17.0630.04000

FISCAL NOTE

Requested by Legislative Council
04/04/2017

Amendment to: SB 2344

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$1,600,000	$987,500	$3,204,000	$2,275,000
Expenditures	$52,840		$885,355	$837,500	$346,516	$1,975,000
Appropriations			$162,085		$346,516	

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The Bill creates and reenacts sections of NDCC relating to the implementation and authorization of medical marijuana, provide for a continuing appropriation and declare an emergency.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill is further amended to reduce the registration fee for qualified patients and designated caregivers. Additionally, the registration fees for compassion centers were increased and the number of manufacturing facilities (growers) was reduced from four to two facilities. These change will impact revenues.

Based on research of other states that have implemented medical marijuana the Department of Health (DoH) based the number of qualifying patients on 5 for every 1000 individuals in the state or 3,800 patients for a full biennium of implementation which would be 2019 – 2021. We estimated the number of patients to be 1,900 during the initial biennium of operation - 2017 – 2019. It was estimated that 50% of the patients would have a caregiver.

Pages 6 and 8 of the bill indicate a $50 fee which can be charged for an application each year for a qualifying patient and designated caregiver.

Page 8 of the bill also requires designated caregivers to have a criminal background check. These expenditures will be incurred by the Attorney General's Office - Bureau of Criminal Investigation and must be paid by the applicant. This revenue would be deposited into the state general fund.

Page 12 identifies the cost for replacement cards - $25 fee.

Page 14 identifies the number of Compassion Centers that may operate as a manufacturing facility (2) and the number of Compassion Centers that may operate as a dispensary (8). The DoH is allowed to register additional manufacturing facilities and dispensaries if determined that additional entities are necessary to increase access to usable marijuana.

Page 15 sets the nonrefundable application fee for a Compassion Center at $5,000, while page 17 provides for a registration fee of $110,000 for growers and $90,000 for dispensaries. Compassion Centers register once every two

years.

Pages 19 establishes the registration fee for all agents of a Compassion Center at an amount of $200 with an annual renewal. Page 20 notes that lost cards for agents are replaced at $25 per card.

Page 21 establishes a penalty of $150 for cardholders failing to provide proper notification of changes required by this chapter.

Page 1. #2 defines the allowable amount of marijuana for medical use. A registered qualifying patient may not purchase or have purchased by a registered caregiver more than two and one-half ounces of usable marijuana in a thirty-day period. This sale of product will result in sales tax revenue that will be deposited into the general fund and the state aid distribution fund as estimated by the Office of the State Tax Commissioner. However, The Office of Tax Commissioner is unable to estimate the potential income tax revenue that could result from the provisions of this bill. There is not enough information available to make assumptions about the profitability of the growers or dispensaries in the first years of operation.

Contact was made with Workforce Safety and Insurance and the Department of Human Services and the bill is determined to have no or minimal fiscal impact on these agencies.

Contact was also made with the BCI and they indicated that with the approved patients and the caregivers not growing the marijuana and the “audits” being conducted of the compassion centers only, the cost to Law Enforcement is greatly minimized. The marijuana testing and all fees are the responsibility of the registered card holders (patient, care giver or compassion center connected employee.
Response for law enforcement assistance, at the compassion center or with a care giver should not be any different for law enforcement as a call for service from a citizen complaint.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

   2015-2017 - We do not anticipate collecting any revenues in the current biennium.

   2017-2019
   DoH:
   Compassion Centers (CC) Revenue:
   Grow Only Application Fees $5,000 – assume 8 apply $ 40,000
   Grow Only Registration Fees $110,000 assume 2 220,000
   Dispensary Application Fees $5,000 – assume 8 apply 40,000
   Dispensary Registration Fees $90,000 – assume 4 360,000
   Add’l Dispensary Application fee $5,000 – assume none
   Add’l Dispensary Registration fee $90,000 – assume none
   Qualified Patients / Designated Caregivers/ CC Agents:
   Qualified Patient (QP) – 1900 - $50 fee $ 95,000
   Designated Caregiver (DC) – 950 - $50 fee
   (less 50 QP who are minors & DC is parent / guardian
   each year - fee is waived) 45,000
   Agents of Compassion Center – 150 - $200 fee 30,000
   Replacement Cards - 150 - $25 3,750
   Failure to notify DoH of changes 25 - $150 3,750
   Total DoH Revenue - Compassionate Care Fund $837,500

   Office of the State Tax Commissioner:
   Using patient and consumption assumptions consistent with the Health Department, the Office of Tax Commissioner estimates an increase in sales and use tax revenue of $1.7 million in the 2017-19 biennium, with approximately 91.3% deposited in the state general fund or $1.55 million and approximately 8.7% deposited in the state aid distribution fund or $150,000.
   Office of the Attorney General:

Revenue from background checks - $50,000 to be deposited to the general fund.

