

# FOODS, DRUGS, OILS, AND COMPOUNDS

## CHAPTER 183

### HOUSE BILL NO. 1469

(Representatives Mock, Devlin, Kasper, Louser, D. Ruby)  
(Senators Anderson, Dever, Heckaman, J. Lee)

AN ACT to create and enact section 19-02.1-16.3 of the North Dakota Century Code, relating to pharmacy benefits manager step therapy protocols.

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

**SECTION 1.** Section 19-02.1-16.3 of the North Dakota Century Code is created and enacted as follows:

#### 19-02.1-16.3. Pharmacy benefits managers - Step therapy protocols - Limitations.

1. As used in this section:
  - a. "Metastatic cancer" means cancer that has spread from the primary or original site to lymph nodes, nearby tissues, or other parts of the body.
  - b. "Pharmacy benefits manager" has the same meaning as in section 19-03.6-01.
  - c. "Step therapy protocol" means a protocol requiring an individual use a drug, or sequence of drugs, other than the prescription drug, or sequence of prescription drugs, the individual's health care provider recommends for the individual's treatment, before the pharmacy benefits manager or health plan allows coverage for the recommended prescription drug, or sequence of prescription drugs.
2. A pharmacy benefits manager or a health plan may not require a step therapy protocol for coverage of a recommended prescription drug, or sequence of prescription drugs, approved by the United States food and drug administration if:
  - a. The recommended prescription drug, or sequence of prescription drugs, is prescribed to treat the individual's diagnosis of metastatic cancer; and
  - b. The use of the recommended prescription drug, or sequence of prescription drugs, is consistent with the United States food and drug administration-approved indications or is supported by peer-reviewed medical literature.
3. This section does not require coverage of a nonformulary prescription drug.

Approved April 23, 2019

Filed April 24, 2019

## CHAPTER 184

### HOUSE BILL NO. 1382

(Representatives Keiser, Kasper)

AN ACT to create and enact section 19-02.1-16.3 of the North Dakota Century Code, relating to pharmacy mail order and home delivery services; and to provide an effective date.

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

**SECTION 1.** Section 19-02.1-16.3 of the North Dakota Century Code is created and enacted as follows:

##### **Mail order and home delivery - Prior consent - Refund.**

1. If a pharmacy offers a prescription through home delivery or mail order delivery services, the pharmacy may not initiate delivery of a refill unless:
  - a. The pharmacy obtains prior consent from the patient or the patient's authorized representative; or
  - b. The pharmacy provides the patient with notice of the upcoming delivery through more than one communication attempt, by different means, and the patient or the patient's authorized representative does not respond indicating the patient does not want the refill.
2. If a pharmacy delivers a refill in violation of subsection 1:
  - a. Within thirty days of the patient's or the patient's authorized representative's notification of the pharmacy of the unwanted refill, the pharmacy shall refund all payments received by the pharmacy relating to the unwanted refill.
  - b. Within thirty days of the pharmacy's, patient's, or patient's authorized representative's notification of the health plan or the pharmacy benefits manager of the unwanted refill, the health plan and pharmacy benefits manager shall refund all payments received relating to the unwanted refill.

**SECTION 2. EFFECTIVE DATE.** This Act becomes effective January 1, 2020.

Approved April 24, 2019

Filed April 24, 2019

## CHAPTER 185

### HOUSE BILL NO. 1113

(Judiciary Committee)

(At the request of the State Board of Pharmacy)

AN ACT to amend and reenact subsection 18 of section 19-03.1-01, section 19-03.1-05, subsection 7 of section 19-03.1-07, subsection 4 of section 19-03.1-09, subsection 7 of section 19-03.1-11, and subsection 5 of section 19-03.1-13 of the North Dakota Century Code, relating to the definition of marijuana and the scheduling of controlled substances; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Subsection 18 of section 19-03.1-01 of the North Dakota Century Code is amended and reenacted as follows:

18. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; ~~the resinous product of the combustion~~resin extracted from any part of the plant ~~cannabis~~; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant ~~or~~ its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. The term marijuana does not include hemp as defined in title 4.1.

**SECTION 2. AMENDMENT.** Section 19-03.1-05 of the North Dakota Century Code is amended and reenacted as follows:

#### 19-03.1-05. Schedule I.

1. The controlled substances listed in this section are included in schedule I.
2. Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation:
  - a. Acetylmethadol.
  - b. Allyprodine.
  - c. Alphacetylmethadol.
  - d. Alphameprodine.

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- e. Alphamethadol.
  - f. Benzethidine.
  - g. Betacetylmethadol.
  - h. Betameprodine.
  - i. Betamethadol.
  - j. Betaprodine.
  - k. Clonitazene.
  - l. Dextromoramide.
  - m. Diampromide.
  - n. Diethylthiambutene.
  - o. Difenoxylin.
  - p. Dimenoxadol.
  - q. Dimepheptanol.
  - r. Dimethylthiambutene.
  - s. Dioxaphetyl butyrate.
  - t. Dipipanone.
  - u. Ethylmethylthiambutene.
  - v. Etonitazene.
  - w. Etoxidine.
  - x. Furethidine.
  - y. Hydroxypethidine.
  - z. Ketobemidone.
  - aa. Levomoramide.
  - bb. Levophenacymorphan.
  - cc. Morpheridine.
  - dd. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
  - ee. Noracymethadol.
  - ff. Norlevorphanol.

- gg. Normethadone.
- hh. Norpipanone.
  - ii. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).
- jj. Phenadoxone.
- kk. Phenampromide.
  - ll. Phenomorphan.
- mm. Phenoperidine.
- nn. Piritramide.
- oo. Proheptazine.
- pp. Properidine.
- qq. Propiram.
  - rr. Racemoramide.
- ss. Tilidine.
- tt. Trimeperidine.
- uu. 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]cyclohexyl-N-methylbenzamide (also known as U-47700).
- vv. 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (also known as MT-45).
- ww. 3,4-dichloro-N-[[1-(dimethylamino)cyclohexyl]methyl]benzamide (also known as AH-7921).
- xx. Fentanyl derivatives. Unless specifically excepted or unless listed in another schedule or are not FDA approved drugs, and are derived from N-(1-(2-Phenylethyl)-4-piperidyl)-N-phenylpropanamide (Fentanyl) by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the anilido phenyl group, or any combination of the above. Examples include:
  - (1) N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (also known as Acetyl-alpha-methylfentanyl).
  - (2) N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine (also known as Alpha-methylfentanyl).
  - (3) N-[1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide (also known as Alpha-methylthiofentanyl).
  - (4) N-[1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide (also known as Beta-hydroxyfentanyl).

- (5) N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide (also known as Beta-hydroxy-3-methylfentanyl).
- (6) N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide (also known as 3-Methylfentanyl).
- (7) N-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide (also known as 3-Methylthiofentanyl).
- (8) N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide (also known as Para-fluorofentanyl).
- (9) N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]propanamide (also known as Thiofentanyl).
- (10) N-(1-phenylethylpiperidin-4-yl)-N-phenylfuran-2-carboxamide (also known as Furanyl Fentanyl).
- (11) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide; N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide (also known as Butyryl Fentanyl).
- (12) N-[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]-N-phenylpropionamide; N-[1-[2-hydroxy-2-(2-thienyl)ethyl]-4-piperidiny]-N-phenylpropanamide (also known as Beta-Hydroxythiofentanyl).
- (13) N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Acetyl Fentanyl).
- (14) N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (also known as Acrylfentanyl Acryl Fentanyl).
- (15) N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny]pentanamide N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (also known as Valeryl Fentanyl).
- (16) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as 4-Fluoroisobutyryl Fentanyl).
- (17) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (also known as Ortho-fluorofentanyl, 2-Fluorofentanyl).
- (18) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (also known as Tetrahydrofuranyl Fentanyl).
- (19) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (also known as Methoxyacetyl Fentanyl).
- (20) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (also known as Cyclopropyl Fentanyl).
- (21) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide (also known as Ocfentanil).

- (22) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (also known as Cyclopentyl Fentanyl).
- (23) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (also known as Isobutyryl Fentanyl).
- (24) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (also known as Para-chloroisobutyryl Fentanyl).
- (25) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-methoxybutyryl Fentanyl).
- (26) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (also known as Para-fluorobutyryl Fentanyl).
4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- Acetorphine.
  - Acetyldihydrocodeine.
  - Benzylmorphine.
  - Codeine methylbromide.
  - Codeine-N-Oxide.
  - Cyprenorphine.
  - Desomorphine.
  - Dihydromorphine.
  - Drotebanol.
  - Etorphine (except hydrochloride salt).
  - Heroin.
  - Hydromorphinol.
  - Methyldesorphine.
  - Methyldihydromorphine.
  - Morphine methylbromide.
  - Morphine methylsulfonate.
  - Morphine-N-Oxide.
  - Myrophine.

- s. Nicocodeine.
  - t. Nicomorphine.
  - u. Normorphine.
  - v. Pholcodine.
  - w. Thebacon.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers):
- a. Alpha-ethyltryptamine, its optical isomers, salts, and salts of isomers (also known as etryptamine;  $\alpha$ -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole).
  - b. Alpha-methyltryptamine.
  - c. 4-methoxyamphetamine (also known as 4-methoxy- $\alpha$ -methylphenethylamine; paramethoxyamphetamine; PMA).
  - d. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy- $\alpha$ -methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA).
  - e. Hashish.
  - f. Ibogaine (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido [1', 2':1,2] azepero (5,4-b) indole; Tabernanthe iboga).
  - g. Lysergic acid diethylamide.
  - h. Marijuana.
  - i. Parahexyl (also known as 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro- 6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
  - j. Peyote (all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or its extracts).
  - k. N-ethyl-3-piperidyl benzilate.
  - l. N-methyl-3-piperidyl benzilate.
  - m. Psilocybin.

- n. Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (*cannabis* plant), as well as synthetic equivalents of the substances contained in the *cannabis* plant, or in the resinous extractives of such plant, including synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant; excluding tetrahydrocannabinols found in hemp as defined in title 4.1; such as the following:
- (1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other names: Delta-9-tetrahydrocannabinol.
  - (2) Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.
  - (3) Delta-3,4 cis or trans tetrahydrocannabinol, and its optical isomers.
- (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- o. Cannabinoids, synthetic. It includes the chemicals and chemical groups listed below, including their homologues, salts, isomers, and salts of isomers. The term "isomer" includes the optical, position, and geometric isomers.
- (1) Indole carboxaldehydes. Any compound structurally derived from 1H-indole-3-carboxaldehyde or 1H-2-carboxaldehyde substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the hydrogen of the carboxaldehyde by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
    - (a) Substitution to the indole ring to any extent; or
    - (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, pyrrolidinyl, piperazinyl, or propionaldehyde group to any extent; or
    - (c) A nitrogen heterocyclic analog of the indole ring; or
    - (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
    - (e) Examples include:
      - [1] 1-Pentyl-3-(1-naphthoyl)indole - Other names: JWH-018 and AM-678.
      - [2] 1-Butyl-3-(1-naphthoyl)indole - Other names: JWH-073.

