7 ~~a. The verification of registration certificates and registry identification cards under~~
8 ~~this chapter;~~

9 ~~b. Submission of the annual report required by this chapter;~~

10 ~~c. Submission to the North Dakota prescription drug monitoring program;~~

11 ~~d. Notification of state or local law enforcement of apparent criminal violation of this~~
12 ~~chapter;~~

13 ~~e. Notification of state and local law enforcement about falsified or fraudulent~~
14 ~~information submitted for purposes of obtaining or renewing a registry~~
15 ~~identification card; or~~

16 ~~f. Notification of the North Dakota board of medicine if there is a reason to believe a~~
17 ~~physician provided a written certification and the department has reason to~~
18 ~~believe the physician otherwise violated this chapter.~~

19 ~~3. Upon a cardholder's written request, the department may confirm the cardholder's~~
20 ~~status as a registered qualifying patient or a registered designated caregiver to a third~~
21 ~~party, such as a landlord, school, medical professional, or court.~~

22 ~~SECTION 38. Section 19-24-38 of the North Dakota Century Code is created and enacted~~
23 ~~as follows:~~

24 ~~19-24-38. Advisory board.~~

25 ~~1. The governor shall appoint four members to serve on an advisory board that:~~

26 ~~a. Shall advise the department in implementation of the compassionate care~~
27 ~~program;~~

28 ~~b. May receive reports from the department on the status and activities of the~~
29 ~~compassionate care program.~~

30 ~~c. May provide recommendations to the department and the legislative~~
31 ~~management on the compassionate care program.~~

1 ~~2. The state health officer shall serve as an ex officio voting member and as chairman of~~
2 ~~the advisory board.~~

3 ~~SECTION 39. Section 19-24-39 of the North Dakota Century Code is created and enacted~~
4 ~~as follows:~~

5 ~~**19-24-39. Annual report - Report to legislative management.**~~

6 ~~Annually, the department shall submit to the legislative management a report that does not~~
7 ~~disclose any identifying information about registered cardholders, compassion centers, or~~
8 ~~physicians, but contains the following information:~~

9 ~~1. The number of registry identification card applications and renewals;~~

10 ~~2. The number of registered qualifying patients and registered designated caregivers;~~

11 ~~3. The nature of the debilitating medical conditions of the registered qualifying patients;~~

12 ~~4. The number of registry identification cards revoked;~~

13 ~~5. The number of physicians providing written certifications for qualifying patients;~~

14 ~~6. The number of compassionate care centers; and~~

15 ~~7. Any expenses incurred and revenues generated by the department from the~~
16 ~~compassionate care program.~~

17 ~~SECTION 40. Section 19-24-40 of the North Dakota Century Code is created and enacted~~
18 ~~as follows:~~

19 ~~**19-24-40. Compassionate care fund - Private donations - Continuing appropriation.**~~

20 ~~1. The compassionate care fund is established in the state treasury. The department~~
21 ~~shall deposit in the fund all fees collected and private donations received under this~~
22 ~~chapter. The department shall administer the fund. Moneys in the fund are~~
23 ~~appropriated to the department on a continuing basis for use in administering this~~
24 ~~chapter.~~

25 ~~2. The state health officer may accept and shall deposit in the fund private grants, gifts,~~
26 ~~donations, contributions, and devises to assist in carrying out the provisions of this~~
27 ~~chapter.~~

28 ~~SECTION 41. Section 19-24-41 of the North Dakota Century Code is created and enacted~~
29 ~~as follows:~~

1 ~~19-24-41. Funding.~~

2 ~~Beginning in the 2019-21 biennium, revenue generated by the department under this~~
3 ~~chapter must be sufficient to cover all costs of the department.~~

4 ~~SECTION 42. EMERGENCY. This Act is declared to be an emergency measure.~~

5 **SECTION 1.** Chapter 19-24.1 of the North Dakota Century Code is created and enacted as
6 follows:

7 **19-24.1-01. Definitions.**

8 As used in this chapter, unless the context indicates otherwise:

9 1. "Advanced practice registered nurse" means an advanced practice registered nurse
10 defined under section 43-12.1-02.

11 2. "Allowable amount of usable marijuana" means the amount of usable marijuana a
12 registered qualifying patient or registered designated caregiver may purchase in a
13 thirty-day period under this chapter.

14 a. During a thirty-day period, a registered qualifying patient may not purchase or
15 have purchased by a registered designated caregiver more than two and one-half
16 ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in
17 a combustible delivery form. At any time a registered qualifying patient, or a
18 registered designated caregiver on behalf of a registered qualifying patient, may
19 not possess more than three ounces [85.05 grams] of dried leaves or flowers of
20 the plant of the genus cannabis in a combustible delivery form.

21 b. A registered qualifying patient may not purchase or have purchased by a
22 registered designated caregiver more than the maximum concentration or
23 amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum
24 concentration or amount of tetrahydrocannabinol permitted in a thirty-day period
25 for a cannabinoid concentrate or medical cannabinoid product, or the cumulative
26 total of both, is two thousand milligrams.

27 3. "Bona fide provider-patient relationship" means a treatment or counseling relationship
28 between a health care provider and patient in which all the following are present:

29 a. The health care provider has reviewed the patient's relevant medical records and
30 completed a full assessment of the patient's medical history and current medical
31 condition, including a relevant, in-person, medical evaluation of the patient.

- 1 b. The health care provider has created and maintained records of the patient's
2 condition in accordance with medically accepted standards.
- 3 c. The patient is under the health care provider's continued care for the debilitating
4 medical condition that qualifies the patient for the medical use of marijuana.
- 5 d. The health care provider has a reasonable expectation that provider will continue
6 to provide followup care to the patient to monitor the medical use of marijuana as
7 a treatment of the patient's debilitating medical condition.
- 8 e. The relationship is not for the sole purpose of providing written certification for the
9 medical use of marijuana.
- 10 4. "Cannabinoid" means a chemical compound that is one of the active constituents of
11 marijuana.
- 12 5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin,
13 which encloses a dose of a cannabinoid product or a cannabinoid concentrate
14 intended for consumption. The maximum concentration of amount of
15 tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty
16 milligrams.
- 17 6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating
18 cannabinoids from marijuana by a mechanical, chemical, or other process.
- 19 7. "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid
20 concentrate or the dried leaves or flowers of the plant of the genus cannabis is
21 incorporated.
- 22 8. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and
23 other ingredients intended for consumption.
- 24 9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin
25 or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a
26 cannabinoid topical is six percent.
- 27 10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin
28 which contains a cannabinoid product or cannabinoid concentrate for absorption into
29 the bloodstream. The maximum concentration or amount of tetrahydrocannabinol
30 permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.

- 1 11. "Cardholder" means a qualifying patient, designated caregiver, or compassion center
2 agent who has been issued and possesses a valid registry identification card.
- 3 12. "Compassion center" means a manufacturing facility or dispensary.
- 4 13. "Compassion center agent" means a principal officer, board member, member,
5 manager, governor, employee, volunteer, or agent of a compassion center.
- 6 14. "Contaminated" means made impure or inferior by extraneous substances.
- 7 15. "Debilitating medical condition" means one of the following:
- 8 a. Cancer;
- 9 b. Positive status for human immunodeficiency virus;
- 10 c. Acquired immune deficiency syndrome;
- 11 d. Decompensated cirrhosis caused by hepatitis C;
- 12 e. Amyotrophic lateral sclerosis;
- 13 f. Posttraumatic stress disorder;
- 14 g. Agitation of Alzheimer's disease or related dementia;
- 15 h. Crohn's disease;
- 16 i. Fibromyalgia;
- 17 j. Spinal stenosis or chronic back pain, including neuropathy or damage to the
18 nervous tissue of the spinal cord with objective neurological indication of
19 intractable spasticity;
- 20 k. Glaucoma;
- 21 l. Epilepsy;
- 22 m. A terminal illness; and
- 23 n. A chronic or debilitating disease or medical condition or treatment for such
24 disease or medical condition that produces one or more of the following:
- 25 (1) Cachexia or wasting syndrome;
- 26 (2) Severe debilitating pain that has not responded to previously prescribed
27 medication or surgical measures for more than three months or for which
28 other treatment options produced serious side effects;
- 29 (3) Intractable nausea;
- 30 (4) Seizures; or

1 (5) Severe and persistent muscle spasms, including those characteristic of
2 multiple sclerosis.