2019-2021
DoH:
Compassion Centers (CC) Revenue:
Grow Only Application Fees $5,000 – assume 8 apply $ 40,000
Grow Only Registration Fees $110,000 assume 2 220,000
Dispensary Application Fees $5,000 – assume 16 apply 80,000
Dispensary Registration Fees $90,000 – assume 8 720,000
Add'l Dispensary Application fee $5,000 – assume 4 20,000
Add'l Dispensary Registration fee $90,000 – assume 2 180,000
Qualified Patients / Designated Caregivers/ CC Agents:
Qualified Patient (QP) – 3800 reg. both years - $50 fee $380,000
Designated Caregiver (DC) – 1900 reg. both years - $50 fee
(less 100 QP who are minors & DC is parent / guardian
each year - fee is waived) 185,000
Agents of CC – 300 reg. both years - $200 fee 120,000
Replacement Cards - 300 per year - $25 15,000
Failure to notify DoH of changes 50 per year - $150 15,000
Total DoH Revenue - Compassionate Care Fund $1,975,000

Office of the State Tax Commissioner:
Using patient and consumption assumptions consistent with the Health Department, the Office of Tax Commissioner estimates an increase in sales and use tax revenue of $3.4 million in the 2019-21 biennium, with approximately 91.3% deposited in the state general fund or $3.1 million and approximately 8.7% deposited in the state aid distribution fund or $300,000.

Office of the Attorney General:

Revenue from background checks - $104,000 to be deposited to the state general fund.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

2015-2017
DoH – Expenditures are estimated to be $52,840, which reflects the costs of hiring the Director of the Medical Marijuana program. Other costs have yet to be determined.

2017-2019:
DoH
Total expenditures estimated - $1,560,770 and 6 FTE. The expenditures include ongoing expenditures: salary and wages of $870,198 and operating costs (rent, ITD data processing and phone, travel, printing, postage, system maintenance / storage) totaling $595,506. One-time equipment / furniture under $5,000 for new employees of $21,577 and one-time capital costs of $73,489 for a card registration IT system and space / security upgrades.

Attorney General's Office
One FTE - $123,597 and related operating costs of $38,488 to process the background checks for a total of $162,085.

Total combined costs of $1,722,855.

2019-2021:
DoH
Total expenditures estimated - $1,942,569 and 8 FTE. The expenditures include ongoing expenditures: salary and wages of $1,233,668 and operating costs (rent, ITD data processing and phone, travel, printing, postage, system maintenance / storage) totaling $708,901.

Attorney General's Office
Two FTE - $265,692 and related operating costs of $80,824 to process the background checks for a total of $346,516.

Total combined costs of $2,289,085.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Section 8 declares the act to be an emergency measure. Expenditures may be made during the 2015-2017 biennium at an estimated amount of $52,840. No adjustment to 2015-2017 is needed.

The general fund expenditure amounts reflected in this fiscal note have been included in the DoH's appropriation bill - SB 2004 - so no additional appropriation is needed. The expenditure amounts for the Attorney General's Office would require an appropriation. Page 32 of the bill provides a continuing appropriation to the DoH of all fees deposited to the medical marijuana fund so an appropriation of this funding for expenditures is not necessary but has been included in SB 2004.