- [3] 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole - Other names: JWH-081.
- [4] 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole - Other names: JWH-200.
- [5] 1-Propyl-2-methyl-3-(1-naphthoyl)indole - Other names: JWH-015.
- [6] 1-Hexyl-3-(1-naphthoyl)indole - Other names: JWH-019.
- [7] 1-Pentyl-3-(4-methyl-1-naphthoyl)indole - Other names: JWH-122.
- [8] 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole - Other names: JWH-210.
- [9] 1-Pentyl-3-(4-chloro-1-naphthoyl)indole - Other names: JWH-398.
- [10] 1-(5-fluoropentyl)-3-(1-naphthoyl)indole - Other names: AM-2201.
- [11] 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole - Other names: RCS-8.
- [12] 1-Pentyl-3-(2-methoxyphenylacetyl)indole - Other names: JWH-250.
- [13] 1-Pentyl-3-(2-methylphenylacetyl)indole - Other names: JWH-251.
- [14] 1-Pentyl-3-(2-chlorophenylacetyl)indole - Other names: JWH-203.
- [15] 1-Pentyl-3-(4-methoxybenzoyl)indole - Other names: RCS-4.
- [16] (1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole) - Other names: AM-694.
- [17] (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone - Other names: WIN 48,098 and Pravadoline.
- [18] (1-Pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone -- Other names: UR-144.
- [19] (1-(5-fluoropentyl)indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: XLR-11.
- [20] (1-(2-morpholin-4-ylethyl)-1H-indol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone - Other names: A-796,260.
- [21] (1-(5-fluoropentyl)-1H-indazol-3-yl)(naphthalen-1-yl)methanone -- Other names: THJ-2201.

- [22] 1-naphthalenyl(1-pentyl-1H-indazol-3-yl)-methanone -- Other names: THJ-018.
- [23] (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone - Other names: FUBIMINA.
- [24] 1-[(N-methylpiperidin-2-yl)methyl]-3-(adamant-1-oyl) indole - Other names: AM-1248.
- [25] 1-Pentyl-3-(1-adamantoyl)indole - Other names: AB-001 and JWH-018 adamantyl analog.
- (2) Indole carboxamides. Any compound structurally derived from 1H-indole-3-carboxamide or 1H-2-carboxamide substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranylmethyl, benzyl, or halo benzyl group; and, at the nitrogen of the carboxamide by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:
- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:
- [1] N-Adamantyl-1-pentyl-1H-indole-3-carboxamide - Other names: JWH-018 adamantyl carboxamide, APICA, SDB-001, and 2NE1.
- [2] N-Adamantyl-1-fluoropentylindole-3-carboxamide - Other names: STS-135.
- [3] N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide - Other names: AKB 48 and APINACA.
- [4] N-1-naphthalenyl-1-pentyl-1H-indole-3-carboxamide - Other names: NNEI and MN-24.
- [5] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indole-3-carboxamide - Other names: ADBICA.
- [6] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: AB-PINACA.

- [7] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide - Other names: AB-FUBINACA.
- [8] (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5-Fluoro AB-PINACA and 5F-AB-PINACA.
- [9] N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide - Other names: ADB-PINACA.
- [10] N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: AB-CHMINACA.
- [11] N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: ADB-FUBINACA.
- [12] N-((3s,5s,7s)-adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide - Other names: FUB-AKB48 and AKB48 N-(4-fluorobenzyl) analog.
- [13] 1-(5-fluoropentyl)-N-(quinolin-8-yl)-1H-indazole-3-carboxamide - Other names: 5-fluoro-THJ.
- [14] (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: 5-fluoro AMB and 5F-AMB.
- [15] methyl (1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-L-valinate-2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3-methylbutanoate - Other names: FUB-AMB, MMB-FUBINACA, and AMB-FUBINACA.
- [16] N-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide - Other names: MAB-CHMINACA and ADB-CHMINACA.
- [17] Methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: 5F-ADB and 5F-MDMB-PINACA.
- [18] N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide - Other names: 5F-APINACA and 5F-AKB48.
- [19] Methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-CHMICA and MMB-CHMINACA.
- [20] Methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate - Other names: MDMB-FUBINACA.
- [21] 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide - Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78.

[22] methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate - Other names: MMB-CHMICA, AMB-CHMICA.

[23] 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide - Other names: 5F-CUMYL-P7AICA.

- (3) Indole carboxylic acids. Any compound structurally derived from 1H-indole-3-carboxylic acid or 1H-2-carboxylic acid substituted in both of the following ways: at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, tetrahydropyranlylmethyl, benzyl, or halo benzyl group; and, at the hydroxyl group of the carboxylic acid by a phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, or propionaldehyde group whether or not the compound is further modified to any extent in the following ways:

- (a) Substitution to the indole ring to any extent; or
- (b) Substitution to the phenyl, benzyl, cumyl, naphthyl, adamantyl, cyclopropyl, propionaldehyde group to any extent; or
- (c) A nitrogen heterocyclic analog of the indole ring; or
- (d) A nitrogen heterocyclic analog of the phenyl, benzyl, naphthyl, adamantyl, or cyclopropyl ring.
- (e) Examples include:

[1] 1-(cyclohexylmethyl)-1H-indole-3-carboxylic acid 8-quinoliny ester - Other names: BB-22 and QUCHIC.

[2] naphthalen-1-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FDU-PB-22.

[3] 1-pentyl-1H-indole-3-carboxylic acid 8-quinoliny ester - Other names: PB-22 and QUPIC.

[4] 1-(5-Fluoropentyl)-1H-indole-3-carboxylic acid 8-quinoliny ester - Other names: 5-Fluoro PB-22 and 5F-PB-22.

[5] quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-carboxylate - Other names: FUB-PB-22.

[6] naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate - Other names: NM2201 and CBL2201.

- (4) Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or

not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples include:

- (a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane - Other names: JWH-175.
- (b) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane - Other names: JWH-184.
- (5) Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone - Other names: JWH-307.
- (6) Naphthylmethylindenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples include: E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane - Other names: JWH-176.
- (7) Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropyran-4-yl)methyl group whether or not substituted in the cyclohexyl ring to any extent. Examples include:
- (a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: CP 47,497.
- (b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol - Other names: Cannabicyclohexanol and CP 47,497 C8 homologue.
- (c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol - Other names: CP 55,940.
- (8) Others specifically named:
- (a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: HU-210.

- (b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - Other names: Dexanabinol and HU-211.
- (c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone - Other names: WIN 55,212-2.
- (d) Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone - Other names: CB-13.
- p. Substituted phenethylamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from phenylethan-2-amine by substitution on the phenyl ring in any of the following ways, that is to say, by substitution with a fused methylenedioxy ring, fused furan ring, or fused tetrahydrofuran ring; by substitution with two alkoxy groups; by substitution with one alkoxy and either one fused furan, tetrahydrofuran, or tetrahydropyran ring system; or by substitution with two fused ring systems from any combination of the furan, tetrahydrofuran, or tetrahydropyran ring systems.
- (1) Whether or not the compound is further modified in any of the following ways, that is to say:
- (a) By substitution of phenyl ring by any halo, hydroxyl, alkyl, trifluoromethyl, alkoxy, or alkylthio groups;
- (b) By substitution at the 2-position by any alkyl groups; or
- (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, hydroxybenzyl, methylenedioxybenzyl, or methoxybenzyl groups.
- (2) Examples include:
- (a) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (also known as 2C-C or 2,5-Dimethoxy-4-chlorophenethylamine).
- (b) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (also known as 2C-D or 2,5-Dimethoxy-4-methylphenethylamine).
- (c) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (also known as 2C-E or 2,5-Dimethoxy-4-ethylphenethylamine).
- (d) 2-(2,5-Dimethoxyphenyl)ethanamine (also known as 2C-H or 2,5-Dimethoxyphenethylamine).
- (e) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-I or 2,5-Dimethoxy-4-iodophenethylamine).
- (f) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (also known as 2C-N or 2,5-Dimethoxy-4-nitrophenethylamine).

- (g) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (also known as 2C-P or 2,5-Dimethoxy-4-propylphenethylamine).
- (h) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-2 or 2,5-Dimethoxy-4-ethylthiophenethylamine).
- (i) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (also known as 2C-T-4 or 2,5-Dimethoxy-4-isopropylthiophenethylamine).
- (j) 2-(4-bromo-2,5-dimethoxyphenyl)ethanamine (also known as 2C-B or 2,5-Dimethoxy-4-bromophenethylamine).
- (k) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine (also known as 2C-T or 4-methylthio-2,5-dimethoxyphenethylamine).
- (l) 1-(2,5-dimethoxy-4-iodophenyl)-propan-2-amine (also known as DOI or 2,5-Dimethoxy-4-iodoamphetamine).
- (m) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane (also known as DOB or 2,5-Dimethoxy-4-bromoamphetamine).
- (n) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine (also known as DOC or 2,5-Dimethoxy-4-chloroamphetamine).
- (o) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-B-NBOMe; 2,5B-NBOMe or 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine).
- (p) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-I-NBOMe; 2,5I-NBOMe or 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine).
- (q) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine (also known as mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine).
- (r) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (also known as 2C-C-NBOMe; 2,5C-NBOMe or 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).
- (s) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine (also known as 2CB-5-hemiFLY).
- (t) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (also known as 2C-B-FLY).
- (u) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyranof[2,3-g]chromen-5-yl)ethanamine (also known as 2C-B-butterFLY).
- (v) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane (also known as 2C-B-FLY-NBOMe).

- (w) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine (also known as bromo-benzodifuranyl-isopropylamine or bromo-dragonFLY).
  - (x) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine (also known as 2C-I-NBOH or 2,5I-NBOH).
  - (y) 5-(2-Aminopropyl)benzofuran (also known as 5-APB).
  - (z) 6-(2-Aminopropyl)benzofuran (also known as 6-APB).
  - (aa) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (also known as 5-APDB).
  - (bb) 6-(2-Aminopropyl)-2,3,-dihydrobenzofuran (also known as 6-APDB).
  - (cc) 2,5-dimethoxy-amphetamine (also known as 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA).
  - (dd) 2,5-dimethoxy-4-ethylamphetamine (also known as DOET).
  - (ee) 2,5-dimethoxy-4-(n)-propylthiophenethylamine (also known as 2C-T-7).
  - (ff) 5-methoxy-3,4-methylenedioxy-amphetamine.
  - (gg) 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; DOM and STP).
  - (hh) 3,4-methylenedioxy amphetamine (also known as MDA).
  - (ii) 3,4-methylenedioxymethamphetamine (also known as MDMA).
  - (jj) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, MDE, MDEA).
  - (kk) 3,4,5-trimethoxy amphetamine.
  - (ll) Mescaline (also known as 3,4,5-trimethoxyphenethylamine).
- q. Substituted tryptamines. This includes any compound, unless specifically excepted, specifically named in this schedule, or listed under a different schedule, structurally derived from 2-(1H-indol-3-yl)ethanamine (i.e., tryptamine) by mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups or by inclusion of the amino nitrogen atom in a cyclic structure whether or not the compound is further substituted at the alpha-position with an alkyl group or whether or not further substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups. Examples include:
- (1) 5-methoxy-N,N-diallyltryptamine (also known as 5-MeO-DALT).
  - (2) 4-acetoxy-N,N-dimethyltryptamine (also known as 4-AcO-DMT or O-Acetylpsilocin).
  - (3) 4-hydroxy-N-methyl-N-ethyltryptamine (also known as 4-HO-MET).