3 16. "Department" means the state department of health.

4 17. "Designated caregiver" means an individual who agrees to manage the well-being of a
5 registered qualifying patient with respect to the qualifying patient's medical use of
6 marijuana.

7 18. "Dispensary" means an entity registered by the department as a compassion center
8 authorized to dispense usable marijuana to a registered qualifying patient and a
9 registered designated caregiver.

10 19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other
11 enclosed area equipped with locks or other security devices that permit access limited
12 to individuals authorized under this chapter or rules adopted under this chapter.

13 20. "Health care provider" means a physician or an advanced practice registered nurse.

14 21. "Manufacturing facility" means an entity registered by the department as a compassion
15 center authorized to produce and process and to sell usable marijuana to a
16 dispensary.

17 22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;
18 the resin extracted from any part of the plant; and every compound, manufacture, salt,
19 derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin
20 extracted from any part of the plant.

21 23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
22 of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid
23 product or a cannabinoid concentrate.

24 24. "Medical cannabinoid product" means a product intended for human consumption or
25 use which contains cannabinoids.

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

27 (1) Cannabinoid tincture;

28 (2) Cannabinoid capsule;

29 (3) Cannabinoid transdermal patch; and

30 (4) Cannabinoid topical.

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

- 1 (1) A cannabinoid edible product;
2 (2) A cannabinoid concentrate by itself; or
3 (3) The dried leaves or flowers of the plant of the genus cannabis by itself.
4 25. "Medical marijuana product" means a cannabinoid concentrate or a medical
5 cannabinoid product.
6 26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable
7 marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of
8 the genus cannabis, including dead plants and all unused plant parts and roots.
9 27. "Medical use of marijuana" means the acquisition, use, and possession of usable
10 marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
11 28. "Minor" means an individual under the age of nineteen.
12 29. "North Dakota identification" means a North Dakota driver's license or comparable
13 state of North Dakota or federal issued photo identification card verifying North Dakota
14 residence.
15 30. "Pediatric medical marijuana" means a medical marijuana product containing
16 cannabidiol which may not contain a maximum concentration or amount of
17 tetrahydrocannabinol of more than six percent.
18 31. "Physician" means a physician licensed under chapter 43-17 to practice medicine in
19 the state of North Dakota.
20 32. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for
21 posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental
22 Disorders", American psychiatric association, fifth edition, text revision (2013).
23 33. "Processing" or "process" means the compounding or conversion of marijuana into a
24 medical marijuana product.
25 34. "Producing", "produce", or "production" mean the planting, cultivating, growing,
26 trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves
27 or flowers of the plant of the genus cannabis.
28 35. "Qualifying patient" means an individual who has been diagnosed by a health care
29 provider as having a debilitating medical condition.

1 36. "Registry identification card" means a document issued by the department which
2 identifies an individual as a registered qualifying patient, registered designated
3 caregiver, or registered compassion center agent.

4 37. "Terminal illness" means a disease, illness, or condition of a patient:

5 a. For which there is not a reasonable medical expectation of recovery;

6 b. Which as a medical probability, will result in the death of the patient, regardless of
7 the use or discontinuance of medical treatment implemented for the purpose of
8 sustaining life or the life processes; and

9 c. As a result of which, the patient's health care provider would not be surprised if
10 death were to occur within six months.

11 38. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers
12 of the plant of the genus cannabis in a combustible delivery form. However, the term
13 does not include the dried leaves or flowers unless authorized through a written
14 certification and does not include a cannabinoid edible product. In the case of a
15 registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric
16 medical marijuana.

17 39. "Verification system" means the system maintained by the department under section
18 19-24.1-31 for verification of registry identification cards.

19 40. "Written certification" means a form established by the department which is executed,
20 dated, and signed by a health care provider within ninety calendar days of the date of
21 application, stating that in the health care provider's professional opinion the patient is
22 likely to receive therapeutic or palliative benefit from the medical use of marijuana to
23 treat or alleviate the patient's debilitating medical condition. A health care provider
24 may authorize the use of dried leaves or flowers of the plant of the genus cannabis in
25 a combustible delivery form to treat or alleviate the patient's debilitating medical
26 condition. A written certification may not be made except in the course of a bona fide
27 provider-patient relationship.

28 **19-24.1-02. Medical marijuana program.**

29 The department shall establish and implement a medical marijuana program under this
30 chapter to allow for production and processing, the sale and dispensing of usable marijuana,
31 and medical use of marijuana. A person may not produce or process or sell, possess, transport,

1 dispense, or use marijuana or usable marijuana under the medical marijuana program unless
2 the person is authorized to do so as a compassion center, a cardholder, or otherwise authorized
3 by rule adopted under this chapter.

4 **19-24.1-03. Qualifying patients - Registration.**

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

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

10 a. A nonrefundable annual application fee in the amount of fifty dollars, with a
11 personal check or cashier's check payable to "North Dakota State Department of
12 Health, Medical Marijuana Program".

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

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

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

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

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

19 (5) The applicant's debilitating medical condition and the medical justification
20 for the health care provider's certification of the patient's debilitating medical
21 condition;

22 (6) Attestation the written certification is made in the course of a bona fide
23 provider-patient relationship and that in the provider's professional opinion
24 the applicant is likely to receive therapeutic or palliative benefit from the
25 medical use of marijuana to treat or alleviate the applicant's debilitating
26 medical condition;

27 (7) Whether the health care provider authorizes the patient to use the dried
28 leaves or flowers of the plant of the genus cannabis in a combustible
29 delivery form; and

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

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

19-24.1-04. Designated caregivers - Registration.

1. A designated caregiver is not eligible to purchase, assist in the use of, or possess usable marijuana under the medical marijuana program unless the designated caregiver has a valid registry identification card.

2. A designated caregiver application is complete and eligible for review if an applicant submits to the department all of the following:

a. A nonrefundable annual application fee in the amount of fifty dollars, with a personal check or cashier's check made payable to "North Dakota State Department of Health, Medical Marijuana Program".

b. An original designated caregiver application for a registry identification card form established by the department which must include all of the following:

(1) A certified copy of a birth record verifying the applicant is at least twenty-one years of age.

(2) A photographic copy of the applicant's North Dakota identification. The North Dakota identification must be available for inspection and verification upon request of the department.

(3) The name, address, telephone number, and date of birth of the qualifying patient.

(4) The name, address, and telephone number for the qualifying patient's health care provider.

(5) The name, address, and telephone number of the applicant.

(6) The applicant's social security number.

(7) The applicant's signature and the date.

c. An original designated caregiver authorization form established by the department which must be executed by a registered qualifying patient providing the designated caregiver applicant with the responsibility of managing the well-being of the registered qualifying patient with respect to the registered qualifying patient's medical use of marijuana. The form must include:

(1) The name and date of birth of the designated caregiver applicant; and

(2) The registered qualifying patient's signature and the date.

d. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.