Name: Brenda M. Weisz

Agency: DoH

Telephone: 328-4542

Date Prepared: 04/04/2017

17.0630.03000

FISCAL NOTE

Requested by Legislative Council
02/20/2017

Amendment to: SB 2344

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$1,600,000	$1,457,500	$3,204,000	$3,810,000
Expenditures	$52,840		$1,244,750	$1,307,500	$346,516	$2,940,081
Appropriations			$162,085		$346,516	

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The Bill creates and reenacts sections of NDCC relating to the implementation of the North Dakota Compassionate Care Act to authorize medical marijuana, provide for a continuing appropriation and declare an emergency.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The bill is amended and does not allow for individuals to petition the DoH to add conditions to the list of debilitating conditions. This change will decrease the DoH's costs for legal fees and personnel time to handle such requests. Also, changes were made that waived the registration fee where the patient is a minor, living in the designated caregiver home and the designated caregiver is the patient's parent or legal guardian. This will impact the amount of revenue collected.

Based on research of other states that have implemented medical marijuana the Department of Health (DoH) based the number of qualifying patients on 5 for every 1000 individuals in the state or 3,800 patients for a full biennium of implementation which would be 2019 – 2021. We estimated the number of patients to be 1,900 during the initial biennium of operation - 2017 – 2019. It was estimated that 50% of the patients would have a caregiver.

Sections 3 and 4 of the bill indicate a $200 fee which can be charged for an application each year for a qualifying patient and designated caregiver.

Section 4 of the bill also requires designated caregivers to have a criminal background check. These expenditures will be incurred by the Attorney General's Office - Bureau of Criminal Investigation and must be paid by the applicant. This revenue would be deposited into the state general fund.

Section 10 identifies the cost for replacement cards - $25 fee.

Section 12 identifies the number of Compassion Centers that may operate as a manufacturing facility (4) and the number of Compassion Centers that may operate as a dispensary (8). The DoH is allowed to register additional dispensaries if determined that additional dispensaries are necessary to increase access to usable marijuana.

Section 14 sets the nonrefundable application fee for a Compassion Center at $5,000, while Sections 15 and 16 provide for a registration of $80,000 for growers and $60,000 for dispensaries. Compassion Centers register once every two years.

Section 28 establishes the registration fee for all agents of a Compassion Center at an amount of $200 with an annual renewal. Lost cards for agents are replaced at $25 per card.

Section 30 establishes a penalty of $150 for cardholders failing to provide proper notification of changes identified in section 30.

Section 42 requires the revenue generated by the DoH to be sufficient to cover all costs of the Department beginning with the 2019-2021 biennium.
Section 2. #1 defines the allowable amount of marijuana for medical use. A registered qualifying patient may not purchase or have purchased by a registered caregiver more than two and one-half ounces of usable marijuana in a thirty-day period. This sale of product will result in sales tax revenue that will be deposited into the general fund and the state aid distribution fund as estimated by the Office of the State Tax Commissioner. However, The Office of Tax Commissioner is unable to estimate the potential income tax revenue that could result from the provisions of this bill. There is not enough information available to make assumptions about the profitability of the growers or dispensaries in the first years of operation.
Contact was made with Workforce Safety and Insurance and the Department of Human Services and the bill is determined to have no or minimal fiscal impact on these agencies. Contact was also made with the BCI and they indicated that with the approved patients and the caregivers not growing the marijuana and the "audits" being conducted of the compassion centers only, the cost to Law Enforcement is greatly minimized. The marijuana testing and all fees are the responsibility of the registered card holders (patient, care giver or compassion center connected employee.
Response for law enforcement assistance, at the compassion center or with a care giver should not be any different for law enforcement as a call for service from a citizen complaint.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

   A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

   2015-2017 - We do not anticipate collecting any revenues in the current biennium.

   2017-2019
   DoH:
   Compassion Centers (CC) Revenue:
   Grow Only Application Fees $5,000 – assume 16 apply $ 80,000
   Grow Only Registration Fees $80,000 assume 4 $320,000
   Dispensary Application Fees $5,000 – assume 8 apply $40,000
   Dispensary Registration Fees $60,000 – assume 4 $240,000
   Add'l Dispensary Application fee $5,000 – assume none
   Add'l Dispensary Registration fee $60,000 – assume none
   Qualified Patients / Designated Caregivers/ CC Agents:
   Qualified Patient – 1900 - $200 fee $380,000
   Designated Caregiver – 950 - $200 fee
   (less 50 caregivers each year where the fee is waived) $180,000
   Agents of Compassion Center – 300 - $200 fee $60,000
   Replacement Cards - 150 - $25 $3,750
   Failure to notify DoH of changes 25 - $150 $3,750
   Total DoH Revenue - Compassionate Care Fund $1,307,500
   Office of the State Tax Commissioner:
   Using patient and consumption assumptions consistent with the Health Department, the Office of Tax Commissioner estimates an increase in sales and use tax revenue of $1.7 million in the 2017-19 biennium, with approximately 91.3% deposited in the state general fund or $1.55 million and approximately 8.7% deposited in the state aid distribution fund or $150,000.
   Office of the Attorney General:
   Revenue from background checks - $50,000 to be deposited to the general fund.