- (4) 4-hydroxy-N,N-diisopropyltryptamine (also known as 4-HO-DIPT).
  - (5) 5-methoxy-N-methyl-N-isopropyltryptamine (also known as 5-MeO-MiPT).
  - (6) 5-methoxy-N,N-dimethyltryptamine (also known as 5-MeO-DMT).
  - (7) Bufotenine (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine).
  - (8) 5-methoxy-N,N-diisopropyltryptamine (also known as 5-MeO-DiPT).
  - (9) Diethyltryptamine (also known as N,N-Diethyltryptamine; DET).
  - (10) Dimethyltryptamine (also known as DMT).
  - (11) Psilocyn.
    - r. 1-[3-(trifluoromethylphenyl)]piperazine (also known as TFMPP).
    - s. 1-[4-(trifluoromethylphenyl)]piperazine.
    - t. 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (also known as 5,6-Methylenedioxy-2-aminoindane or MDAI).
    - u. 2-(Ethylamino)-2-(3-methoxyphenyl)cyclohexanone (also known as Methoxetamine or MXE).
    - v. Ethylamine analog of phencyclidine (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE).
    - w. Pyrrolidine analog of phencyclidine (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP).
    - x. Thiophene analog of phencyclidine (also known as (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienylanalog of phencyclidine; TCP, TCP).
    - y. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).
    - z. *Salvia divinorum*, salvinorin A, or any of the active ingredients of *salvia divinorum*.
6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Flunitrazepam.
  - b. Gamma-hydroxybutyric acid.
  - c. Mecloqualone.

d-c. Methaqualone.

7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
- Aminorex (also known as 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine).
  - Cathinone.
  - Substituted cathinones. Any compound, material, mixture, preparation, or other product, unless listed in another schedule or an approved food and drug administration drug (e.g., bupropion, pyrovalerone), structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:
    - By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
    - By substitution at the 3-position with an acyclic alkyl substituent;
    - By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
    - By inclusion of the 2-amino nitrogen atom in a cyclic structure.

Some trade or other names:

- 3,4-Methylenedioxy-alpha-pyrrolidinopropiophenone (also known as MDPPP).
- 3,4-Methylenedioxy-N-ethylcathinone (also known as Ethylone, MDEC, or bk-MDEA).
- 3,4-Methylenedioxy-N-methylcathinone (also known as Methylone or bk-MDMA).
- 3,4-Methylenedioxyprovalerone (also known as MDPV).
- 3,4-Dimethylmethcathinone (also known as 3,4-DMMC).
- 2-(methylamino)-1-phenylpentan-1-one (also known as Pentadrone).
- 2-Fluoromethcathinone (also known as 2-FMC).
- 3-Fluoromethcathinone (also known as 3-FMC).
- 4-Methylethcathinone (also known as 4-MEC and 4-methyl-N-ethylcathinone).

- (j) 4-Fluoromethcathinone (also known as Flephedrone and 4-FMC).
  - (k) 4-Methoxy-alpha-pyrrolidinopropiophenone (also known as MOPPP).
  - (l) 4-Methoxymethcathinone (also known as Methedrone; bk-PMMA).
  - (m) 4<sup>1</sup>-Methyl-alpha-pyrrolidinobutiophenone (also known as MPBP).
  - (n) Alpha-methylamino-butyrophenone (also known as Buphedrone or MABP).
  - (o) Alpha-pyrrolidinobutiophenone (also known as alpha-PBP).
  - (p) Alpha-pyrrolidinopropiophenone (also known as alpha-PPP).
  - (q) Alpha-pyrrolidinopentiophenone (also known as Alpha-pyrrolidinovalerophenone or alpha-PVP).
  - (r) Beta-keto-N-methylbenzodioxolylbutanamine (also known as Butylone or bk-MBDB).
  - (s) Ethcathinone (also known as N-Ethylcathinone).
  - (t) 4-Methylmethcathinone (also known as Mephedrone or 4-MMC).
  - (u) Methcathinone.
  - (v) N,N-dimethylcathinone (also known as metamfepramone).
  - (w) Naphthylpyrovalerone (naphyrone).
  - (x) B-Keto-Methylbenzodioxolylpentanamine (also known as Pentylone).
  - (y) 4-Methyl-alpha-pyrrolidinopropiophenone (also known as 4-MePPP and MPPP).
  - (z) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (also known as Ephyllone and N-Ethylpentylone).
- d. Fenethylamine.
- e. Fluoroamphetamine.
- f. Fluoromethamphetamine.
- g. (±)cis-4-methylaminorex (also known as (±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).
- h. N-Benzylpiperazine (also known as BZP, 1-benzylpiperazine).
- i. N-ethylamphetamine.
- j. N, N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine).

**SECTION 3. AMENDMENT.** Subsection 7 of section 19-03.1-07 of the North Dakota Century Code is amended and reenacted as follows:

7. Hallucinogenic substances.

- a. Nabilone [another name for nabilone ( $\pm$ )-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9Hdibenzo [b, d] pyran-9-one].
- b. Dronabinol [(-)-delta-9-trans tetrahydrocannabinol] in an oral solution in a drug product approved for marketing by the federal food and drug administration.

**SECTION 4. AMENDMENT.** Subsection 4 of section 19-03.1-09 of the North Dakota Century Code is amended and reenacted as follows:

4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system:

a. Any compound, mixture, or preparation containing:

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

b. Any suppository dosage form containing:

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;

or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

c. Any substance that contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules thereof.

d. Chlorhexadol.

e. Embutramide.

f. Gamma-hydroxybutyric acid in a United States food and drug administration-approved drug product.

g. Ketamine.

- h. Lysergic acid.
- i. Lysergic acid amide.
- j. Methyprylon.
- k. Perampanel.
- l. Sativex or its successor name as determined by the federal food and drug administration.
- m. Sulfondiethylmethane.
- n. Sulfonethylmethane.
- o. Sulfonmethane.
- p. Tiletamine and zolazepam or any salt thereof. Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: 4-2(2-fluorophenyl)-6, 8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, fluprazapon.

**SECTION 5. AMENDMENT.** Subsection 7 of section 19-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

- 7. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of:
  - a. Pentazocine, including its salts.
  - b. Butorphanol, including its optical isomers.
  - c. Eluxadoline (5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl]][(1S)-1-(4-phenyl-1H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid) (including its optical isomers) and its salts, isomers, and salts of isomers.
  - d. ~~Epidiolex or its successor name as determined by the United States food and drug administration.~~

**SECTION 6. AMENDMENT.** Subsection 5 of section 19-03.1-13 of the North Dakota Century Code is amended and reenacted as follows:

- 5. Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible:
  - a. Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl]butanamide) (also referred to as BRV; UCB-34714; Briviact) (including its salts).

- b. Ezogabine N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester.
- c. Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide].
- d. Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].
- e. Approved cannabidiol drugs. A drug product in finished dosage formulation that has been approved by the federal food and drug administration, which contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent weight for weight residual tetrahydrocannabinols.
- f. Gabapentin [2-[1-(aminomethyl) cyclohexyl] acetic acid].

**SECTION 7. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 8, 2019

Filed April 9, 2019

## CHAPTER 186

### HOUSE BILL NO. 1050

(Representatives Roers Jones, Satrom)  
(Senators Unruh, Poolman, K. Roers, Myrdal)

AN ACT to amend and reenact subsection 7 of section 12.1-32-01, section 19-03.1-22.3, subdivision d of subsection 8 of section 19-03.1-23, section 19-03.4-03, and subdivision i of subsection 5 of section 39-08-01 of the North Dakota Century Code, relating to multiple convictions of the same infraction, the possession and ingestion of marijuana, the possession of drug paraphernalia and the placement of an individual in a drug and alcohol treatment program by the department of corrections and rehabilitation; to provide for a legislative management study; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Subsection 7 of section 12.1-32-01 of the North Dakota Century Code is amended and reenacted as follows:

7. Infraction, for which a maximum fine of one thousand dollars may be imposed. Any person convicted of an infraction who ~~has, within one year prior to before~~ has ~~been previously convicted previously at least twice of an~~ the same offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint ~~shall~~ must specify that the offense is a misdemeanor.

**SECTION 2. AMENDMENT.** Section 19-03.1-22.3 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-03.1-22.3. Ingesting a controlled substance - Venue for violation - Penalty.**

A

1. Except as provided in subsection 2, a person who intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance, unless the substance was obtained directly from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, is guilty of a class B misdemeanor if the controlled substance is marijuana. Otherwise, the offense is a class A misdemeanor. This subsection does not apply to ingesting, inhaling, injecting, or otherwise taking into the body marijuana.
2. A person who is under twenty-one years of age and intentionally ingests, inhales, injects, or otherwise takes into the body a controlled substance that is marijuana, unless the substance was medical marijuana obtained in accordance with chapter 19-24.1, is guilty of a class B misdemeanor.
3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, injected, or otherwise taken

into the body or the jurisdiction in which the controlled substance was detected in the body of the accused.

<sup>63</sup> **SECTION 3. AMENDMENT.** Subdivision d of subsection 8 of section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

d. A person who violates this subsection ~~regarding possession by possessing:~~

(1) Marijuana in an amount of less than one-half ounce [14.175 grams] is guilty of an infraction.

(2) At least one-half ounce [14.175 grams] but not more than 500 grams of marijuana is guilty of a class B misdemeanor.

(3) More than 500 grams of marijuana is guilty of a class A misdemeanor.

**SECTION 4. AMENDMENT.** Section 19-03.4-03 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.4-03. Unlawful possession of drug paraphernalia - Penalty.**

1. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance in violation of chapter 19-03.1. ~~Any~~A person violating this subsection is guilty of a class C felony if the drug paraphernalia is used, or possessed with intent to be used, to manufacture, compound, convert, produce, process, prepare, test, or analyze a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1.
2. A person may not use or possess with the intent to use drug paraphernalia to inject, ingest, inhale, or otherwise induce into the human body a controlled substance, other than marijuana, classified in schedule I, II, or III of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor. If a person previously has been convicted of an offense under this title, other than an offense related to marijuana, or an equivalent offense from another court in the United States, a violation of this subsection is a class C felony.
3. A person may not use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, or repack, ~~store, contain, or conceal~~ marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of a class A misdemeanor.
4. A person may not use or possess with the intent to use drug paraphernalia to ingest, inhale, or otherwise introduce into the human body marijuana or possess with the intent to use drug paraphernalia to store or contain marijuana in violation of chapter 19-03.1. A person violating this subsection is guilty of a ~~class B misdemeanor~~ infraction.
5. A person sentenced to the legal and physical custody of the department of corrections and rehabilitation under this section may be placed in a drug and

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<sup>63</sup> Section 19-03.1-23 was also amended by section 2 of House Bill No. 1164, chapter 188, and section 2 of House Bill No. 1183, chapter 187.

alcohol treatment program as designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the person from imprisonment to begin any court-ordered period of probation. If the person is not subject to court-ordered probation, the court may order the person to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.

6. Probation under this section may include placement in another facility, treatment program, or drug court. If the person is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.