1 e. Any other information or material required by the department by rule.

2 3. A criminal history record check conducted under section 12-60-24 must be performed
3 upon initial application and biennially thereafter and at any other time upon the request
4 of the department. All fees associated with the criminal history record check must be
5 paid by the applicant.

6 4. An individual convicted of a drug-related misdemeanor offense within the five years
7 preceding the date of application or of a felony offense is prohibited from serving as a
8 designated caregiver.

9 5. An applicant shall submit a separate and complete application for each of the
10 applicant's registered qualifying patients. A registered designated caregiver may assist
11 no more than five registered qualifying patients. A registered designated caregiver who
12 is a registered qualifying patient may assist no more than four additional registered
13 qualifying patients.

14 6. A registered designated caregiver may not purchase or possess more than the
15 allowable amount of usable marijuana for each of the registered designated
16 caregiver's registered qualifying patients and for the registered designated caregiver if
17 the caregiver is a registered qualifying patient.

18 **19-24.1-05. Qualifying patients and designated caregivers - Identification cards -**

19 **Issuance and denial.**

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

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

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

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

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

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

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

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

12 a. The department receives documentation the minor's health care provider has
13 explained to the parent or legal guardian with responsibility for health care
14 decisions for the minor the potential risks and benefits of the use of pediatric
15 medical marijuana to treat or alleviate the debilitating medical condition; and

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

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

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

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

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

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

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

- 1 a. Does not meet the requirements of this section or section 19-24.1-03;
2 b. Did not provide the required information and materials;
3 c. Previously had a registry identification card revoked; or
4 d. Provided false or falsified information or made a material misstatement.
5 8. The department shall deny an application for or renewal of a designated caregiver
6 registry identification card if the designated caregiver applicant:
7 a. Does not meet the requirements of this section or section 19-24.1-04;
8 b. Did not provide the required information and materials;
9 c. Previously had a registry identification card revoked; or
10 d. Provided false or falsified information or made a material misstatement.
11 9. The department shall notify, in writing, the qualifying patient or designated caregiver
12 applicant of the reason for denying an application or renewal.
13 10. The department shall notify the following in writing:
14 a. A registered qualifying patient if that patient's designated caregiver's application
15 or renewal is denied; and
16 b. A registered designated caregiver if that caregiver's qualifying patient's
17 application or renewal is denied.
18 11. The cardholder may appeal a denial or revocation of a registry identification card to
19 the district court of Burleigh County for hearing. The court may authorize the
20 cardholder to appear by reliable electronic means.
21 **19-24.1-06. Registry identification cards - Renewal.**
22 To prevent interruption of possession of a valid registry identification card, a registered
23 qualifying patient or registered designated caregiver shall apply for a registry identification card
24 renewal by submitting a complete reapplication as provided under section 19-24.1-03 or
25 19-24.1-04 no less than forty-five calendar days before the expiration date of the existing
26 registry identification card.
27 **19-24.1-07. Registry identification cards - Nontransferable.**
28 A registry identification card is not transferable, by assignment or otherwise, to another
29 person. If a person attempts to transfer a card in violation of this section, the registry
30 identification card is void and the person is prohibited from all privileges provided under this
31 chapter.

19-24.1-08. Qualifying patients and designated caregivers - Voluntary withdrawal.

A registered qualifying patient or registered designated caregiver may voluntarily withdraw from participation in the medical marijuana program. A registered qualifying patient or registered designated caregiver seeking to withdraw from the medical marijuana program shall notify the department in writing no less than thirty calendar days before withdrawal.

19-24.1-09. Cardholders - Eligibility and compliance.

1. A cardholder shall provide the department or the department's designee immediate access to any material and information necessary for determining eligibility and compliance with this chapter.

2. Failure of a cardholder to provide the department access to the material, or information as provided under this chapter may result in the department taking action, which may include the revocation of the cardholder registry identification card and referral to state or local law enforcement.

3. Failure of a cardholder to comply with the requirements under this section which is documented by the department, may result in sanctions, including suspension, revocation, nonrenewal, or denial of registration, and referral to state or local law enforcement.

4. The department shall refer credible criminal complaints against a cardholder to appropriate state or local law enforcement authorities.

5. a. If a violation of the requirements under this section is cited as a result of compliance monitoring, the department shall provide the cardholder with written notice of the findings following the compliance monitoring visit.

b. Unless otherwise specified by the department, the cardholder shall correct the violation within five calendar days of receipt of the notice citing the violation.

c. The department shall verify whether the cardholder corrected the violation.

d. The violation is not deemed corrected until the department provides written verification the corrective action is satisfactory.

e. If the violation is not corrected within the required time, the department may revoke the registry identification card of the cardholder.

19-24.1-10. Cardholders - Notification of change.

1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:
 - a. A change in the cardholder's name or address;
 - b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the medical marijuana program;
 - c. Knowledge of a change that results in the registered qualifying patient's health care provider no longer meeting the definition of the term "health care provider" as defined under section 19-24.1-01; or
 - d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the medical marijuana program.
2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.
3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.
4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.
5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, 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 notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.

1 6. If the department receives notification of an item listed in this section and the nature of
2 the item reported makes the cardholder ineligible, the cardholder's registry
3 identification card becomes void immediately upon notification of the department and
4 the registered cardholder shall dispose of any usable marijuana in the cardholder's
5 possession within fifteen calendar days, in accordance with rules adopted under this
6 chapter.

7 7. A registered qualifying patient's certifying health care provider shall notify the
8 department in writing if the health care provider's registered qualifying patient no
9 longer has a debilitating medical condition or if the health care provider no longer
10 believes the patient will receive therapeutic or palliative benefit from the medical use of
11 marijuana. The qualifying patient's registry identification card becomes void
12 immediately upon the health care provider's notification of the department and the
13 registered qualifying patient shall dispose of any usable marijuana in the cardholder's
14 possession within fifteen calendar days, in accordance with rules adopted under this
15 chapter.

16 **19-24.1-11. Registry identification cards.**

17 1. The contents of a registry identification card must include:

18 a. The name of the cardholder;

19 b. A designation as to whether the cardholder is a qualifying patient, designated
20 caregiver, or compassion center agent;

21 c. A designation as to whether a qualifying patient is a minor;

22 d. A designation as to whether a qualifying patient or a designated caregiver's
23 qualifying patient is authorized to use the dried leaves or flowers of the plant of
24 the genus cannabis;

25 e. The date of issuance and expiration date;

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

28 g. If the cardholder is a designated caregiver, the random identification number of
29 the qualifying patient the designated caregiver is authorized to assist;

30 h. A photograph of the cardholder; and

31 i. The phone number or website address at which the card can be verified.

1 2. Except as otherwise provided in this section or rule adopted under this chapter, a
2 registry identification card expiration date must be one year after the date of issuance.

3 3. If a health care provider states in the written certification that the qualifying patient
4 would benefit from the medical use of marijuana until a specified date, less than one
5 year, the registry identification card expires on that date.

6 **19-24.1-12. Compassion centers.**

7 1. A person may not process or produce or dispense usable marijuana or otherwise act
8 as a compassion center in this state unless the person is registered as a compassion
9 center.

10 2. Except as otherwise provided under this section, the department shall register no
11 more than:

12 a. Two compassion centers with the sole purpose of operating as a manufacturing
13 facility; and

14 b. Eight compassion centers with the sole purpose of operating as a dispensary.

15 3. The department shall establish an open application period for the submission of
16 compassion center applications. At the completion of the open application period, the
17 department shall review each complete application using a competitive process
18 established in accordance with rules adopted under this chapter and shall determine
19 which applicants to register as compassion centers.