   2019-2021
   DoH:
   Compassion Centers (CC) Revenue:
   Grow Only Application Fees $5,000 – assume 16 apply $ 80,000
   Grow Only Registration Fees $80,000 assume 4 $320,000
   Dispensary Application Fees $5,000 – assume 16 apply $80,000
   Dispensary Registration Fees $60,000 – assume 8 $480,000
   Add'l Dispensary Application fee $5,000 – assume 4 $20,000

Add'l Dispensary Registration fee $60,000 – assume 2 $120,000
Qualified Patients / Designated Caregivers/ CC Agents:
Qualified Patient – 3800 reg. both years - $200 fee $1,520,000
Designated Caregiver – 1900 reg. both years - $200 fee
(less 100 caregivers each year where the fee is waived) $720,000
Agents of CC – 350 reg. both years - $200 fee $140,000
Replacement Cards - 300 per year - $25 $15,000
Failure to notify DoH of changes 50 per year - $150 $15,000
Total DoH Revenue - Compassionate Care Fund $3,510,000

Office of the State Tax Commissioner:
Using patient and consumption assumptions consistent with the Health Department, the Office of Tax Commissioner estimates an increase in sales and use tax revenue of $3.4 million in the 2019-21 biennium, with approximately 91.3% deposited in the state general fund or $3.1 million and approximately 8.7% deposited in the state aid distribution fund or $300,000.

Office of the Attorney General:

Revenue from background checks - $104,000 to be deposited to the state general fund.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

2015-2017
DoH – Expenditures are estimated to be $52,840, which reflects the costs of hiring the Director of the Medical Marijuana program. Other costs have yet to be determined.

2017-2019:
DoH
Total expenditures estimated - $2,390,165 and 12 FTE. The expenditures include ongoing expenditures: salary and wages of $1,452,786 and operating costs (rent, ITD data processing and phone, travel, printing, postage, system maintenance / storage) totaling $641,652. One-time equipment / furniture under $5,000 for new employees of $44,905 and one-time capital costs of $250,822 for a card registration IT system and space / security upgrades.

Attorney General's Office
One FTE - $123,597 and related operating costs of $38,488 to process the background checks for a total of $162,085.

Total combined costs of $2,552,250.
2019-2021:
DoH
Total expenditures estimated - $2,940,081 and 15 FTE. The expenditures include ongoing expenditures: salary and wages of $2,126,515 and operating costs (rent, ITD data processing and phone, travel, printing, postage, system maintenance / storage) totaling $813,566.

Attorney General's Office
Two FTE - $265,692 and related operating costs of $80,824 to process the background checks for a total of $346,516.

Total combined costs of $3,286,597.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Section 43 declares the act to be an emergency measure. Expenditures may be made during the 2015-2017 biennium at an estimated amount of $52,840. No adjustment to 2015-2017 is needed.

The general fund expenditure amounts reflected in this fiscal note have been included in the DoH's appropriation bill - SB 2004 so no additional appropriation is needed. The expenditure amounts for the Attorney General's Office

would require an appropriation. Section 41 of the bill provides a continuing appropriation to the DoH of moneys deposited to the Compassionate Care Fund so an appropriation of this funding for expenditures is not necessary but has been included in SB 2004.

