

Introduced by

Human Services Committee

(At the request of the Department of Health and Human Services)

1 A BILL for an Act to amend and reenact subdivision n of subsection 2 of section 12-60-24 and
2 sections 19-24.1-01 and 23-01-08.1 of the North Dakota Century Code, relating to fingerprint-
3 based criminal history record checks for the department of health and human services, and
4 compassion centers.

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

6 **SECTION 1. AMENDMENT.** Subdivision n of subsection 2 of section 12-60-24 of the North
7 Dakota Century Code is amended and reenacted as follows:

8 n. The department of health and human services for a final applicant for a job
9 opening or a current employee with the department ~~as designated by the state~~
10 ~~health officer~~; an individual being investigated by the department; or, ~~when~~
11 ~~requested by the department~~, an applicant for registration as a designated
12 caregiver or a compassion center agent under chapter 19-24.1.

13 **SECTION 2. AMENDMENT.** Section 19-24.1-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **19-24.1-01. Definitions.**

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

- 17 1. "Advanced practice registered nurse" means an advanced practice registered nurse
18 defined under section 43-12.1-02.
- 19 2. "Agent" means an individual who is authorized to act for, in place of, or on behalf of a
20 compassion center.
- 21 3. "Allowable amount of usable marijuana" means the amount of usable marijuana a
22 registered qualifying patient or registered designated caregiver may purchase in a
23 thirty-day period under this chapter.
- 24 a. Except as provided under subdivision b:

- 1 (1) During a thirty-day period, a registered qualifying patient may not purchase
2 or have purchased by a registered designated caregiver more than two and
3 one-half ounces [70.87 grams] of dried leaves or flowers of the plant of
4 genus cannabis in a combustible delivery form.
- 5 (2) At any time a registered qualifying patient, or a registered designated
6 caregiver on behalf of a registered qualifying patient, may not possess more
7 than three ounces [85.05 grams] of dried leaves or flowers of the plant of
8 the genus cannabis in a combustible delivery form.
- 9 b. Notwithstanding subdivision a, if a registered qualifying patient has a registry
10 identification card authorizing an enhanced allowable amount:
- 11 (1) During a thirty-day period a registered qualifying patient may not purchase
12 or have purchased by a registered designated caregiver more than six
13 ounces [170.01 grams] of dried leaves or flowers of the plant of genus
14 cannabis in a combustible delivery form.
- 15 (2) At any time a registered qualifying patient, or a registered designated
16 caregiver on behalf of a registered qualifying patient, may not possess more
17 than seven and one-half ounces [212.62 grams] of dried leaves or flowers of
18 the plant of the genus cannabis in a combustible delivery form.
- 19 c. A registered qualifying patient may not purchase or have purchased by a
20 registered designated caregiver more than the maximum concentration or
21 amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum
22 concentration or amount of tetrahydrocannabinol permitted in a thirty-day period
23 for a cannabinoid concentrate or medical cannabinoid product, or the cumulative
24 total of both, is four thousand milligrams.
- 25 ~~3.4.~~ "Bona fide provider-patient relationship" means a treatment or counseling relationship
26 between a health care provider and patient in which all the following are present:
- 27 a. The health care provider has reviewed the patient's relevant medical records and
28 completed a full assessment of the patient's medical history and current medical
29 condition, including a relevant, in-person, medical evaluation of the patient.
- 30 b. The health care provider has created and maintained records of the patient's
31 condition in accordance with medically accepted standards.

- 1 c. The patient is under the health care provider's continued care for the debilitating
2 medical condition that qualifies the patient for the medical use of marijuana.
3 d. The health care provider has a reasonable expectation that provider will continue
4 to provide followup care to the patient to monitor the medical use of marijuana as
5 a treatment of the patient's debilitating medical condition.
6 e. The relationship is not for the sole purpose of providing written certification for the
7 medical use of marijuana.

8 ~~4-5.~~ "Cannabinoid" means a chemical compound that is one of the active constituents of
9 marijuana.