20 4. The department may register additional compassion centers if the department
21 determines additional compassion centers are necessary to increase access to usable
22 marijuana by registered qualifying patients and registered designated caregivers.

23 5. If the department revokes or does not renew a compassion center registration
24 certificate, the department may establish an open application period for the
25 submission of compassion center applications.

26 6. The department of commerce may not certify a compassion center as a primary sector
27 business.

28 **19-24.1-13. Compassion centers - Authority.**

29 1. The activities of a manufacturing facility are limited to producing and processing and to
30 related activities, including acquiring, possessing, storing, transferring, and

1 transporting marijuana and usable marijuana, for the sole purpose of selling usable
2 marijuana to a dispensary.

3 2. The activities of a dispensary are limited to purchasing usable marijuana from a
4 manufacturing facility, and related activities, including storing, delivering, transferring,
5 and transporting usable marijuana, for the sole purpose of dispensing usable
6 marijuana to a registered qualifying patient, directly or through the registered qualifying
7 patient's registered designated caregiver. The activities of a dispensary include
8 providing educational material and selling usable marijuana related supplies to a
9 registered qualifying patient or a registered designated caregiver.

10 **19-24.1-14. Compassion centers - Application.**

- 11 1. The department shall establish forms for an application to be registered as a
12 compassion center. For a compassion center registration application to be complete
13 and eligible for review, the applicant shall submit to the department all of the following:
- 14 a. A nonrefundable application fee, not to exceed five thousand dollars, made
15 payable to the "North Dakota State Department of Health, Medical Marijuana
16 Program".
 - 17 b. The legal name, articles of incorporation or articles of organization, and bylaws or
18 operating agreement of the proposed compassion center applicant.
 - 19 c. Evidence of the proposed compassion center applicant's registration with the
20 secretary of state and certificate of good standing.
 - 21 d. The physical address of the proposed location of the proposed compassion
22 center and:
 - 23 (1) Evidence of approval from local officials as to the proposed compassion
24 center applicant's compliance with local zoning laws for the physical
25 address to be used by the proposed compassion center; and
 - 26 (2) Evidence the physical address of the proposed compassion center is not
27 located within one thousand feet [604.80 meters] of a property line of a
28 pre-existing public or private school.
 - 29 e. For a manufacturing facility applicant, a description of the enclosed, locked
30 facility that would be used in the production and processing of marijuana.

1 including steps that will be taken to ensure the production and processing is not
2 visible from the street or other public areas.

3 f. The name, address, and date of birth of each principal officer and board member,
4 or of each member-manager, manager, or governor, of the proposed compassion
5 center applicant and verification each officer and board member, or each
6 member-manager, manager, or governor, has consented to a criminal history
7 record check conducted under section 12-60-24.

8 g. For each of the proposed compassion center applicant's principal officers and
9 board members, or for each of the proposed compassion center applicant's
10 member-managers, managers, or governors, a description of that individual's
11 relevant experience, including training or professional licensing related to
12 medicine, pharmaceuticals, natural treatments, botany, food science, food safety,
13 production, processing, and the individual's experience running a business entity.

14 h. A description of proposed security and safety measures, which demonstrate
15 compliance with the security and safety requirements under section 19-24.1-25.

16 i. An example of the design and security features of usable marijuana containers
17 which demonstrates compliance with section 19-24.1-21.

18 j. A complete operations manual, which demonstrates compliance with section
19 19-24.1-27.

20 k. A description of the plans for making usable marijuana available on an affordable
21 basis to registered qualifying patients with limited financial resources.

22 l. A list of all individuals and business entities having direct or indirect authority over
23 the management or policies of the proposed compassion center applicant.

24 m. A list of all individuals and business entities having an ownership interest in the
25 proposed compassion center applicant, whether direct or indirect, and whether
26 the interest is in profits, land, or building, including owners of any business entity
27 that owns all or part of the land or building.

28 n. The identity of any creditor holding a security interest in the proposed
29 compassion center premises.

1 2. The department is not required to review an application submitted under this section
2 unless the department determines the application is complete. The criteria considered
3 by the department in reviewing an application must include:

4 a. The suitability of the proposed compassion center location, including compliance
5 with any local zoning laws, and the geographic convenience to access
6 compassion centers for registered qualifying patients and registered designated
7 caregivers from throughout the state;

8 b. The character and relevant experience of the principal officers and board
9 members, or of the member-managers, managers, or governors, including
10 training or professional licensing and business experience;

11 c. The applicant's plan for operations and services, including staffing and training
12 plans, whether the applicant has sufficient capital to operate, and the applicant's
13 ability to provide an adequate supply of usable marijuana to registered qualifying
14 patients and registered designated caregivers;

15 d. The sufficiency of the applicant's plans for recordkeeping;

16 e. The sufficiency of the applicant's plans for safety, security, and the prevention of
17 diversion, including the proposed location and security devices employed;

18 f. The applicant's plan for making usable marijuana available on an affordable basis
19 to registered qualifying patients with limited financial resources;

20 g. The applicant's plan for safe and accurate packaging and labeling of usable
21 marijuana; and

22 h. The applicant's plans for testing usable marijuana and marijuana.

23 3. Following completion of the review under subsection 2, the department shall select the
24 applicants eligible for registration under section 19-24.1-15.

25 **19-24.1-15. Compassion centers - Registration.**

26 1. Upon receipt of notification by the department a compassion center application is
27 eligible for registration, the applicant shall submit all of the following additional items to
28 the department to qualify for registration:

29 a. A certification fee, made payable to the "North Dakota State Department of
30 Health, Medical Marijuana Program", in the amount of ninety thousand dollars for
31 a dispensary and one hundred ten thousand dollars for a manufacturing facility.

1 b. A financial assurance or security bond to ensure the protection of the public
2 health and safety and the environment in the event of abandonment, default, or
3 other inability or unwillingness to meet the requirements of this chapter.

4 c. The legal name, articles of incorporation or articles of organization, and bylaws or
5 operating agreement, of the proposed compassion center applicant.

6 d. The physical address of the proposed compassion center; confirmation the
7 information in the application regarding the physical location of the proposed
8 compassion center has not changed, and if the information has changed the
9 department shall determine whether the new information meets the requirements
10 of this chapter; and a current certificate of occupancy, or equivalent document, to
11 demonstrate compliance with the provisions of state and local fire code for the
12 physical address of the proposed compassion center. It is not necessary for an
13 applicant to resubmit any information provided in the initial application unless
14 there has been a change in that information.

15 e. An update to previously submitted information, including information about
16 compassion center agents and compliance with section 19-24.1-18.

17 2. If an applicant complies with subsection 1, the department shall issue the applicant a
18 registration certificate.

19 **19-24.1-16. Compassion centers - Renewal.**

20 1. A compassion center registration certificate expires two years after issuance. A
21 compassion center may submit a renewal application at any time beginning ninety
22 calendar days before the expiration of the registration certificate. A compassion center
23 shall submit a renewal application a minimum of sixty calendar days before the
24 expiration of the registration certificate to avoid suspension of the certificate.

25 2. The department shall approve a compassion center's renewal application within sixty
26 calendar days of submission, if the following conditions are satisfied:

27 a. The compassion center submits a renewal fee, in the amount of ninety thousand
28 dollars for a dispensary and one hundred ten thousand dollars for a
29 manufacturing facility, which the department shall refund if the department rejects
30 the renewal application;

31 b. The compassion center submits a complete renewal application;

1 c. The department has at no time suspended the compassion center's registration
2 for violation of this chapter;

3 d. Inspections conducted under this chapter do not raise any serious concerns
4 about the continued operation of the compassion center; and

5 e. The compassion center continues to meet all the requirements for the operation
6 of a compassion center as set forth in this chapter and rules adopted under this
7 chapter.