Name: Brenda M. Weisz

Agency: DoH

Telephone: 328-4542

Date Prepared: 02/20/2017

17.0630.02000

FISCAL NOTE

Requested by Legislative Council
01/27/2017

Bill/Resolution No.: SB 2344

1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			$1,600,000	$1,467,500	$3,204,000	$3,850,000
Expenditures	$52,840		$1,488,269	$1,317,500	$346,516	$3,190,350
Appropriations			$1,488,269		$346,516	

1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties			
Cities			
School Districts			
Townships			

2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The Bill creates and reenacts sections of NDCC relating to the implementation of the North Dakota Compassionate Care Act to authorize medical marijuana, provide for a continuing appropriation and declare an emergency.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based on research of other states that have implemented medical marijuana the Department of Health (DoH) based the number of qualifying patients on 5 for every 1000 individuals in the state or 3,800 patients for a full biennium of implementation which would be 2019 – 2021. We estimated the number of patients to be 1,900 during the initial biennium of operation - 2017 – 2019. It was estimated that 50% of the patients would have a caregiver.

Sections 3 and 4 of the bill outline a maximum of $300 which can be charged for an application each year for a qualifying patient and designated caregiver.

Section 4 of the bill also requires designated caregivers to have a criminal background check. These expenditures will be incurred by the Attorney General's Office - Bureau of Criminal Investigation and must be paid by the applicant. This revenue would be deposited into the state general fund.

Section 10 identifies the cost for replacement cards - $25 fee.

Section 12 identifies the number of Compassion Centers that may operate as a manufacturing facility (4) and the number of Compassion Centers that may operate as a dispensary (8). The DoH is allowed to register additional dispensaries if determined that additional dispensaries are necessary to increase access to usable marijuana.

Section 14 sets the nonrefundable application fee for a Compassion Center at $5,000, while Sections 15 and 16 provide for a registration fee for each type of Compassion Center not to exceed $100,000. Compassion Centers register once every two years.

Section 28 establishes the registration fee for all agents of a Compassion Center at an amount not to exceed $300 with an annual renewal. Lost cards for agents are replaced at $25 per card.

Section 30 establishes a penalty of $150 for cardholders failing to provide proper notification of changes identified in section 30.

Section 42 requires the revenue generated by the DoH to be sufficient to cover all costs of the Department beginning with the 2019-2021 biennium.

Section 2. #1 defines the allowable amount of marijuana for medical use. A registered qualifying patient may not purchase or have purchased by a registered caregiver more than two and one-half ounces of usable marijuana in a thirty-day period. This sale of product will result in sales tax revenue that will be deposited into the general fund and the state aid distribution fund as estimated by the Office of the State Tax Commissioner. However, The Office of Tax Commissioner is unable to estimate the potential income tax revenue that could result from the provisions of this bill. There is not enough information available to make assumptions about the profitability of the centers or dispensaries in the first years of operation.

Contact was made with Workforce Safety and Insurance and the Department of Human Services and the bill is determined to have no or minimal fiscal impact on these agencies.

Contact was also made with the BCI and they indicated that with the approved patients and the caregivers not growing the marijuana and the “audits” being conducted of the compassion centers only, the cost to Law Enforcement is greatly minimized. The marijuana testing and all fees are the responsibility of the registered card holders (patient, care giver or compassion center connected employee).

Response for law enforcement assistance, at the compassion center or with a care giver should not be any different for law enforcement as a call for service from a citizen complaint.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

2015-2017 - We do not anticipate collecting any revenues in the current biennium.

2017-2019
DoH:
Compassion Centers (CC) Revenue:
Grow Only Application Fees $5,000 – assume 16 apply $ 80,000
Grow Only Registration Fees $80,000 assume 4 $320,000
Dispensary Application Fees $5,000 – assume 8 apply $40,000
Dispensary Registration Fees $60,000 – assume 4 $240,000
Add’l Dispensary Application fee $5,000 – assume none
Add’l Dispensary Registration fee $60,000 – assume none
Qualified Patients / Designated Caregivers/ CC Agents:
Qualified Patient – 1900 - $200 fee $380,000
Designated Caregiver – 950 - $200 fee $190,000
Agents of Compassion Center – 300 - $200 fee $60,000
Replacement Cards - 150 - $25 $3,750
Failure to notify DoH of changes 25 - $150 $3,750
Total DoH Revenue - Compassionate Care Fund $1,317,500

Office of the State Tax Commissioner:
Using patient and consumption assumptions consistent with the Health Department, the Office of Tax Commissioner estimates an increase in sales and use tax revenue of $1.7 million in the 2017-19 biennium, with approximately 91.3% deposited in the state general fund or $1.55 million and approximately 8.7% deposited in the state aid distribution fund or $150,000.