<sup>64</sup> **SECTION 5. AMENDMENT.** Subdivision i of subsection 5 of section 39-08-01 of the North Dakota Century Code is amended and reenacted as follows:

- i. If the court sentences an individual to the legal and physical custody of the department of corrections and rehabilitation, the department may place the individual in an alcohol treatment program designated by the department. Upon the individual's successful completion of the alcohol treatment program, the department shall release the individual from imprisonment to begin the court-ordered period of probation. If there is not any court-ordered period of probation, the court shall~~may~~ order the individual to serve the remainder of the sentence of imprisonment on supervised probation and the terms and conditions must include participation in the twenty-four seven sobriety program and any terms and conditions of probation previously imposed by the court. Probation under this subsection may include placement in another facility or treatment program. If an individual is placed in another facility or treatment program after release from imprisonment, the remainder of the individual's sentence of imprisonment must be considered time spent in custody. Individuals incarcerated under this section subsequent to a second probation revocation are not eligible for release from imprisonment upon the successful completion of treatment.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY.** During the 2019-20 interim, the legislative management shall consider studying the implications of the potential adoption of an initiated measure allowing the use of recreational marijuana. The study must consider the potential benefits and detriments of legalizing recreational marijuana with respect to:

1. The state's economy, including unemployment and homelessness rates; potential tax revenues and job opportunities; spending on public health and safety programs, including law enforcement agencies and drug treatment programs; and tourism, real estate, construction, and banking;
2. Minors, including the rate of drug usage, the effects of marijuana on developing brains, and high school dropout rates;
3. The insurance industry, including health, automobile, and life insurance;
4. The legal system, including crime rates, the prison population, and rates of usage of other drugs;

<sup>64</sup> Section 39-08-01 was also amended by section 1 of House Bill No. 1534, chapter 322.

5. Workers' compensation and work-related accidents;
6. Public health and safety; and
7. The medical marijuana program.

The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.

Approved May 1, 2019

Filed May 2, 2019

## CHAPTER 187

### HOUSE BILL NO. 1183

(Representatives Kading, Blum, Meier, Schneider, Vetter)  
(Senators O. Larsen, D. Larson)

AN ACT to amend and reenact subsection 1 of section 12.1-32-02.1, sections 19-03.1-23 and 19-03.1-23.4, paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36, subdivision e of subsection 5 of section 19-03.1-36, subsection 1 of section 19-03.1-45, subsection 2 of section 29-29.5-08, and subsection 29 of section 40-05-02 of the North Dakota Century Code, relating to mandatory sentences for offenses relating to controlled substances; and to repeal section 19-03.1-23.2 of the North Dakota Century Code, relating to deferred imposition of sentence and suspension of sentence.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding any other provision of this title, a term of imprisonment must be imposed upon an offender and served without benefit of parole when:
  - a. In the course of committing an offense, the offender inflicts or attempts to inflict bodily injury upon another, threatens or menaces another with imminent bodily injury with a dangerous weapon, explosive, destructive device, or firearm; or
  - b. The offender possesses or has within immediate reach and control a dangerous weapon, explosive, destructive device, or firearm while in the course of committing any felony offense under subsection 1, 3, or 8~~7~~ of section 19-03.1-23.

<sup>65</sup> **SECTION 2. AMENDMENT.** Section 19-03.1-23 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-23. Prohibited acts ~~A--Mandatory terms of imprisonment and fines--~~Unclassified offenses - Penalties.**

1. Except as authorized by this chapter, it is unlawful for a person to willfully, as defined in section 12.1-02-02, manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, or to deliver, distribute, or dispense a controlled substance by means of the internet, but a person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. A person who violates this subsection with respect to:
  - a. A controlled substance classified in schedule I or II which is a narcotic drug, or methamphetamine, is guilty of a class B felony ~~and must be sentenced:~~

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<sup>65</sup> Section 19-03.1-23 was also amended by section 3 of House Bill No. 1050, chapter 186, and section 2 of House Bill No. 1164, chapter 188.

- (1) For a second offense, to imprisonment for at least three years.
  - (2) For a third or subsequent offense, to imprisonment for ten years.
- b. Any other controlled substance classified in schedule I, II, or III, or a controlled substance analog is guilty of a class B felony. ~~Except for a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana, any person found guilty under this subdivision must be sentenced:~~
- (1) For a second offense, to imprisonment for at least two years.
  - (2) For a third or subsequent offense, to imprisonment for five years.
- c. A substance classified in schedule IV, is guilty of a class C felony ~~and must be sentenced:~~
- (1) For a second offense, to imprisonment for at least three months.
  - (2) For a third offense, to imprisonment for at least six months.
  - (3) For a fourth or subsequent offense, to imprisonment for three years.
- d. A substance classified in schedule V, is guilty of a class A misdemeanor.
2. A prior misdemeanor conviction under subsection 8Z or a prior conviction under subsection 3 or 4 of section 19-03.4-03 may not be considered a prior offense under ~~subsection 1 and 4.~~ subsection 1 and 4.
3. Except as authorized by this chapter, it is unlawful for any person to willfully, as defined in section 12.1-02-02, create, deliver, distribute, or dispense a counterfeit substance by means of the internet or any other means, or possess with intent to deliver, a counterfeit substance by means of the internet or any other means, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection. Any person who violates this subsection with respect to:
- a. A counterfeit substance classified in schedule I, II, or III, is guilty of a class B felony.
  - b. A counterfeit substance classified in schedule IV, is guilty of a class C felony.
  - c. A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
4. ~~a. For second or subsequent offenses, in addition to any other penalty imposed under this section, if the person who violates this chapter was at least twenty-one years of age at the time of the offense, and delivered a controlled substance to a person under the age of eighteen, the person is subject to, and the court shall impose a term of imprisonment of at least four years.~~

- b. ~~Which is to run consecutively to any other sentence imposed. It is not a defense that the defendant did not know the age of a person protected under subdivision a.~~
- c. ~~The penalty in subdivision a does not apply to a person who manufactures, delivers, or possesses with the intent to manufacture or deliver marijuana.~~
5. A person at least eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance is guilty of a class B felony and must be sentenced:
- a. ~~For a second or subsequent offense, to imprisonment for at least three years.~~
- b. ~~It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.~~
- 6-5. Except for a prior conviction equivalent to a misdemeanor violation of subsection 87 or a prior conviction under subsection 3 or 4 of section 19-03.4-03, a violation of this title or a law of another state or the federal government which is equivalent to an offense with respect to the manufacture, delivery, or intent to deliver a controlled substance under this title committed while the offender was an adult and which resulted in a plea or finding of guilt must be considered a prior offense under ~~subsections~~subsection 1, 4, and 5. The prior offense must be alleged in the complaint, information, or indictment. The plea or finding of guilt for the prior offense must have occurred before the date of the commission of the offense or offenses charged in the complaint, information, or indictment.
- 7-6. It is unlawful for a person to willfully, as defined in section 12.1-02-02:
- a. Serve as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the delivery, distribution, or dispensing of a controlled substance in a manner not authorized by this chapter; or
- b. Offer to fill or refill a prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire.
- A person who violates this subsection is guilty of a class C felony.
- 8-7. a. It is unlawful for any person to willfully, as defined in section 12.1-02-02, possess a controlled substance or a controlled substance analog unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this chapter, but any person who violates section 12-46-24 or 12-47-21 may not be prosecuted under this subsection.
- b. Except as otherwise provided in this subsection, any person who violates this subsection is guilty of a class A misdemeanor for the first offense

under this subsection and a class C felony for a second or subsequent offense under this subsection.

- c. If, at the time of the offense the person is in or on the real property comprising a public or private elementary or secondary school or a public career and technical education school, the person is guilty of a class B felony, unless the offense involves marijuana.
- d. A person who violates this subsection regarding possession of marijuana is guilty of a class B misdemeanor.
- e. If an individual is sentenced to the legal and physical custody of the department of corrections and rehabilitation under this subsection, the department may place the individual in a drug and alcohol treatment program designated by the department. Upon the successful completion of the drug and alcohol treatment program, the department shall release the individual from imprisonment to begin any court-ordered period of probation.
- f. If the individual is not subject to any court-ordered probation, the court shall order the individual to serve the remainder of the sentence of imprisonment on supervised probation subject to the terms and conditions imposed by the court.
- g. Probation under this subsection may include placement in another facility, treatment program, or drug court. If an individual is placed in another facility or treatment program upon release from imprisonment, the remainder of the sentence must be considered as time spent in custody.
- h. An individual incarcerated under this subsection as a result of a second probation revocation is not eligible for release from imprisonment upon the successful completion of treatment.
- i. A person who violates this subsection regarding possession of five or fewer capsules, pills, or tablets of a schedule II, III, IV, or V controlled substance or controlled substance analog is guilty of a class A misdemeanor.

~~9-8.~~ Except as provided by section 19-03.1-45, a court may order a person who violates this chapter or chapter 19-03.4 to undergo a drug addiction evaluation by a licensed addiction counselor. The evaluation must indicate the prospects for rehabilitation and whether addiction treatment is required. If ordered, the evaluation must be submitted to the court before imposing punishment for a felony violation or a misdemeanor violation. ~~A court shall order a person who violates subdivision e of subsection 8 to undergo the drug addiction evaluation.~~

~~10-9.~~ If a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall seal the court record of that conviction if the person is not subsequently convicted within two years of a further violation of this chapter. Once sealed, the court record may not be opened even by order of the court.

**SECTION 3. AMENDMENT.** Section 19-03.1-23.4 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-23.4. Overdose prevention and immunity.**

An individual is immune from criminal prosecution under sections 19-03.1-22.1, 19-03.1-22.3, 19-03.1-22.5, subsection ~~87~~ of section 19-03.1-23, subsection 3 of section 19-03.2-03, and section 19-03.4-03 if in good faith that individual seeks medical assistance for another individual in need of emergency medical assistance due to a drug overdose. To receive immunity under this section, the individual receiving immunity must have remained on the scene until assistance arrived, cooperated with the medical treatment of the reported drug overdosed individual, and the overdosed individual must have been in a condition a layperson would reasonably believe to be a drug overdose requiring immediate medical assistance. Neither the individual who experiences a drug-related overdose and is in need of emergency medical assistance nor the cooperating individual seeking medical assistance may be charged or prosecuted for the criminal offenses listed in this section or for the sharing of controlled substances among those present. Immunity from prosecution under this section does not apply unless the evidence for the charge or prosecution was obtained as a result of the drug-related overdose and the need for emergency medical assistance. Good faith does not include seeking medical assistance during the course of the execution of an arrest warrant or search warrant or during a lawful search.

<sup>66</sup> **SECTION 4. AMENDMENT.** Paragraph 3 of subdivision e of subsection 1 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

- (3) A conveyance is not subject to forfeiture for a violation of subsection ~~87~~ of section 19-03.1-23 or subsection 3 of section 19-03.2-03.

<sup>67</sup> **SECTION 5. AMENDMENT.** Subdivision e of subsection 5 of section 19-03.1-36 of the North Dakota Century Code is amended and reenacted as follows:

- e. Use the property, including controlled substances, imitation controlled substances, and plants forfeited under subsections 6 and 7, in enforcement of this chapter. However, in a case involving the delivery of a forfeited controlled substance by a law enforcement officer or a person acting as an agent of a law enforcement officer, no prosecution or conviction for simple possession of a controlled substance under subsection ~~65~~ of section 19-03.1-23 may be based upon the forfeited controlled substances supplied by the law enforcement officer or the officer's agent.