8 3. If a compassion center does not meet the requirements for renewal, the department
9 may not issue a registration certificate and the department shall provide the
10 compassion center with written notice of the determination. If a compassion center's
11 certificate is not renewed, the compassion center shall dispose all marijuana and
12 usable marijuana in accordance with rules adopted under this chapter.

13 **19-24.1-17. Compassion centers - Registration certificates nontransferable -**

14 **Notification of changes.**

15 1. A registration certificate authorizing operation of a compassion center may not be
16 transferred to another person. Unless a compassion center applies for and receives an
17 amended registration certificate authorizing operation of a compassion center, the
18 registration certificate is void if there is a change in ownership of the compassion
19 center, there is a change in the authorized physical location of the compassion center,
20 or if the compassion center discontinues operation.

21 2. A compassion center shall provide the department a written notice of any change
22 described under this section at least sixty calendar days before the proposed effective
23 date of the change. The department may waive all or part of the required advance
24 notice to address emergent or emergency situations.

25 **19-24.1-18. Compassion centers - Agents - Registry identification cards.**

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

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

- 1 a. A photographic copy of the agent's department-approved identification. The agent
2 shall make the identification available for inspection and verification by the
3 department.
- 4 b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
- 5 c. A written and signed statement from an officer or executive staff member of the
6 compassion center stating the applicant is associated with the compassion center
7 and the capacity of the association.
- 8 d. The name, address, and telephone number of the agent.
- 9 e. The agent's social security number.
- 10 f. The name, address, and telephone number of the compassion center with which
11 the agent is associated.
- 12 g. The agent's signature and the date.
- 13 h. A nonrefundable application or renewal fee in the amount of two hundred dollars,
14 in the form of a check made out to "North Dakota State Department of Health,
15 Medical Marijuana Program".
- 16 3. Each compassion center agent shall consent to a criminal history record check
17 conducted under section 12-60-24 to demonstrate compliance with the eligibility
18 requirements.
- 19 a. All applicable fees associated with the required criminal history record checks
20 must be paid by the compassion center or the agent.
- 21 b. A criminal history record check must be performed upon initial application and
22 biennially upon renewal. A compassion center agent shall consent to a criminal
23 history record check at any time the department determines necessary.
- 24 c. An individual convicted of a drug-related misdemeanor offense within the five-
25 year period before the date of application or a felony offense is prohibited from
26 being a compassion center agent.
- 27 4. The department shall notify the compassion center in writing of the purpose for
28 denying a compassion center agent application for a registry identification card. The
29 department shall deny an application if the agent fails to meet the registration
30 requirements or to provide the information required, or if the department determines
31 the information provided is false. The cardholder may appeal a denial or revocation of

1 a registry identification card to the district court of Burleigh County for hearing. The
2 court may authorize the cardholder to appear by reliable electronic means.

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

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

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

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

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

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

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

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

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 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.

19-24.1-20. Cardholders - Compassion centers - Violations - Penalties.

1. A cardholder or compassion center that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.
2. In addition to any other penalty applicable in law, a manufacturing facility or a manufacturing facility agent is guilty of a class B felony for intentionally selling or otherwise transferring marijuana or usable marijuana in any form, to a person other

1 than a dispensary, or for internationally selling or otherwise transferring marijuana in
2 any form other than usable marijuana, to a dispensary. A person convicted under this
3 subsection may not continue to be affiliated with a compassion center and is
4 disqualified from further participation under this chapter.

5 3. In addition to any other penalty applicable in law, a dispensary or a dispensary agent
6 is guilty of a class B felony for intentionally selling or otherwise transferring usable
7 marijuana, to a person other than a registered qualifying patient or a registered
8 designated caregiver, to a registered qualifying patient who is a minor, or in a form not
9 allowed under this chapter. A person convicted under this subsection may not continue
10 to be affiliated with a compassion center and is disqualified from further participation
11 under this chapter.

12 4. In addition to any other penalty applicable in law, a dispensary or a dispensary agent
13 is guilty of a class B felony for intentionally selling or otherwise transferring usable
14 marijuana, in a form other than pediatric medical marijuana, to a registered designated
15 caregiver, for use by a registered qualifying patient who is a minor. A person convicted
16 under this subsection may not continue to be affiliated with a compassion center and
17 is disqualified from further participation under this chapter.

18 5. A compassion center or compassion center agent that knowingly submits false records
19 or documentation required by the department to certify a compassion center under this
20 chapter is guilty of a class C felony. A person convicted under this subsection may not
21 continue to be affiliated with a compassion center and is disqualified from further
22 participation under this chapter.

23 6. In addition to any other penalty applicable in law, if a compassion center violates this
24 chapter the department may fine the compassion center up to one thousand dollars for
25 each violation.

26 7. In addition to any other penalty applicable in law, a registered qualifying patient who
27 intentionally sells or otherwise transfers usable marijuana, to another person, is guilty
28 of a class B felony. An individual convicted under this subsection is disqualified from
29 further participation under this chapter.

30 8. In addition to any other penalty applicable in law, a registered designated caregiver
31 who intentionally sells or otherwise transfers usable marijuana, to a person other than

1 a registered qualifying patient to which the caregiver is associated with registration, is
2 guilty of a class B felony. An individual convicted under this subsection is disqualified
3 from further participation under this chapter.

4 9. An individual who knowingly submits false records or documentation required by the
5 department to receive a registry identification card under this chapter is guilty of a
6 class A misdemeanor. An individual convicted under this subsection may not continue
7 to be affiliated with a compassion center and is disqualified from further participation
8 under this chapter.

9 10. A health care provider who holds a financial interest in a compassion center may not
10 knowingly refer a patient to a compassion center or to a registered designated
11 caregiver, advertise in a compassion center, or issue a written certification. A health
12 care provider who violates this subsection must be fined up to one thousand dollars.

13 **19-24.1-21. Compassion centers - Dispensing.**

14 1. A compassion center shall comply with the dispensing requirements of this section.

15 2. Design and security features of usable marijuana containers must be in accordance
16 with rules adopted under this chapter.

17 3. A manufacturing facility or agent of the manufacturing facility may not dispense
18 marijuana or usable marijuana, except the manufacturing facility or agent may sell
19 usable marijuana to a dispensary.

20 4. A dispensary or agent of the dispensary may not dispense usable marijuana unless
21 the dispensary first uses the verification system to confirm the registered qualifying
22 patient or registered designated caregiver identification card is valid. A dispensary or
23 agent of the dispensary:

24 a. May not dispense usable marijuana to a person other than a registered qualifying
25 patient or a registered qualifying patient's registered designated caregiver. If a
26 registered qualifying patient is a minor:

27 (1) The dispensary or agent of the dispensary may not dispense usable
28 marijuana to a minor; and

29 (2) The usable marijuana dispensed to the minor's designated caregiver must
30 be in the form of pediatric medical marijuana.

1 b. May not dispense to a registered qualifying patient or registered designated
2 caregiver more than the allowable amount of usable marijuana and may not
3 dispense an amount if it is known that amount would cause the recipient to
4 purchase or possess more usable marijuana than is permitted under this chapter.

5 c. May not dispense to a registered qualifying patient or registered designated
6 caregiver the dried leaves or flowers of the plant of the genus cannabis in a
7 combustible delivery form unless the registry identification card and verification
8 system authorize this form of usable marijuana.