10 ~~5-6.~~ "Cannabinoid capsule" means a small, soluble container, usually made of gelatin,
11 which encloses a dose of a cannabinoid product or a cannabinoid concentrate
12 intended for consumption. The maximum concentration of amount of
13 tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty
14 milligrams.

15 ~~6-7.~~ "Cannabinoid concentrate" means a concentrate or extract obtained by separating
16 cannabinoids from marijuana by a mechanical, chemical, or other process.

17 ~~7-8.~~ "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid
18 concentrate or the dried leaves or flowers of the plant of the genus cannabis is
19 incorporated.

20 ~~8-9.~~ "Cannabinoid solution" means a solution consisting of a mixture created from
21 cannabinoid concentrate and other ingredients. A container holding a cannabinoid
22 solution for dispensing may not exceed thirty milliliters.

23 ~~9-10.~~ "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin
24 or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a
25 cannabinoid topical is six percent.

26 ~~10-11.~~ "Cannabinoid transdermal patch" means an adhesive substance applied to the skin
27 which contains a cannabinoid product or cannabinoid concentrate for absorption into
28 the bloodstream. The maximum concentration or amount of tetrahydrocannabinol
29 permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.

30 ~~11-12.~~ "Cardholder" means a qualifying patient, designated caregiver, or compassion center
31 agent who has been issued and possesses a valid registry identification card.

- 1 ~~42.13.~~ "Compassion center" means a manufacturing facility or dispensary.
- 2 ~~43.14.~~ "Compassion center agent" means a principal officer, board member, member,
3 manager, governor, employee, volunteer, or agent of a compassion center. The term
4 does not include a lawyer representing a compassion center in civil or criminal
5 litigation or in an adversarial administrative proceeding.
- 6 ~~44.15.~~ "Contaminated" means made impure or inferior by extraneous substances.
- 7 ~~45.16.~~ "Debilitating medical condition" means one of the following:
- 8 a. Cancer;
- 9 b. Positive status for human immunodeficiency virus;
- 10 c. Acquired immune deficiency syndrome;
- 11 d. Decompensated cirrhosis caused by hepatitis C;
- 12 e. Amyotrophic lateral sclerosis;
- 13 f. Posttraumatic stress disorder;
- 14 g. Agitation of Alzheimer's disease or related dementia;
- 15 h. Crohn's disease;
- 16 i. Fibromyalgia;
- 17 j. Spinal stenosis or chronic back pain, including neuropathy or damage to the
18 nervous tissue of the spinal cord with objective neurological indication of
19 intractable spasticity;
- 20 k. Glaucoma;
- 21 l. Epilepsy;
- 22 m. Anorexia nervosa;
- 23 n. Bulimia nervosa;
- 24 o. Anxiety disorder;
- 25 p. Tourette syndrome;
- 26 q. Ehlers-Danlos syndrome;
- 27 r. Endometriosis;
- 28 s. Interstitial cystitis;
- 29 t. Neuropathy;
- 30 u. Migraine;
- 31 v. Rheumatoid arthritis;

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- 1 w. Autism spectrum disorder;
- 2 x. A brain injury;
- 3 y. A terminal illness; or
- 4 z. A chronic or debilitating disease or medical condition or treatment for such
- 5 disease or medical condition that produces one or more of the following:
- 6 (1) Cachexia or wasting syndrome;
- 7 (2) Severe debilitating pain that has not responded to previously prescribed
- 8 medication or surgical measures for more than three months or for which
- 9 other treatment options produced serious side effects;
- 10 (3) Intractable nausea;
- 11 (4) Seizures; or
- 12 (5) Severe and persistent muscle spasms, including those characteristic of
- 13 multiple sclerosis.
- 14 ~~16-17.~~ "Department" means the department of health and human services.
- 15 ~~17-18.~~ "Designated caregiver" means an individual who agrees to manage the well-being of a
- 16 registered qualifying patient with respect to the qualifying patient's medical use of
- 17 marijuana.
- 18 ~~18-19.~~ "Dispensary" means an entity registered by the department as a compassion center
- 19 authorized to dispense usable marijuana to a registered qualifying patient and a
- 20 registered designated caregiver.
- 21 ~~19-20.~~ "Enclosed, locked facility" means a closet, room, greenhouse, building, or other
- 22 enclosed area equipped with locks or other security devices that permit access limited
- 23 to individuals authorized under this chapter or rules adopted under this chapter.
- 24 ~~20-21.~~ "Health care provider" means a physician, a physician assistant, or an advanced
- 25 practice registered nurse.
- 26 22. "Manager" means an individual who administers or supervises the day-to-day
- 27 operations and affairs of a compassion center.
- 28 ~~21-23.~~ "Manufacturing facility" means an entity registered by the department as a compassion
- 29 center authorized to produce and process and to sell usable marijuana to a
- 30 dispensary.