**SECTION 6. AMENDMENT.** Subsection 1 of section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

1. If a person has pled guilty or has been found guilty of a felony violation of subsection ~~87~~ of section 19-03.1-23, if that person has not previously pled guilty or been found guilty of any offense involving the use, possession, manufacture, or delivery of a controlled substance or of any other felony

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<sup>66</sup> Section 19-03.1-36 was also amended by section 5 of House Bill No. 1183, chapter 187.

<sup>67</sup> Section 19-03.1-36 was also amended by section 4 of House Bill No. 1183, chapter 187.

offense of this or another state or the federal government, the court shall impose a period of probation up to the length authorized under section 12.1-32-06.1 with a suspended execution of a sentence of imprisonment, a sentence to probation, or an order deferring imposition of sentence.

**SECTION 7. AMENDMENT.** Subsection 2 of section 29-29.5-08 of the North Dakota Century Code is amended and reenacted as follows:

2. After consideration of an informant agreement, ~~notwithstanding section 19-03.1-23.2~~, a court may defer imposition of sentence or suspend a portion of a minimum mandatory sentence when a confidential informant has substantially complied with an informant agreement.

**SECTION 8. AMENDMENT.** Subsection 29 of section 40-05-02 of the North Dakota Century Code is amended and reenacted as follows:

29. Marijuana possession. To prohibit by ordinance any person, except a person operating a motor vehicle, from possessing not more than one ounce [28.35 grams] of marijuana, as defined by section 19-03.1-01, within the jurisdiction of a city, and to prescribe the punishment, provided the penalty assessed is subject to subsection ~~109~~ of section 19-03.1-23.

**SECTION 9. REPEAL.** Section 19-03.1-23.2 of the North Dakota Century Code is repealed.

Approved March 6, 2019

Filed March 6, 2019

## CHAPTER 188

### HOUSE BILL NO. 1164

(Representatives Roers Jones, Beadle, Blum, Boschee, Heinert)  
(Senator Luick)

AN ACT to create and enact two new subsections to section 19-03.1-23 of the North Dakota Century Code, relating to drug court participation; to amend and reenact subsection 9 of section 12.1-32-02 and section 39-08-01.5 of the North Dakota Century Code, relating to drug court participation; and to provide a penalty.

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

<sup>68</sup> **SECTION 1. AMENDMENT.** Subsection 9 of section 12.1-32-02 of the North Dakota Century Code is amended and reenacted as follows:

9. A person who is convicted of a felony and sentenced to imprisonment for not more than one year is deemed to have been convicted of a misdemeanor upon successful completion of the term of imprisonment and a term of probation imposed as a part of the sentence. ~~This subsection does not apply to a person convicted of violating subdivision a, b, or c of subsection 1 of section 19-03.1-23.~~

<sup>69</sup> **SECTION 2.** Two new subsections to section 19-03.1-23 of the North Dakota Century Code are created and enacted as follows:

Upon successful completion of a drug court program, a person who has been convicted of a felony under this section and sentenced to drug court is deemed to have been convicted of a misdemeanor.

If a person convicted of a misdemeanor under this section is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.

**SECTION 3. AMENDMENT.** Section 39-08-01.5 of the North Dakota Century Code is amended and reenacted as follows:

#### **39-08-01.5. Partial suspension of sentence for drug court completion.**

1. Notwithstanding section 39-08-01, all but ten days of the minimum mandatory sentence required for a defendant charged with a third or subsequent violation of section 39-08-01 may be suspended on the condition the defendant successfully completes a drug court program approved by the supreme court.

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<sup>68</sup> Section 12.1-32-02 was also amended by section 1 of House Bill No. 1185, chapter 118, and section 1 of House Bill No. 1252, chapter 117.

<sup>69</sup> Section 19-03.1-23 was also amended by section 3 of House Bill No. 1050, chapter 186, and section 2 of House Bill No. 1183, chapter 187.

2. Upon successful completion of a drug court program, a defendant convicted of a felony under section 39-08-01 and sentenced to drug court is deemed to have been convicted of a misdemeanor.
3. If a defendant convicted of a misdemeanor under section 39-08-01 is sentenced to drug court and successfully completes a drug court program, the court shall dismiss the case and seal the file in accordance with section 12.1-32-07.2.
4. For purposes of this section, unless the context otherwise requires, "drug court program" means a district court-supervised treatment program approved by the supreme court which combines judicial supervision with alcohol and drug testing and chemical addiction treatment in a licensed treatment program. The supreme court may adopt rules, including rules of procedure, for drug courts and the drug court program.

Approved March 12, 2019

Filed March 13, 2019

## CHAPTER 189

### HOUSE BILL NO. 1286

(Representatives Becker, Blum, Johnston, Paur, Pyle, Satrom, Simons, Strinden)  
(Senators Hogue, Kannianen, Luick, Unruh)

AN ACT to create and enact section 19-03.1-36.8 of the North Dakota Century Code, relating to law enforcement agencies reporting seizures and forfeitures; and to amend and reenact sections 19-03.1-36.2, 19-03.1-36.6, and 19-03.1-36.7 of the North Dakota Century Code, relating to forfeiture proceedings, contested forfeiture hearings, and legal interests in forfeited property.

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

**SECTION 1. AMENDMENT.** Section 19-03.1-36.2 of the North Dakota Century Code is amended and reenacted as follows:

##### **19-03.1-36.2. Forfeiture proceeding as civil action - Standard of proof.**

1. Forfeiture proceedings are civil actions against the property to be forfeited and the standard of proof is ~~a preponderance of the evidence~~ clear and convincing evidence.
2. Forfeiture proceedings are separate and distinct from any related criminal action, and may not be initiated until the owner of the property has been convicted of or pled guilty to a criminal offense, or the individual has died, fled the jurisdiction, been deported by the United States government, been granted immunity or a reduced sentence in exchange for testifying or assisting a law enforcement investigation or prosecution, has abandoned the property, or it can be established beyond a reasonable doubt the property was used in the commission of a crime or constituted the proceeds of criminal activity. As used in this subsection, "abandoned the property" or "fled the jurisdiction" means for a period of more than one year, the owner has not responded to any of the reasonable efforts made by the seizing agency to contact the owner or has not contacted the seizing agency.
3. Two or more law enforcement agencies and courts from different jurisdictions may coordinate, cooperate, and engage in interjurisdictional prosecution under this section.

**SECTION 2. AMENDMENT.** Section 19-03.1-36.6 of the North Dakota Century Code is amended and reenacted as follows:

##### **19-03.1-36.6. Hearing on contested forfeiture - Order releasing or forfeiting property.**

1. If an answer is filed within the time limits in this chapter, the forfeiture proceedings must be set for hearing before the court. At the hearing, the state shall establish ~~probable cause~~ a valid seizure of the property to be forfeited, and for instituting the forfeiture action following which the property meets the requirements of subsection 2 of section 19-03.1-36.2. Following the state's case, any owner or person with a legal interest in the property to be forfeited

who has filed an answer to the complaint has the burden of proving that the property to be forfeited is not subject to forfeiture under this chapter. If the court finds that the property is not subject to forfeiture under this chapter, the court shall order the property released to the owner or other person with a legal interest in the property as that person's right, title, or interest appears. The court shall order the property forfeited if it determines that such property or an interest therein is subject to forfeiture.

2. A court ordering property forfeited under subsection 1 may order only the forfeited property or proceeds from the sale of forfeited property to be deposited with a political subdivision if the political subdivision has created a civil asset forfeiture fund. If the political subdivision does not have a civil asset forfeiture fund, any forfeited property and proceeds from the sale of forfeited property must be deposited in the attorney general's asset forfeiture fund.
3. A political subdivision that has a civil asset forfeiture fund shall establish an application process, including eligibility criteria, to accept and process applications from law enforcement agencies within the political subdivision's jurisdiction for an appropriation from the civil asset forfeiture fund.
4. This section does not prohibit the state and a political subdivision from entering an agreement to divide forfeited property and the proceeds from the sale of forfeited property.

**SECTION 3. AMENDMENT.** Section 19-03.1-36.7 of the North Dakota Century Code is amended and reenacted as follows:

**19-03.1-36.7. Legal interest in property.**

1. A person alleging a bona fide legal interest in property to be forfeited must establish by a preponderance of the evidence that such legal interest existed at the time of seizure or taking of custody of the property. In the case of a claimed bona fide security interest in the property, the person claiming such interest must establish by a preponderance of the evidence that the security interest in the property to be forfeited existed or was of public record at the time of seizure or taking of custody of the property.
2. Upon a determination by the court that property is subject to forfeiture, the owner of the property to be forfeited or any other person with a legal interest in the property may petition the court to determine whether the forfeiture is unconstitutionally excessive.
  - a. A vehicle valued at less than two thousand dollars may not be forfeited unless the court finds the vehicle has been modified to conceal contraband or currency.
  - b. Real property constituting a homestead may not be forfeited.
  - c. In determining whether a forfeiture is excessive, the court shall consider all factors, including the fair market value of the property, the extent to which the owner or person participated in the offense, the extent to which the property was used or received in committing the offense, and the possible penalty that could be imposed for the alleged or committed offense subject to forfeiture.

- d. The court may not consider the value of the property to the state in determining whether the forfeiture is unconstitutionally excessive.

**SECTION 4.** Section 19-03.1-36.8 of the North Dakota Century Code is created and enacted as follows:

**19-03.1-36.8. Reporting.**

1. As used in this section, "law enforcement agency" means a nonfederal public agency authorized by law or by a government agency or branch to enforce the law and to conduct or engage in investigations or prosecutions for violations of law, including the authority to conduct or engage in seizure and forfeiture of property or to collaborate with a federal agency under federal law to conduct or engage in seizure and forfeiture of property. The term includes a multijurisdictional task force.
2. Every civil forfeiture judgment issued by a district court must be made publicly available and include the following information in the findings of fact:
  - a. Case number of the forfeiture proceeding and the district court where the case was filed.
  - b. Who filed a claim or counterclaim for the seized property, if any.
  - c. Date the forfeiture order was issued.
  - d. Whether a forfeiture settlement agreement was reached.
  - e. The date and the final disposition of the property.
  - f. Estimated value of the forfeited property.
  - g. Estimate of the total costs accrued by the law enforcement agency for storage and disposal of the civilly forfeited property.
  - h. Amount of any attorney fees awarded to owners of seized and forfeited property.
3. Annually, a prosecutor who litigates the criminal case and forfeiture proceeding shall provide to the attorney general a copy of the judgment that includes the information required under subsection 2 and the total value of the forfeited property held by the agency at the end of the reporting period.
4. By November first of each year, the attorney general shall submit to the legislative management and the governor a written report summarizing activity in the state for the preceding fiscal year, the type, approximate value, and disposition of any civilly forfeited property, and the amount of proceeds received.
  - a. Summary data and civilly forfeited property must be disaggregated by agency.
  - b. The attorney general shall make the report available on the attorney general's website.