9 **19-24.1-22. Compassion centers - Inspections.**

10 1. A compassion center is subject to random inspection by the department. During an
11 inspection, the department may review the compassion center's records, including the
12 compassion center's financial and dispensing records, which may track transactions
13 according to registered qualifying patient and registered designated caregiver registry
14 identification numbers.

15 2. The department shall conduct inspections of compassion centers to ensure
16 compliance with this chapter. The department shall conduct inspections of
17 manufacturing facilities for the presence of contaminants. The department shall select
18 a certified laboratory to conduct random quality sampling testing, in accordance with
19 rules adopted under this chapter. A compassion center shall pay the cost of all random
20 quality sampling testing.

21 **19-24.1-23. Compassion centers - Pesticide testing.**

22 A manufacturing facility shall test marijuana at a manufacturing facility for the presence of
23 pesticides. If a marijuana pesticide test or a random quality sampling test under section
24 19-24.1-22 indicates the presence of a pesticide, the manufacturing facility shall report the test
25 result immediately to the department and to the agriculture commissioner. Upon the order of the
26 department or agriculture commissioner, the manufacturing facility immediately shall destroy all
27 affected or contaminated marijuana and usable marijuana inventory in accordance with rules
28 adopted under this chapter, and shall certify to the department and to the agriculture
29 commissioner that all affected or contaminated inventory has been destroyed.

19-24.1-24. Compassion centers - Cannabis plants.

The health council shall adopt rules establishing the maximum amount of plants of the genus cannabis and the amount of marijuana and usable marijuana a compassion center may possess. Except as otherwise provided under this section, the rules may not allow a manufacturing facility to possess more than one thousand plants, regardless of the stage of growth, and may not allow a dispensary to possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation. The rules may allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing.

19-24.1-25. Compassion centers - Security and safety.

1. In compliance with rules adopted under this chapter, a compassion center shall implement appropriate security and safety measures to deter and prevent the unauthorized entrance to areas containing marijuana and containing usable marijuana and to prevent the theft of marijuana and usable marijuana.

2. A compassion center shall limit to authorized personnel entry to an area in which production or producing takes place or in which marijuana or usable marijuana is held.

3. A compassion center must have a fully operational security alarm system at the authorized physical address which includes an electrical support backup system for the alarm system to provide suitable protection against theft and diversion.

4. A compassion center shall maintain documentation in an auditable form for:

a. All maintenance inspections and tests conducted under this section, and any servicing, modification, or upgrade performed on the security alarm system;

b. An alarm activation or other event that requires response by public safety personnel; and

c. Any breach of security.

19-24.1-26. Compassion centers - Inventory control.

1. A compassion center shall comply with the inventory control requirements provided under this section and rules adopted under this chapter.

a. A manufacturing facility shall:

1 (1) Employ a bar coding inventory control system to track batch, strain, and
2 amounts of marijuana and usable marijuana in inventory and to track
3 amounts of usable marijuana sold to dispensaries; and

4 (2) Host a secure computer interface to transfer inventory amounts and
5 dispensary purchase information to the department.

6 b. A dispensary shall:

7 (1) Employ a bar coding inventory control system to track batch, strain, and
8 amounts of usable marijuana in inventory and to track amounts sold to
9 registered qualifying patients and registered designated caregivers; and

10 (2) Host a secure computer interface to transfer inventory amounts and
11 registered qualifying patient and registered designated caregiver purchase
12 information to the department.

13 2. A compassion center shall store the compassion center's marijuana and usable
14 marijuana in an enclosed locked facility with adequate security, in accordance with
15 rules adopted under this chapter.

16 3. A compassion center shall conduct inventories of marijuana and usable marijuana at
17 the authorized location at the frequency and in the manner provided by rules adopted
18 under this chapter. If an inventory results in the identification of a discrepancy, the
19 compassion center shall notify the department and appropriate law enforcement
20 authorities immediately. A compassion center shall document each inventory
21 conducted by the compassion center.

22 **19-24.1-27. Compassion centers - Operating manual - Training.**

23 1. A compassion center shall maintain a current copy of the compassion center's
24 operating manual that meets the requirements of rules adopted under this chapter.

25 2. A compassion center shall develop, implement, and maintain on the premises an
26 onsite training curriculum or shall enter contractual relationships with outside
27 resources capable of meeting compassion center agent training needs. A compassion
28 center shall ensure each compassion center agent receives training that includes:

29 a. Education regarding professional conduct, ethics, and state and federal laws
30 regarding patient confidentiality;

31 b. Informational developments in the field of medical use of marijuana;

1 c. All safety and security measures required under section 19-24.1-25;

2 d. Specific procedural instructions for responding to an emergency, including
3 robbery or violent accident; and

4 e. The compassion center's operating manual and all requirements related to
5 recordkeeping.

6 **19-24.1-28. Compassion centers - Bylaws and operating agreements.**

7 As part of a proposed compassion center's initial application, the applicant shall provide to
8 the department a current copy of the applicant's bylaws or operating agreement. Upon receipt of
9 a registration certificate, a compassion center shall maintain the bylaws or operating agreement
10 in accordance with this chapter. In addition to any other requirements, the bylaws or operating
11 agreement must include the ownership or management structure of the compassion center; the
12 composition of the board of directors, board of governors, member-managers, or managers;
13 and provisions relative to the disposition of revenues and earnings.

14 **19-24.1-29. Compassion centers - Retention of and access to records and reports.**

15 A compassion center shall keep detailed financial reports of proceeds and expenses. A
16 compassion center shall maintain all inventory, sales, and financial records in accordance with
17 generally accepted accounting principles. The compassion center shall maintain for a period of
18 seven years all reports and records required under this section. A compassion center shall allow
19 the department, or an audit firm contracted by the department, access at all times to all books
20 and records kept by the compassion center.

21 **19-24.1-30. Compassion centers - Recordkeeping - Compassion center agents -**
22 **Registry identification cards.**

23 1. Each compassion center shall maintain:

24 a. In compliance with rules adopted under this chapter, a personnel record for each
25 compassion center agent for a period of at least three years following termination
26 of the individual's affiliation with the compassion center. The personnel record
27 must comply with minimum requirements set by rule adopted under this chapter.

28 b. A record of the source of funds that will be used to open or maintain the
29 compassion center, including the name, address, and date of birth of any
30 investor.

1 c. A record of each instance in which a current or prospective board member,
2 member-manager, manager, or governor, who managed or served on the board
3 of a business or not-for-profit entity and in the course of that service was
4 convicted, fined, or censured or had a registration or license suspended or
5 revoked in any administrative or judicial proceeding.

6 2. Each compassion center agent shall hold a valid registry identification card.

7 **19-24.1-31. Verification system.**

8 1. The department shall maintain a confidential list of cardholders and each cardholder's
9 address, phone number, and registry identification number.

10 2. The department shall establish a secure verification system. The verification system
11 must allow law enforcement personnel, health care providers, pharmacists,
12 compassion centers, and compassion center agents twenty-four-hour access to enter
13 a registry identification number to determine whether the number corresponds with a
14 current valid registry identification card. The system may disclose:

15 a. Whether an identification card is valid;

16 b. The name of the cardholder;

17 c. Whether the cardholder is a registered qualifying patient, registered designated
18 caregiver, or registered compassion center agent;

19 d. Whether a registered qualifying patient is a minor; and

20 e. The registry identification number of any affiliated registered qualifying patient,
21 registered designated caregiver, or compassion center.

22 **19-24.1-32. Protections.**

23 Except as provided in sections 19-24.1-20 and 19-24.1-33:

24 1. A registered qualifying patient is not subject to arrest or prosecution or the denial of
25 any right or privilege, including a civil penalty or disciplinary action by a court or
26 occupational or professional regulating entity for the acquisition, use, or possession of
27 usable marijuana or related supplies under this chapter.