Office of the Attorney General:
Revenue from background checks - $50,000 to be deposited to the general fund.

2019-2021
DoH:
Compassion Centers (CC) Revenue:
Grow Only Application Fees $5,000 – assume 16 apply $ 80,000
Grow Only Registration Fees $80,000 assume 4 $320,000
Dispensary Application Fees $5,000 – assume 16 apply $80,000
Dispensary Registration Fees $60,000 – assume 8 $480,000
Add'l Dispensary Application fee $5,000 – assume 4 $20,000
Add'l Dispensary Registration fee $60,000 – assume 2 $120,000
Qualified Patients / Designated Caregivers/ CC Agents:
Qualified Patient – 3800 reg. both years - $200 fee $1,520,000
Designated Caregiver – 1900 reg. both years - $200 fee $760,000
Agents of CC – 350 reg. both years - $200 fee $140,000
Replacement Cards - 300 per year - $25 $15,000
Failure to notify DoH of changes 50 per year - $150 $15,000
Total DoH Revenue - Compassionate Care Fund $3,550,000

Office of the State Tax Commissioner:
Using patient and consumption assumptions consistent with the Health Department, the Office of Tax Commissioner estimates an increase in sales and use tax revenue of $3.4 million in the 2019-21 biennium, with approximately 91.3% deposited in the state general fund or $3.1 million and approximately 8.7% deposited in the state aid distribution fund or $300,000.

Office of the Attorney General:

Revenue from background checks - $104,000 to be deposited to the state general fund.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

2015-2017
DoH – Expenditures are estimated to be $52,840, which reflects the costs of hiring the Director of the Medical Marijuana program. Other costs have yet to be determined.

2017-2019:
DoH
Total expenditures estimated - $2,643,684 and 13 FTE. The expenditures include ongoing expenditures: salary and wages of $1,598,174 and operating costs (rent, ITD data processing and phone, travel, printing, postage, system maintenance / storage totaling $746,533. One-time equipment / furniture under $5,000 for new employees of $48,155 and one-time capital costs of $250,822 for a card registration IT system and space / security upgrades.

Attorney General's Office
One FTE - $123,597 and related operating costs of $38,488 to process the background checks for a total of $162,085.

Total combined costs of $2,805,769.

2019-2021:
DoH
Total expenditures estimated - $3,190,350 and 16 FTE. The expenditures include ongoing expenditures: salary and wages of $2,271,903 and operating costs (rent, ITD data processing and phone, travel, printing, postage, system maintenance / storage totaling $918,447.

Attorney General's Office
Two FTE - $265,692 and related operating costs of $80,824 to process the background checks for a total of $346,516.

Total combined costs of $3,536,866.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Section 43 declares the act to be an emergency measure so an appropriation was not reflected for the 2015-2017 biennium.

The general fund expenditure amounts reflected in this fiscal note have not been included in the DoH's appropriation bill - SB 2004 or the appropriation bill of the Attorney General's Office and would require an appropriation.

Section 41 of the bill provides a continuing appropriation to the DoH of moneys deposited to the Compassionate Care Fund so an appropriation of this funding for expenditures is not necessary.

Name: Brenda M. Weisz

Agency: DoH

Telephone: 328-4542

Date Prepared: 02/06/2017

2017 SENATE HUMAN SERVICES

SB 2344

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2344
2/8/2017
Job Number 28065

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Marie Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to implementation of the ND compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: 15 Attachments.

Chair J. Lee: brought the hearing to order. All members were present.

Sen. Rich Wardner, District 37 (0:45-13:40) Introduced the bill, please see attachment #1.

Rep. Al Carlson, District 41 (14:00-25:25) Testified in favor, please see attachment #2.

Senator Heckaman: Could you address local licensure of growers and 8 Compassionate Care centers, that will have to be left up to locals, to approve that licensure?

Rep. Carlson: I'll let Jennifer answer that. I believe we've given authority to the Health Department. There's also a Law Enforcement issue, how this would be monitored, for recreation use or medicinal use, the people passed the Measure, how do we monitor it.

Jennifer Clark, Legislative Council (27:00) Testified neutral, please see attachment #3. Explained attachment #3, cross reference structure, explained format of amendment, traditional drafting would be difficult to read, they would be bound to the sections. Legislative Council got rid of defined terms that weren't used in the bill, and tried to retain the spirit of the Measure. She gave a brief overview of requirements for all parties to be involved in medical marijuana. Began walk-through of amendments (33:00-38:30).