5. The attorney general may recover any costs under this section by withdrawing money from the asset forfeiture fund.
6. A law enforcement agency may use forfeiture proceeds to pay the costs of compiling and reporting data under this section.
7. The data and reports compiled under this section are public information and not exempt from disclosure.
8. The attorney general may require the reporting of additional information not specified in this section. The attorney general shall develop standard forms, processes, and deadlines for annual submission of forfeiture data by law enforcement agencies.
9. If a law enforcement agency fails to file a report within thirty days after the report is due, the attorney general may compel compliance by any means until the report is filed.

Approved May 1, 2019

Filed May 2, 2019

## CHAPTER 190

### HOUSE BILL NO. 1417

(Representatives Vetter, Beadle, Becker, M. Johnson, Jones, Kading, McWilliams,  
Meier, O'Brien, Skroch)  
(Senator Oban)

AN ACT to amend and reenact subsections 2, 38, and 40 of section 19-24.1-01, subsection 2 of section 19-24.1-03, subdivision a of subsection 5 of section 19-24.1-05, subsection 7 of section 19-24.1-10, section 19-24.1-11, subsection 4 of section 19-24.1-21, and subsection 10 of section 19-24.1-32 of the North Dakota Century Code, relating to access to medical marijuana; and to declare an emergency.

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

<sup>70</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

a. Except as provided under subdivision b:

(1) During a thirty-day period, a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in a combustible delivery form.

(2) At any time a registered qualifying patient, or a registered designated caregiver on behalf of a registered qualifying patient, may not possess more than three ounces [85.05 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.

b. Notwithstanding subdivision a, if a registered qualifying patient has a registry identification card authorizing an enhanced allowable amount:

(1) During a thirty-day period a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than six ounces [170.01 grams] of dried leaves or flowers of the plant of genus cannabis in a combustible delivery form.

(2) At any time a registered qualifying patient, or a registered designated caregiver on behalf of a registered qualifying patient, may not possess more than seven and one-half ounces [212.62 grams] of dried leaves

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<sup>70</sup> Section 19-24.1-01 was also amended by section 1 of House Bill No. 1119, chapter 191, section 2 of House Bill No. 1119, chapter 191, section 1 of House Bill No. 1283, chapter 193, section 3 of House Bill No. 1349, chapter 61, section 2 of House Bill No. 1417, chapter 190, section 3 of House Bill No. 1417, chapter 190, and section 1 of House Bill No. 1519, chapter 192.

or flowers of the plant of the genus cannabis in a combustible delivery form.

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

<sup>71</sup> **SECTION 2. AMENDMENT.** Subsection 38 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

<sup>72</sup> **SECTION 3. AMENDMENT.** Subsection 40 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

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

<sup>73</sup> **SECTION 4. AMENDMENT.** Subsection 2 of section 19-24.1-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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<sup>71</sup> Section 19-24.1-01 was also amended by section 1 of House Bill No. 1119, chapter 191, section 2 of House Bill No. 1119, chapter 191, section 1 of House Bill No. 1283, chapter 193, section 3 of House Bill No. 1349, chapter 61, section 1 of House Bill No. 1417, chapter 190, section 3 of House Bill No. 1417, chapter 190, and section 1 of House Bill No. 1519, chapter 192.

<sup>72</sup> Section 19-24.1-01 was also amended by section 1 of House Bill No. 1119, chapter 191, section 2 of House Bill No. 1119, chapter 191, section 1 of House Bill No. 1283, chapter 193, section 3 of House Bill No. 1349, chapter 61, section 1 of House Bill No. 1417, chapter 190, section 2 of House Bill No. 1417, chapter 190, and section 1 of House Bill No. 1519, chapter 192.

<sup>73</sup> Section 19-24.1-03 was also amended by section 3 of House Bill No. 1119, chapter 191, and section 2 of House Bill No. 1283, chapter 193.

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- a. A nonrefundable annual application fee in the amount of fifty dollars, with a personal check or cashier's check payable to "North Dakota State Department of Health, Medical Marijuana Program".
  - b. An original written certification, which must include:
    - (1) The name, address, and telephone number of the practice location of the applicant's health care provider;
    - (2) The health care provider's North Dakota license number;
    - (3) The health care provider's medical or nursing specialty;
    - (4) The applicant's name and date of birth;
    - (5) The applicant's debilitating medical condition and the medical justification for the health care provider's certification of the patient's debilitating medical condition;
    - (6) ~~Attestation the written certification is made in the course of a bona fide provider-patient relationship and that in the provider's professional opinion the applicant is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the applicant's debilitating medical condition;~~
    - (7) Whether the health care provider authorizes the patient to use an enhanced amount of the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form to treat or alleviate the patient's debilitating medical condition of cancer; and
    - (8) The health care provider's signature and the date.
  - c. An original qualifying patient application for a registry identification card form established by the department which must include all of the following:
    - (1) The applicant's name, address, and date of birth.
    - (2) The applicant's social security number.
    - (3) The name, address, and date of birth of the applicant's proposed designated caregiver, if any.
    - (4) 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. If the applicant is a minor, a certificated copy of a birth record is required.
    - (5) The applicant's or guardian's signature and the date, or in the case of a minor, the signature of the minor's parent or legal guardian with responsibility for health care decisions and the date.
  - d. A signed consent for release of medical information related to the applicant's debilitating medical condition, on a form provided by the department.

- e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- f. Any other information or material required by rule adopted under this chapter.

<sup>74</sup> **SECTION 5. AMENDMENT.** Subdivision a of subsection 5 of section 19-24.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

<sup>75</sup> **SECTION 6. AMENDMENT.** Subsection 7 of section 19-24.1-10 of the North Dakota Century Code is amended and reenacted as follows:

7. A registered qualifying patient's certifying health care provider ~~shall~~may notify the department in writing if the health care provider's registered qualifying patient no longer has a debilitating medical condition ~~or if the health care provider no longer believes the patient will receive therapeutic or palliative benefit from the medical use of marijuana~~may notify the department if a bona fide provider-patient relationship ceases to exist. The qualifying patient's registry identification card becomes void immediately upon the health care provider'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.

<sup>76</sup> **SECTION 7. AMENDMENT.** Section 19-24.1-11 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The contents of a registry identification card must include:
  - a. The name of the cardholder;
  - b. A designation as to whether the cardholder is a qualifying patient, designated caregiver, or compassion center agent;
  - c. A designation as to whether a qualifying patient is a minor;
  - d. A designation as to whether a qualifying patient or a designated caregiver's qualifying patient is authorized to use thean enhanced amount of dried leaves or flowers of the plant of the genus cannabis to treat or alleviate the patient's debilitating medical condition of cancer;

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<sup>74</sup> Section 19-24.1-05 was also amended by section 5 of House Bill No. 1283, chapter 193.

<sup>75</sup> Section 19-24.1-10 was also amended by section 6 of House Bill No. 1283, chapter 193.

<sup>76</sup> Section 19-24.1-11 was also amended by section 7 of House Bill No. 1283, chapter 193.

- e. The date of issuance and expiration date;
  - f. A random ten-digit alphanumeric identification number containing at least four numbers and at least four letters which is unique to the cardholder;
  - g. If the cardholder is a designated caregiver, the random identification number of the qualifying patient the designated caregiver is authorized to assist;
  - h. A photograph of the cardholder; and
  - i. The phone number or website address at which the card can be verified.
2. Except as otherwise provided in this section or rule adopted under this chapter, a registry identification card expiration date must be one year after the date of issuance.
  3. If a health care provider ~~states in the written~~ limits certification that the ~~qualifying patient would benefit from the medical use of marijuana until a~~ specified date, less than one year, the registry identification card expires on that date.

**SECTION 8. AMENDMENT.** Subsection 4 of section 19-24.1-21 of the North Dakota Century Code is amended and reenacted as follows:

4. A dispensary or agent of the dispensary may not dispense usable marijuana unless the dispensary first uses the verification system to confirm the registered qualifying patient or registered designated caregiver identification card is valid. A dispensary or agent of the dispensary:
  - a. May not dispense usable marijuana to a person other than a registered qualifying patient or a registered qualifying patient's registered designated caregiver. If a registered qualifying patient is a minor:
    - (1) The dispensary or agent of the dispensary may not dispense usable marijuana to a minor; and
    - (2) The usable marijuana dispensed to the minor's designated caregiver must be in the form of pediatric medical marijuana.
  - b. May not dispense to a registered qualifying patient or registered designated caregiver more than the allowable amount of usable marijuana and may not dispense an amount if it is known that amount would cause the recipient to purchase or possess more usable marijuana than is permitted under this chapter.
  - c. ~~May not dispense to a registered qualifying patient or registered designated caregiver the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form unless the registry identification card and verification system authorize this form of usable marijuana.~~

<sup>77</sup> **SECTION 9. AMENDMENT.** Subsection 10 of section 19-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

<sup>77</sup> Section 19-24.1-32 was also amended by section 7 of House Bill No. 1119, chapter 191, and section 8 of House Bill No. 1283, chapter 193.

10. A health care provider is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, solely for providing a written certification or for otherwise stating in the health care provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of usable marijuana to treat or alleviate the patient's debilitating medical condition or for refusing to provide written certification or a statement. This chapter does not release a health care provider from the duty to exercise a professional standard of care for evaluating or treating a patient's medical condition.

**SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2019

Filed April 24, 2019

## CHAPTER 191

### HOUSE BILL NO. 1119

(Representatives Westlind, B. Anderson, P. Anderson, Devlin, Dobervich, M. Ruby)

AN ACT to amend and reenact subsection 8 of section 19-24.1-01, paragraph 1 of subdivision a of subsection 24 of section 19-24.1-01, section 19-24.1-03, subsection 2 of section 19-24.1-04, subsection 1 of section 19-24.1-15, subsection 2 of section 19-24.1-18, subsection 13 of section 19-24.1-32, and section 19-24.1-37 of the North Dakota Century Code, relating to the medical marijuana program; to provide for the destroying or redacting of social security numbers in the department's possession; and to declare an emergency.

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

<sup>78</sup> **SECTION 1. AMENDMENT.** Subsection 8 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Cannabinoid ~~tincture~~resolution" means a solution ~~of alcohol, consisting of a mixture created from~~ cannabinoid concentrate, and other ingredients ~~intended for consumption~~.

<sup>79</sup> **SECTION 2. AMENDMENT.** Paragraph 1 of subdivision a of subsection 24 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- (1) Cannabinoid ~~tincture~~resolution;

<sup>80</sup> **SECTION 3. AMENDMENT.** Section 19-24.1-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

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<sup>78</sup> Section 19-24.1-01 was also amended by section 2 of House Bill No. 1119, chapter 191, section 1 of House Bill No. 1283, chapter 193, section 3 of House Bill No. 1349, chapter 61, section 1 of House Bill No. 1417, chapter 190, section 2 of House Bill No. 1417, chapter 190, section 3 of House Bill No. 1417, chapter 190, and section 1 of House Bill No. 1519, chapter 192.

<sup>79</sup> Section 19-24.1-01 was also amended by section 1 of House Bill No. 1119, chapter 191, section 1 of House Bill No. 1283, chapter 193, section 3 of House Bill No. 1349, chapter 61, section 1 of House Bill No. 1417, chapter 190, section 2 of House Bill No. 1417, chapter 190, section 3 of House Bill No. 1417, chapter 190, and section 1 of House Bill No. 1519, chapter 192.