28 2. A registered designated caregiver is not subject to arrest or prosecution or the denial
29 of any right or privilege, including a civil penalty or disciplinary action by a court or
30 occupational or professional regulating entity:

- 1 a. For assisting a registered qualifying patient with the acquisition, use, or
2 possession of usable marijuana or related supplies under this chapter, if the
3 registered designated caregiver is connected to the registered qualifying patient
4 through the department's registration process.
- 5 b. For receiving compensation for costs associated with assisting a registered
6 qualifying patient with the acquisition, use, or possession of usable marijuana or
7 related supplies under this chapter, if the registered designated caregiver is
8 connected to the registered qualifying patient through the department's
9 registration process.
- 10 3. It is presumed a registered qualifying patient is engaged in, or a registered designated
11 caregiver is assisting with, the acquisition, use, or possession of usable marijuana or
12 related supplies in accordance with this chapter if the registered qualifying patient or
13 registered designated caregiver is in possession of a valid registry identification card
14 and is not in possession of usable marijuana in an amount that exceeds what is
15 authorized under this chapter. This presumption may be rebutted by evidence the
16 conduct related to acquisition, use, or possession of usable marijuana or related
17 supplies was not for the purpose of treating or alleviating the registered qualifying
18 patient's debilitating medical condition under this chapter.
- 19 4. A person is not subject to arrest or prosecution or the denial of any right or privilege,
20 including a civil penalty or disciplinary action by a court or occupational or professional
21 regulating entity, for being in the presence or vicinity of the medical use of marijuana
22 authorized under this chapter.
- 23 5. A manufacturing facility is not subject to prosecution, search or inspection, or seizure,
24 except by the department or a department designee, under this chapter for acting
25 under this chapter to:
- 26 a. Produce or process or to conduct related activities for the sole purpose of selling
27 usable marijuana to a dispensary; or
- 28 b. Transfer, transport, or deliver marijuana or usable marijuana to and from a
29 department designee or manufacturing facility in accordance with this chapter.

- 1 6. A dispensary is not subject to prosecution, search or inspection, or seizure, except by
2 the department or a department designee, under this chapter for acting under this
3 chapter to:
- 4 a. Purchase usable marijuana from a manufacturing facility and conducting related
5 activities for the sole purpose of dispensing usable marijuana, selling related
6 supplies, and and providing educational materials to registered qualifying patients
7 and designated caregivers; or
- 8 b. Transfer usable marijuana to and from a department designee or related
9 marijuana facility in accordance with this chapter.
- 10 7. A registered compassion center agent is not subject to arrest or prosecution or the
11 denial of any right or privilege, including a civil penalty or disciplinary action by a court
12 or occupational or professional regulating entity, for working or volunteering for a
13 compassion center if the action performed by the compassion center agent on behalf
14 of the compassion center is authorized under this chapter.
- 15 8. The sale and possession of marijuana paraphernalia by a dispensary is lawful if in
16 accordance with this chapter.
- 17 9. The medical use of marijuana by a registered cardholder or the producing and
18 processing and the dispensing of usable marijuana by a compassion center is lawful if
19 in accordance with this chapter.
- 20 10. A health care provider is not subject to arrest or prosecution or the denial of any right
21 or privilege, including a civil penalty or disciplinary action by a court or occupational or
22 professional regulating entity, solely for providing a written certification or for otherwise
23 stating in the health care provider's professional opinion a patient is likely to receive
24 therapeutic or palliative benefit from the medical use of usable marijuana to treat or
25 alleviate the patient's debilitating medical condition or for refusing to provide written
26 certification or a statement. This chapter does not release a health care provider from
27 the duty to exercise a professional standard of care for evaluating or treating a
28 patient's medical condition.
- 29 11. A cardholder or registered compassion center is not subject to arrest or prosecution for
30 use of drug paraphernalia or possession with intent to use drug paraphernalia in a
31 manner consistent with this chapter.

1 12. A person in possession of medical marijuana waste in the course of transporting or
2 disposing of the waste under this chapter and rules adopted under this chapter may
3 not be subject to arrest or prosecution for that possession or transportation.

4 13. A person in possession of marijuana or medical marijuana in the course of performing
5 laboratory tests as provided under this chapter and rules adopted under this chapter
6 may not be subject to arrest or prosecution for that possession or testing.

7 **19-24.1-33. Limitations.**

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

10 1. Undertaking an activity under the influence of marijuana if doing so would constitute
11 negligence or professional malpractice.

12 2. Possessing or consuming usable marijuana:

13 a. On a school bus or school van that is used for school purposes;

14 b. On the grounds of any public or private school;

15 c. At any location while a public or private school sanctioned event is occurring at
16 that location;

17 d. On the grounds of a correctional facility; or

18 e. On the grounds of a child care facility or licensed home day care, unless
19 authorized under rules adopted by the department of human services.

20 3. Undertaking any activity prohibited by section 23-12-09, 23-12-10, 23-12-10.2,
21 23-12-10.4, 23-12-10.5, or 23-12-11.

22 4. Using a combustible delivery form of usable marijuana or vaporizing usable marijuana
23 under this chapter if the smoke or vapor would be inhaled by a minor who is not the
24 registered qualifying patient for whom the usable marijuana is intended.

25 5. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft,
26 train, or motorboat, while under the influence of marijuana. However, a registered
27 qualifying patient may not be considered to be under the influence of marijuana solely
28 because of the presence of metabolites or components of marijuana that appear in
29 insufficient concentration to cause impairment.

30 **19-24.1-34. Acts not prohibited - Acts not required.**

31 1. This chapter does not require:

- 1 a. A government medical assistance program or private insurer to reimburse a
- 2 person for costs associated with the medical use of marijuana;
- 3 b. A person in lawful possession of property to allow a guest, client, customer, or
- 4 other visitor to possess or consume usable marijuana on or in that property;
- 5 c. A landlord to allow production or processing on rental property; or
- 6 d. A health care provider to provide a written certification or otherwise recommend
- 7 marijuana to a patient.

8 2. This chapter does not prohibit an employer from disciplining an employee for
9 possessing or consuming usable marijuana in the workplace or for working while
10 under the influence of marijuana.

11 **19-24.1-35. Facility restrictions.**

- 12 1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or
- 13 adult foster care home licensed in the state may adopt reasonable restrictions on the
- 14 medical use of marijuana by residents or individuals receiving inpatient services,
- 15 including:
 - 16 a. The facility will not store or maintain the registered qualifying patient's supply of
 - 17 usable marijuana.
 - 18 b. The facility, caregivers, or hospice agencies serving the facility's residents are not
 - 19 responsible for providing the usable marijuana for registered qualifying patients
 - 20 or assisting with the medical use of marijuana.
 - 21 c. Usable marijuana can be consumed by a method other than vaporizing or
 - 22 combustion.
 - 23 d. Consumption of usable marijuana is limited to a place specified by the facility.
- 24 2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying
- 25 patient's medical use of marijuana as authorized under this chapter unless failing to do
- 26 so would cause the facility to lose a monetary or licensing-related benefit under federal
- 27 law or regulations.

28 **19-24.1-36. Health council - Rules.**

- 29 1. The health council shall adopt rules as necessary for the implementation and
- 30 administration of this chapter, including transportation and storage of marijuana and

1 usable marijuana, advertising, packaging and labeling, standards for testing facilities,
2 inventory management, and accurate record keeping.

