

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

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:

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 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.

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.

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.

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:
- 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.

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. 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;

- 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.
 - e. ~~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.~~

SECTION 9. 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 10. 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. 1417 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 83 Nays 8 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 36 Nays 7 Absent 3

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