<sup>80</sup> Section 19-24.1-03 was also amended by section 2 of House Bill No. 1283, chapter 193, and section 4 of House Bill No. 1417, chapter 190.

2. A qualifying patient application for a registry identification card is complete and eligible for review if an applicant submits to the department:
  - a. A nonrefundable annual application fee in the amount of fifty dollars, ~~with a personal check or cashier's check payable to "North Dakota State Department of Health, Medical Marijuana Program".~~
  - b. An original written certification, which must include:
    - (1) The name, address, and telephone number of the practice location of the applicant's health care provider;
    - (2) The health care provider's North Dakota license number;
    - (3) The health care provider's medical or nursing specialty;
    - (4) The applicant's name and date of birth;
    - (5) The applicant's debilitating medical condition and the medical justification for the health care provider's certification of the patient's debilitating medical condition;
    - (6) Attestation the written certification is made in the course of a bona fide provider-patient relationship and that in the provider's professional opinion the applicant is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the applicant's debilitating medical condition;
    - (7) Whether the health care provider authorizes the patient to use the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form; and
    - (8) The health care provider's signature and the date.
  - c. An original qualifying patient application for a registry identification card form established by the department which must include all of the following:
    - (1) The applicant's name, address, and date of birth.
    - (2) ~~The applicant's social security number.~~
    - (3) The name, address, and date of birth of the applicant's proposed designated caregiver, if any.
    - (4)(3) 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. If the applicant is a minor, ~~a certified copy of a birth record or a photographic copy of the minor's North Dakota identification~~ is required.
    - (5)(4) The applicant's or guardian's signature and the date, or in the case of a minor, the signature of the minor's parent or legal guardian with responsibility for health care decisions and the date.

- d. A signed consent for release of medical information related to the applicant's debilitating medical condition, on a form provided by the department.
  - e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
  - f. Any other information or material required by rule adopted under this chapter.
3. If the applicant is unable to submit the required application information due to age or medical condition, the individual responsible for making medical decisions for the applicant may submit the application on behalf of the applicant. The individual responsible for making medical decisions:
- a. Must be identified on the qualifying patient application for a registry identification card; and
  - b. Shall provide a ~~copy of the individual's North Dakota~~ photographic copy of the individual's department-approved identification. The ~~North Dakota~~ identification must be available for inspection and verification upon the request of the department.
4. If the applicant is a minor, the department may waive the application or renewal fee if:
- a. The parent or legal guardian of the applicant is the applicant's registered designated caregiver; and
  - b. The applicant resides with the applicant's registered designated caregiver.

<sup>81</sup> **SECTION 4. AMENDMENT.** Subsection 2 of section 19-24.1-04 of the North Dakota Century Code is amended and reenacted as follows:

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.

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<sup>81</sup> Section 19-24.1-04 was also amended by section 4 of House Bill No. 1283, chapter 193.

- ~~(3)(2)~~ 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)(3)~~ The name, address, and telephone number of the applicant.
  - ~~(6)~~ The applicant's social security number.
  - ~~(7)(4)~~ 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.
- e. Any other information or material required by the department by rule.

**SECTION 5. AMENDMENT.** Subsection 1 of section 19-24.1-15 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon receipt of notification by the department a compassion center application is eligible for registration, the applicant shall submit all of the following additional items to the department to qualify for registration:
  - a. A certification fee, made payable to the "North Dakota State Department of Health, Medical Marijuana Program", in the amount of ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.
  - b. A financial assurance or security bond to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness to meet the requirements of this chapter.
  - ~~c. The legal name, articles of incorporation or articles of organization, and bylaws or operating agreement, of the proposed compassion center applicant.~~
  - d. The physical address of the proposed compassion center; confirmation the information in the application regarding the physical location of the proposed compassion center has not changed, and if the information has changed the department shall determine whether the new information meets the requirements of this chapter; and a current certificate of occupancy, or equivalent document, to demonstrate compliance with the provisions of state and local fire code for the physical address of the

proposed compassion center. It is not necessary for an applicant to resubmit any information provided in the initial application unless there has been a change in that information.

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

**SECTION 6. AMENDMENT.** Subsection 2 of section 19-24.1-18 of the North Dakota Century Code is amended and reenacted as follows:

2. To qualify to be issued a registry identification card, each compassion center agent must be at least twenty-one years of age and shall submit all of the following registry identification card application material to the department:
  - a. A photographic copy of the agent's department-approved identification. The agent shall make the identification available for inspection and verification by the department.
  - b. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the agent.
  - c. A written and signed statement from an officer or executive staff member of the compassion center stating the applicant is associated with the compassion center and the capacity of the association.
  - d. The name, address, and telephone number of the agent.
  - e. ~~The agent's social security number.~~
  - f. The name, address, and telephone number of the compassion center with which the agent is associated.
  - g.f. The agent's signature and the date.
  - h.g. A nonrefundable application or renewal fee in the amount of two hundred dollars, ~~in the form of a check made out to "North Dakota State Department of Health, Medical Marijuana Program".~~

<sup>82</sup> **SECTION 7. AMENDMENT.** Subsection 13 of section 19-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

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

**SECTION 8. AMENDMENT.** Section 19-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~Data~~Except as provided under subsection 2, information kept or maintained by the department is confidential, including information in a registration

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<sup>82</sup> Section 19-24.1-32 was also amended by section 8 of House Bill No. 1283, chapter 193, and section 9 of House Bill No. 1417, chapter 190.

application or renewal and supporting ~~data~~information submitted by a qualifying patient, designated caregiver, compassion center, proposed compassion center, or compassion center agent, including ~~data~~information on designated caregivers and health care providers, ~~is confidential~~.

2. ~~Data~~Information kept or maintained by the department may be disclosed as necessary for:
  - a. The verification of registration certificates and registry identification cards under this chapter;
  - b. Submission of the annual report required by this chapter;
  - c. Submission to the North Dakota prescription drug monitoring program;
  - d. Notification of state or local law enforcement of apparent criminal violation of this chapter;
  - e. Notification of state and local law enforcement about falsified or fraudulent information submitted for purposes of obtaining or renewing a registry identification card; or
  - f. Notification of the North Dakota board of medicine or North Dakota board of nursing if there is a reason to believe a health care provider provided a written certification and the department has reason to believe the health care provider otherwise violated this chapter.
3. Upon a cardholder's written request, the department may confirm the cardholder's status as a registered qualifying patient or a registered designated caregiver to a third party, such as a landlord, school, medical professional, or court.
4. ~~Data~~Information submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

**SECTION 9. SOCIAL SECURITY NUMBERS.** For any social security numbers obtained by the State Department of Health as part of an application under chapter 19-24.1, the department shall destroy the documents containing social security numbers or redact the social security numbers from the documents.

**SECTION 10. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2019

Filed April 24, 2019

## CHAPTER 192

### HOUSE BILL NO. 1519

(Representatives B. Koppelman, Beadle, Ertelt, Marschall, Mock, Steiner, Vetter)

AN ACT to amend and reenact subsection 15 of section 19-24.1-01 of the North Dakota Century Code, relating to debilitating medical conditions under the medical marijuana program; to provide for a legislative management study; and to declare an emergency.

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

<sup>83</sup> **SECTION 1. AMENDMENT.** Subsection 15 of section 19-24.1-01 of the North Dakota Century Code are amended and reenacted as follows:

15. "Debilitating medical condition" means one of the following:
  - a. Cancer;
  - b. Positive status for human immunodeficiency virus;
  - c. Acquired immune deficiency syndrome;
  - d. Decompensated cirrhosis caused by hepatitis C;
  - e. Amyotrophic lateral sclerosis;
  - f. Posttraumatic stress disorder;
  - g. Agitation of Alzheimer's disease or related dementia;
  - h. Crohn's disease;
  - i. Fibromyalgia;
  - j. Spinal stenosis or chronic back pain, including neuropathy or damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;
  - k. Glaucoma;
  - l. Epilepsy;
  - m. Anorexia nervosa;
  - n. Bulimia nervosa;

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<sup>83</sup> Section 19-24.1-01 was also amended by section 1 of House Bill No. 1119, chapter 191, section 2 of House Bill No. 1119, chapter 191, section 1 of House Bill No. 1283, chapter 193, section 3 of House Bill No. 1349, chapter 61, section 1 of House Bill No. 1417, chapter 190, section 2 of House Bill No. 1417, chapter 190, and section 3 of House Bill No. 1417, chapter 190.

- o. Anxiety disorder;
- p. Tourette syndrome;
- q. Ehlers-Danlos syndrome;
- r. Endometriosis;
- s. Interstitial cystitis;
- t. Neuropathy;
- u. Migraine;
- v. Rheumatoid arthritis;
- w. Autism spectrum disorder;
- x. A brain injury;
- y. A terminal illness; and
- n-z. A chronic or debilitating disease or medical condition or treatment for such disease or medical condition that produces one or more of the following:
  - (1) Cachexia or wasting syndrome;
  - (2) Severe debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects;
  - (3) Intractable nausea;
  - (4) Seizures; or
  - (5) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis.

**SECTION 2. LEGISLATIVE MANAGEMENT STUDY - MEDICAL MARIJUANA DEBILITATING MEDICAL CONDITIONS.** During the 2019-20 interim, the legislative management shall consider studying the list of debilitating medical conditions under the medical marijuana program to determine the appropriateness of the list, including whether conditions should be added to or removed from the list. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-seventh legislative assembly.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2019

Filed April 24, 2019

## CHAPTER 193

### HOUSE BILL NO. 1283

(Representatives Skroch, Becker, Ertelt, Fegley, Johnston, Jones, Roers Jones, M. Ruby, Vetter)  
(Senator O. Larsen)

AN ACT to create and enact section 19-24.1-03.1 and a new paragraph to subdivision b of subsection 2 of section 19-24.1-04 of the North Dakota Century Code, relating to access to medical marijuana; to amend and reenact section 19-24.1-01, subsection 2 of section 19-24.1-03, subdivision a of subsection 5 of section 19-24.1-05, subsection 7 of section 19-24.1-10, subsection 3 of section 19-24.1-11, and subsection 10 of section 19-24.1-32 of the North Dakota Century Code, relating to access to medical marijuana; and to declare an emergency.

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

<sup>84</sup> **SECTION 1. AMENDMENT.** Section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **19-24.1-01. Definitions.**

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

1. "Advanced practice registered nurse" means an advanced practice registered nurse defined under section 43-12.1-02.
2. "Allowable amount of usable marijuana" means the amount of usable marijuana a registered qualifying patient or registered designated caregiver may purchase in a thirty-day period under this chapter.
  - a. During a thirty-day period, a registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in a combustible delivery form. At any time a registered qualifying patient, or a registered designated caregiver on behalf of a registered qualifying patient, may not possess more than three ounces [85.05 grams] of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.
  - b. A registered qualifying patient may not purchase or have purchased by a registered designated caregiver more than the maximum concentration or amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum concentration or amount of tetrahydrocannabinol permitted in a thirty-day period for a cannabinoid concentrate or medical cannabinoid product, or the cumulative total of both, is two thousand milligrams.

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<sup>84</sup> Section 19-24.1-01 was also amended by section 1 of House Bill No. 1119, chapter 191, section 2 of House Bill No. 1119, chapter 191, section 3 of House Bill No. 1349, chapter 61, section 1 of House Bill No. 1417, chapter 190, section 2 of House Bill No. 1417, chapter 190, section 3 of House Bill No. 1417, chapter 190, and section 1 of House Bill No. 1519, chapter 192.

