

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

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:

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.
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.
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.

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 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.

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.

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

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.

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.

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 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.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1283 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 85 Nays 6 Absent 3

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,
at _____ o'clock _____ M.

Secretary of State