- 1 ~~22-24.~~ "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;
2 the resin extracted from any part of the plant; and every compound, manufacture, salt,
3 derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin
4 extracted from any part of the plant. The term marijuana does not include:
- 5 a. Hemp as regulated under section 4.1-18.1-01; or
 - 6 b. A prescription drug approved by the United States food and drug administration
7 under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355].
- 8 ~~23-25.~~ "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
9 of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid
10 product or a cannabinoid concentrate.
- 11 ~~24-26.~~ "Medical cannabinoid product" means a product intended for human consumption or
12 use which contains cannabinoids.
- 13 a. Medical cannabinoid products are limited to the following forms:
 - 14 (1) Cannabinoid solution;
 - 15 (2) Cannabinoid capsule;
 - 16 (3) Cannabinoid transdermal patch; and
 - 17 (4) Cannabinoid topical.
 - 18 b. "Medical cannabinoid product" does not include:
 - 19 (1) A cannabinoid edible product;
 - 20 (2) A cannabinoid concentrate by itself; or
 - 21 (3) The dried leaves or flowers of the plant of the genus cannabis by itself.
- 22 ~~25-27.~~ "Medical marijuana product" means a cannabinoid concentrate or a medical
23 cannabinoid product.
- 24 ~~26-28.~~ "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable
25 marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of
26 the genus cannabis, including dead plants and all unused plant parts and roots.
- 27 ~~27-29.~~ "Medical use of marijuana" means the acquisition, use, and possession of usable
28 marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
- 29 30. "Member" means an individual who has a ten percent or more ownership interest in
30 the compassion center limited liability company, limited liability partnership, or
31 partnership.

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- 1 ~~28-31.~~ "Minor" means an individual under the age of nineteen.
- 2 ~~29-32.~~ "North Dakota identification" means a North Dakota driver's license or comparable
3 state of North Dakota or federal issued photo identification card verifying North Dakota
4 residence.
- 5 ~~30-33.~~ "Owner" means an individual or an organization with an ownership interest in a
6 compassion center.
- 7 ~~31-34.~~ "Ownership interest" means an aggregate ownership interest of five percent or more in
8 a compassion center, unless the interest is solely a security, lien, or encumbrance, or
9 an individual who will be participating in the direction, control, or management of the
10 compassion center.
- 11 ~~32-35.~~ "Pediatric medical marijuana" means a medical marijuana product containing
12 cannabidiol which may not contain a maximum concentration or amount of
13 tetrahydrocannabinol of more than six percent.
- 14 ~~33-36.~~ "Physician" means a physician licensed under chapter 43-17 to practice medicine in
15 the state of North Dakota.
- 16 ~~34-37.~~ "Physician assistant" means an individual licensed under chapter 43-17 to practice as
17 a physician assistant in the state.
- 18 ~~35-38.~~ "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for
19 posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental
20 Disorders", American psychiatric association, fifth edition, text revision (2013).
- 21 ~~36-39.~~ "Processing" or "process" means the compounding or conversion of marijuana into a
22 medical marijuana product.
- 23 ~~37-40.~~ "Producing", "produce", or "production" mean the planting, cultivating, growing,
24 trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves
25 or flowers of the plant of the genus cannabis.
- 26 ~~38-41.~~ "Qualifying patient" means an individual who has been diagnosed by a health care
27 provider as having a debilitating medical condition.
- 28 ~~39-42.~~ "Registry identification card" means a document issued by the department which
29 identifies an individual as a registered qualifying patient, registered designated
30 caregiver, or registered compassion center agent.
- 31 ~~40-43.~~ "Substantial corporate change" means:

- 1 a. For a corporation, a change of ten percent or more of the officers or directors, or
2 a transfer of ten percent or more of the stock of the corporation, or an existing
3 stockholder obtaining ten percent or more of the stock of the corporation;
- 4 b. For a limited liability company, a change of ten percent or more of the managing
5 members of the company, or a transfer of ten percent or more of the ownership
6 interest in the company, or an existing member obtaining a cumulative of ten
7 percent or more of the ownership interest in the company; or
- 8 c. For a partnership, a change of ten percent or more of the managing partners of
9 the company, or a transfer of ten percent or more of the ownership interest in the
10 company, or an existing member obtaining a cumulative of ten percent or more of
11 the ownership interest in the company.
- 12 41.44. "Terminal illness" means a disease, illness, or condition of a patient:
- 13 a. For which there is not a reasonable medical expectation of recovery;
- 14 b. Which as a medical probability, will result in the death of the patient, regardless of
15 the use or discontinuance of medical treatment implemented for the purpose of
16 sustaining life or the life processes; and
- 17 c. As a result of which, the patient's health care provider would not be surprised if
18 death were to occur within six months.
- 19 42.45. "Tetrahydrocannabinol" means tetrahydrocannabinols naturally contained in a plant of
20 the genus cannabis, and synthetic equivalents of the substances contained in the
21 cannabis plant, or in the resinous extractives of the plant, including synthetic
22 substances, derivatives, and their isomers with similar chemical structure and
23 pharmacological activity to those substances contained in the plant, including:
- 24 a. (1) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers. Other
25 names: Delta-9-tetrahydrocannabinol.
- 26 (2) Delta-6 or trans tetrahydrocannabinol, and their optical isomers. Other
27 names: Delta-8 tetrahydrocannabinol.
- 28 (3) Delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.
- 29 (Since nomenclature of these substances is not intentionally standardized, compounds
30 of these structures, regardless of numerical designation or atomic positions covered.)
- 31 b. Tetrahydrocannabinol does not include:

1 (1) The allowable amount of total tetrahydrocannabinol found in hemp as
2 defined in chapter 4.1-18.1; or

3 (2) A prescription drug approved by the United States food and drug
4 administration under section 505 of the Federal Food, Drug, and Cosmetic
5 Act [21 U.S.C. 355].

6 ~~43.46.~~ "Total tetrahydrocannabinol" means the sum of the percentage by weight of
7 tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths
8 plus the percentage of weight of tetrahydrocannabinol.

9 ~~44.47.~~ "Usable marijuana" means a medical marijuana product or the dried leaves or flowers
10 of the plant of the genus cannabis in a combustible delivery form. However, the term
11 does not include a cannabinoid edible product. In the case of a registered qualifying
12 patient who is a minor, "usable marijuana" is limited to pediatric medical marijuana.

13 ~~45.48.~~ "Verification system" means the system maintained by the department under section
14 19-24.1-31 for verification of registry identification cards.

15 ~~46.49.~~ "Written certification" means a form established by the department which is executed,
16 dated, and signed by a health care provider within ninety calendar days of the date of
17 application, stating the patient has a debilitating medical condition. A health care
18 provider may authorize an enhanced amount of dried leaves or flowers of the plant of
19 the genus cannabis in a combustible delivery form to treat or alleviate the patient's
20 debilitating medical condition of cancer. A written certification may not be made except
21 in the course of a bona fide provider-patient relationship.

22 **SECTION 3. AMENDMENT.** Section 23-01-08.1 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **23-01-08.1. Criminal history background checks.**

25 The department of health and human services may require a final applicant for a job
26 opening or a current employee with the department, ~~as designated by the state health officer,~~
27 complete a state and national criminal history record check as provided under section 12-60-24.