3. "Bona fide provider-patient relationship" means a treatment or counseling relationship between a health care provider and patient in which all the following are present:
  - a. The health care provider has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.
  - b. The health care provider has created and maintained records of the patient's condition in accordance with medically accepted standards.
  - c. The patient is under the health care provider's continued care for the debilitating medical condition that qualifies the patient for the medical use of marijuana.
  - d. The health care provider has a reasonable expectation that provider will continue to provide followup care to the patient to monitor the medical use of marijuana as a treatment of the patient's debilitating medical condition.
  - e. The relationship is not for the sole purpose of providing written certification for the medical use of marijuana.
4. "Cannabinoid" means a chemical compound that is one of the active constituents of marijuana.
5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin, which encloses a dose of a cannabinoid product or a cannabinoid concentrate intended for consumption. The maximum concentration of amount of tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty milligrams.
6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating cannabinoids from marijuana by a mechanical, chemical, or other process.
7. "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid concentrate or the dried leaves or flowers of the plant of the genus cannabis is incorporated.
8. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and other ingredients intended for consumption.
9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a cannabinoid topical is six percent.
10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin which contains a cannabinoid product or cannabinoid concentrate for absorption into the bloodstream. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.

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

- (5) Severe and persistent muscle spasms, including those characteristic of multiple sclerosis.
16. "Department" means the state department of health.
  17. "Designated caregiver" means an individual who agrees to manage the well-being of a registered qualifying patient with respect to the qualifying patient's medical use of marijuana.
  18. "Dispensary" means an entity registered by the department as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver.
  19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access limited to individuals authorized under this chapter or rules adopted under this chapter.
  20. "Health care provider" means a physician, a physician assistant, or an advanced practice registered nurse.
  21. "Manufacturing facility" means an entity registered by the department as a compassion center authorized to produce and process and to sell usable marijuana to a dispensary.
  22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant.
  23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid product or a cannabinoid concentrate.
  24. "Medical cannabinoid product" means a product intended for human consumption or use which contains cannabinoids.
    - a. Medical cannabinoid products are limited to the following forms:
      - (1) Cannabinoid tincture;
      - (2) Cannabinoid capsule;
      - (3) Cannabinoid transdermal patch; and
      - (4) Cannabinoid topical.
    - b. "Medical cannabinoid product" does not include:
      - (1) A cannabinoid edible product;
      - (2) A cannabinoid concentrate by itself; or
      - (3) The dried leaves or flowers of the plant of the genus cannabis by itself.

25. "Medical marijuana product" means a cannabinoid concentrate or a medical cannabinoid product.
26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of the genus cannabis, including dead plants and all unused plant parts and roots.
27. "Medical use of marijuana" means the acquisition, use, and possession of usable marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
28. "Minor" means an individual under the age of nineteen.
29. "North Dakota identification" means a North Dakota driver's license or comparable state of North Dakota or federal issued photo identification card verifying North Dakota residence.
30. "Pediatric medical marijuana" means a medical marijuana product containing cannabidiol which may not contain a maximum concentration or amount of tetrahydrocannabinol of more than six percent.
31. "Physician" means a physician licensed under chapter 43-17 to practice medicine in the state of North Dakota.
32. "Physician assistant" means an individual licensed under chapter 43-17 to practice as a physician assistant in the state.
33. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, fifth edition, text revision (2013).
- ~~33-34.~~ "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.
- ~~34-35.~~ "Producing", "produce", or "production" mean the planting, cultivating, growing, trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves or flowers of the plant of the genus cannabis.
- ~~35-36.~~ "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.
- ~~36-37.~~ "Registry identification card" means a document issued by the department which identifies an individual as a registered qualifying patient, registered designated caregiver, or registered compassion center agent.
- ~~37-38.~~ "Terminal illness" means a disease, illness, or condition of a patient:
  - a. For which there is not a reasonable medical expectation of recovery;
  - b. Which as a medical probability, will result in the death of the patient, regardless of the use or discontinuance of medical treatment implemented for the purpose of sustaining life or the life processes; and

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

~~38-39.~~ "Usable marijuana" means a medical marijuana product or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form. However, the term does not include the dried leaves or flowers unless authorized through a written certification and does not include a cannabinoid edible product. In the case of a registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.

~~39-40.~~ "Verification system" means the system maintained by the department under section 19-24.1-31 for verification of registry identification cards.

~~40-41.~~ "Written certification" means a form established by the department which is executed, dated, and signed by a health care provider within ninety calendar days of the date of application, stating that ~~in the health care provider's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's~~ the patient has a debilitating medical condition. A health care provider may authorize the use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form to treat or alleviate the patient's debilitating medical condition. A written certification may not be made except in the course of a bona fide provider-patient relationship.

<sup>85</sup> **SECTION 2. AMENDMENT.** Subsection 2 of section 19-24.1-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A qualifying patient application for a registry identification card is complete and eligible for review if an applicant submits to the department:
  - a. A nonrefundable annual application fee in the amount of fifty dollars, with a personal check or cashier's check payable to "North Dakota State Department of Health, Medical Marijuana Program".
  - b. An original written certification, which must include:
    - (1) The name, address, and telephone number of the practice location of the applicant's health care provider;
    - (2) The health care provider's North Dakota license number;
    - (3) The health care provider's medical or nursing specialty;
    - (4) The applicant's name and date of birth;
    - (5) The applicant's debilitating medical condition and the medical justification for the health care provider's certification of the patient's debilitating medical condition;
    - (6) Attestation the written certification is made in the course of a bona fide provider-patient relationship ~~and that in the provider's professional opinion the applicant is likely to receive therapeutic or palliative benefit~~

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<sup>85</sup> Section 19-24.1-03 was also amended by section 3 of House Bill No. 1119, chapter 191, and section 4 of House Bill No. 1417, chapter 190.

- ~~from the medical use of marijuana to treat or alleviate the applicant's debilitating medical condition;~~
- (7) Whether the health care provider authorizes the patient to use the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form; and
  - (8) The health care provider's signature and the date.
- c. An original qualifying patient application for a registry identification card form established by the department which must include all of the following:
- (1) The applicant's name, address, and date of birth.
  - (2) The applicant's social security number.
  - (3) The name, address, and date of birth of the applicant's proposed designated caregiver, if any.
  - (4) 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. If the applicant is a minor, a certificated copy of a birth record is required.
  - (5) The applicant's or guardian's signature and the date, or in the case of a minor, the signature of the minor's parent or legal guardian with responsibility for health care decisions and the date.
  - (6) A disclosure that possession of a firearm by a person who possesses marijuana may be a violation of federal law.
- d. A signed consent for release of medical information related to the applicant's debilitating medical condition, on a form provided by the department.
- e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- f. Any other information or material required by rule adopted under this chapter.

**SECTION 3.** Section 19-24.1-03.1 of the North Dakota Century Code is created and enacted as follows:

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

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

<sup>86</sup> **SECTION 4.** A new paragraph to subdivision b of subsection 2 of section 19-24.1-04 of the North Dakota Century Code is created and enacted as follows:

A disclosure that possession of a firearm by a person who possesses marijuana may be a violation of federal law.

<sup>87</sup> **SECTION 5. AMENDMENT.** Subdivision a of subsection 5 of section 19-24.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

<sup>88</sup> **SECTION 6. AMENDMENT.** Subsection 7 of section 19-24.1-10 of the North Dakota Century Code is amended and reenacted as follows:

7. A registered qualifying patient's certifying health care provider ~~shall~~may notify the department in writing if the health care provider's registered qualifying patient no longer has a debilitating medical condition ~~or if the~~. The health care provider ~~no longer believes the patient will receive therapeutic or palliative benefit from the medical use of marijuana~~may notify the department if a bona fide provider-patient relationship ceases to exist. The qualifying patient's registry identification card becomes void immediately upon the health care provider'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.

<sup>89</sup> **SECTION 7. AMENDMENT.** Subsection 3 of section 19-24.1-11 of the North Dakota Century Code is amended and reenacted as follows:

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

<sup>90</sup> **SECTION 8. AMENDMENT.** Subsection 10 of section 19-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

10. A health care provider is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, solely for providing a written

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<sup>86</sup> Section 19-24.1-04 was also amended by section 4 of House Bill No. 1119, chapter 191.

<sup>87</sup> Section 19-24.1-05 was also amended by section 5 of House Bill No. 1417, chapter 190.

<sup>88</sup> Section 19-24.1-10 was also amended by section 6 of House Bill No. 1417, chapter 190.

<sup>89</sup> Section 19-24.1-11 was also amended by section 7 of House Bill No. 1417, chapter 190.

<sup>90</sup> Section 19-24.1-32 was also amended by section 7 of House Bill No. 1119, chapter 191, and section 9 of House Bill No. 1417, chapter 190.

certification or for otherwise stating in the health care provider's professional opinion a patient is likely to receive therapeutic or palliative benefit from the medical use of usable marijuana to treat or alleviate the patient's debilitating medical condition or for refusing to provide written certification or a statement. This chapter does not release a health care provider from the duty to exercise a professional standard of care for evaluating or treating a patient's medical condition.

**SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2019

Filed April 24, 2019

## CHAPTER 194

### SENATE BILL NO. 2210

(Senators Klein, Heckaman, Wardner)  
(Representatives Boschee, Louser, Pollert)

AN ACT to amend and reenact sections 19-24.1-17 and 19-24.1-24 of the North Dakota Century Code, relating to medical marijuana manufacturing facilities; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 19-24.1-17 of the North Dakota Century Code is amended and reenacted as follows:

##### **19-24.1-17. Compassion centers - Registration certificates nontransferable - Notification of changes.**

1. A registration certificate authorizing operation of a compassion center may not be transferred to another person. Unless a compassion center applies for and receives an amended registration certificate authorizing operation of a compassion center, the registration certificate is void if there is a change in ownership of the compassion center, there is a change in the authorized physical location of the compassion center, or if the compassion center discontinues operation.
2. A compassion center shall provide the department a written notice of any change described under this section at least sixty calendar days before the proposed effective date of the change. The department shall authorize the use of additional structures located within five hundred feet [152.40 meters] of the location described in the original application, unless the department makes an affirmative finding the use of additional structures would jeopardize public health or safety or would result in the compassion center being within one thousand feet [304.80 meters] of a property line of a pre-existing public or private school. The department may waive all or part of the required advance notice to address emergent or emergency situations.

**SECTION 2. AMENDMENT.** Section 19-24.1-24 of the North Dakota Century Code is amended and reenacted as follows:

##### **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.~~

1. A manufacturing facility shall grow an amount of marijuana sufficient to meet the qualifying patient population demands. For every five hundred plants in

excess of one thousand plants a manufacturing facility possesses, the manufacturing facility shall pay the department an additional certification fee of ten thousand dollars. This fee is due at the time of increase and again at renewal of the compassion center registration certificate under section 19-24.1-16.

2. A dispensary may not possess more than three thousand five hundred ounces [99.22 kilograms] of usable marijuana at any time, regardless of formulation.
3. The health council shall adopt rules ~~may~~to 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. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 28, 2019

Filed March 29, 2019