3 2. The health council may adopt rules regarding the operation and governance of
4 additional categories of registered medical marijuana establishments.

5 3. The health council shall adopt rules to establish requirements for reporting incidents of
6 individuals not authorized to possess marijuana or usable marijuana under this
7 chapter and who are found in possession of marijuana or usable marijuana. The rules
8 must identify professionals required to report, the information the reporter is required
9 to report, and actions the reporter shall take to secure the marijuana or usable
10 marijuana.

11 4. The health council shall adopt rules to establish requirements for law enforcement
12 officials and health care professionals to report to the department incidents involving
13 overdose or adverse reaction related to the use of usable marijuana.

14 **19-24.1-37. Confidentiality.**

15 1. Data in a registration application or renewal and supporting data submitted by a
16 qualifying patient, designated caregiver, compassion center, proposed compassion
17 center, or compassion center agent, including data on designated caregivers and
18 health care providers, is confidential.

19 2. Data kept or maintained by the department may be disclosed for:

20 a. The verification of registration certificates and registry identification cards under
21 this chapter;

22 b. Submission of the annual report required by this chapter;

23 c. Submission to the North Dakota prescription drug monitoring program;

24 d. Notification of state or local law enforcement of apparent criminal violation of this
25 chapter;

26 e. Notification of state and local law enforcement about falsified or fraudulent
27 information submitted for purposes of obtaining or renewing a registry
28 identification card; or

29 f. Notification of the North Dakota board of medicine or North Dakota board of
30 nursing if there is a reason to believe a health care provider provided a written

1 certification and the department has reason to believe the health care provider
2 otherwise violated this chapter.

3 3. Upon a cardholder's written request, the department may confirm the cardholder's
4 status as a registered qualifying patient or a registered designated caregiver to a third
5 party, such as a landlord, school, medical professional, or court.

6 4. Data submitted to a local government to demonstrate compliance with any security
7 requirements required by local zoning ordinances or regulations is confidential.

8 **19-24.1-38. Advisory board.**

9 1. The governor shall appoint six members to serve on an advisory board that:

10 a. Shall advise the department in implementation of the medical marijuana program.

11 b. May receive reports from the department on the status and activities of the
12 medical marijuana program.

13 c. May provide recommendations to the department and the legislative
14 management on the medical marijuana program.

15 2. The state health officer shall serve as an ex officio voting member and as chairman of
16 the advisory board.

17 **19-24.1-39. Report to legislative management.**

18 Annually, the department shall submit to the legislative management a report that does not
19 disclose any identifying information about registered cardholders, compassion centers, or health
20 care providers, but contains the following information:

21 1. The number of registry identification card applications and renewals;

22 2. The number of registered qualifying patients and registered designated caregivers;

23 3. The nature of the debilitating medical conditions of the registered qualifying patients;

24 4. The number of registry identification cards revoked;

25 5. The number of health care providers providing written certifications for qualifying
26 patients;

27 6. The number of compassionate care centers; and

28 7. Any expenses incurred and revenues generated by the department from the medical
29 marijuana program.

19-24.1-40. Medical marijuana fund - Continuing appropriation.

The medical marijuana fund is established in the state treasury. The department shall deposit in the fund all fees collected under this chapter. The department shall administer the fund. Moneys in the fund are appropriated to the department on a continuing basis for use in administering this chapter.

SECTION 2. AMENDMENT. Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

54-60-03. Commissioner of commerce - Duties.

With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;
2. Shall serve as chairman of the cabinet;
3. Shall appoint personnel as may be determined necessary to carry out the duties of the department;
4. Shall manage the operations of the department and oversee each of the divisions;
5. Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;
6. Shall coordinate the department's services with commerce-related services of other state agencies;
7. Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;
8. May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;
9. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative management and shall report annually to the foundation:
 - a. On the department's goals and objectives since the last report;

- 1 b. On the department's goals and objectives for the period until the next report;
- 2 c. On the department's long-term goals and objectives;
- 3 d. On the department's activities and measurable results occurring since the last
- 4 report; and
- 5 e. On commerce benchmarks, including the average annual wage in the state, the
- 6 gross state product exclusive of agriculture, and the number of primary sector
- 7 jobs in the state;

8 10. May not certify as a primary sector business a compassion center registered under
9 chapter 19-24.1;

10 11. Shall adopt rules necessary to implement this chapter; and

11 ~~11.~~12. May take any actions necessary and proper to implement this chapter.

12 **SECTION 3. AMENDMENT.** Paragraph 3 of subdivision a of subsection 15 of section
13 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

14 (3) Any structure or improvement used primarily in connection with a retail or
15 wholesale business other than farming, any structure or improvement
16 located on platted land within the corporate limits of a city, any structure or
17 improvement used by a manufacturing facility as defined in section
18 19-24.1-01, or any structure or improvement located on railroad operating
19 property subject to assessment under chapter 57-05 is not exempt under
20 this subsection. For purposes of this paragraph, "business other than
21 farming" includes processing to produce a value-added physical or chemical
22 change in an agricultural commodity beyond the ordinary handling of that
23 commodity by a farmer prior to sale.

24 **SECTION 4. AMENDMENT.** Paragraph 2 of subdivision b of subsection 15 of section
25 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

26 (2) "Farmer" means an individual who normally devotes the major portion of
27 time to the activities of producing products of the soil, with the exception of
28 marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming
29 in such products' unmanufactured state and has received annual net
30 income from farming activities which is fifty percent or more of annual net
31 income, including net income of a spouse if married, during any of the three

1 preceding calendar years. For purposes of this paragraph, "farmer" includes

2 a:

3 (a) "Beginning farmer", which means an individual who has begun
4 occupancy and operation of a farm within the three preceding
5 calendar years; who normally devotes the major portion of time to the
6 activities of producing products of the soil, poultry, livestock, or dairy
7 farming in such products' unmanufactured state; and who does not
8 have a history of farm income from farm operation for each of the
9 three preceding calendar years.

10 (b) "Retired farmer", which means an individual who is retired because of
11 illness or age and who at the time of retirement owned and occupied
12 as a farmer the residence in which the person lives and for which the
13 exemption is claimed.

14 (c) "Surviving spouse of a farmer", which means the surviving spouse of
15 an individual who is deceased, who at the time of death owned and
16 occupied as a farmer the residence in which the surviving spouse
17 lives and for which the exemption is claimed. The exemption under
18 this subparagraph expires at the end of the fifth taxable year after the
19 taxable year of death of an individual who at the time of death was an
20 active farmer. The exemption under this subparagraph applies for as
21 long as the residence is continuously occupied by the surviving
22 spouse of an individual who at the time of death was a retired farmer.

23 **SECTION 5. STATE DEPARTMENT OF HEALTH REPORT - MEDICAL MARIJUANA**

24 **DEBILITATING MEDICAL CONDITIONS.** During the 2017-18 interim, the state department of
25 health shall conduct a study of the feasibility and desirability of adding identified medical
26 conditions or providing for an administrative process to add identified medical conditions to the
27 definitions of "debilitating medical condition" under the medical marijuana program. The
28 department shall include the findings and recommendations of this study, together with any
29 legislation required to implement the recommendations, in the annual reports made to the
30 legislative management under section 19-24.1-39.

31 **SECTION 6. REPEAL.** Chapter 19-24 of the North Dakota Century Code is repealed.

1 **SECTION 7. LEGISLATIVE INTENT - MEDICAL MARIJUANA PENALTIES.** It is the intent
2 of the sixty-fifth legislative assembly that if future legislative assemblies amend criminal
3 penalties relating to marijuana, the corresponding medical marijuana penalties also be
4 amended in order to retain consistency.

5 **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.