Senator Piepkorn: Didn't Rep. Carlson say very few physician willing to write certification?

Ms. Clark: I don't remember Rep. Carlson talking about the number as it relates to the definition of physicians, for the general population it's got to be a physician with whom you have a bona fide patient-physician relationship, as it relates to the children, there will probably be a limited number of pediatricians who fit that definition in ND.

Senator Anderson: Rep. Carlson spoke about survey that was done regarding physicians prescribing marijuana. This isn't prescribing, they said they wouldn't do that, this is a physician saying a patient might benefit, if it was a prescription, then it has to be filled at a pharmacy, and pharmacies can't handle medical marijuana. The physician can't prescribe it, they'd be in violation of DEA registration, they can say a patient has a condition that might benefit.

Senator Piepkorn: Is that the way the language is in the bill?

Ms. Clark: That's my understanding, but I don't think the bill addresses prescription. I think that's something we use loosely outside of the bill, because that's what we're familiar with physicians doing. Physicians can't prescribe this, it's not an FDA approved medication, they would run into licensure issues, if they actually wrote a prescription. There is a process here, with a form they fill out, in their medical opinion, they think this individual would benefit from the use; it can be for a limited time, resubmitted annually. I'm not familiar with the survey that went out. If it actually said prescription there may have been some misunderstanding with the physician, they would be well aware that they couldn't prescribe it.

Chair J. Lee: We haven't seen the survey, but I'd be surprised if the majority of physicians would be eager to prescribe, even if it were legal. At this point it is illegal, so it is a recommendation.

Ms. Clark (42:05-50:00) resumed walk-through.

Senator Heckaman: Besides being licensed through the Health Department, do the growing sites and dispensaries have to be licensed through local political subdivision? For example, if a center applied to be in Bismarck any requirement by county or city to also license or approve?

Ms. Clark: I don't know there's a requirement, there's authority at local level through ordinances, the centers would have to comply with on a jurisdiction basis. My recollection in the application process there is verification that the selected site would comply with local requirements. There's recognition that the locals may have some regulation over this, before the Department certifies them for a specified location.

Senator Heckaman: So if Bismarck city or Burleigh County would not approve this, then the Health Department couldn't override that.

Ms. Clark: I haven't researched that; my instinct is they probably could override. Planning and zoning might have some opinions about this.

Senator Heckaman: Please find out for us.

Ms. Clark (52:30-55:35) Resumed walk-through. Covered Compassion Centers and application process.

Chair J. Lee: I'm going to point out, on page 56, lines 23-24 it says evidence of approval from local officials as to the proposed Compassion Center compliance with local zoning laws for the physical address, so that does require approval. So we've got that answer.

Ms. Clark (56:05-1:05:55) Resumed walk-through. Covered pesticides, card certification and revocation, violations, nursing homes, inventory and security.

Arvy Smith, Co-Director, ND Department of Health (DoH) (1:06:35-1:26:00) Testified in favor, please see attachment #4. Because this isn't a medical prescription, sales tax will apply to it. An estimate of the income is hard to determine.

Senator Heckaman: Is this what other states do in the taxing realm?

Ms. Smith: There are at least, one maybe more, some states do add an extra excise tax. I can't tell you if that's only recreational or if its medical as well.

Senator Heckaman: They do the sales and income?

Ms. Smith: I didn't look at other states, I can't think of a state that actually uses a prescription, they're all recommendations, so their laws are written like ND's laws, but I can't say whether prescriptions are taxable in other states or not.

Senator Piepkorn: What is the cost of a 2.5 ounce, 1-month supply?

Ms. Smith: $300/ounce, $750 a month plus tax.

Senator Anderson: Looking at your testimony on page 3, under safety, lower half of the page, on the second bullet you're talking about the pediatric use for minors, in that section you say section 2, page 8, line 21, which is the section that applies to pediatric medical marijuana. This doesn't allow smoking for any individual, seems only excludes it for pediatric patients. On the 4th bullet, section 2, page 9 line 23, it says excludes smoking, I don't see where we've excluded smoking for everybody else in the bill except for pediatric patients.

Ms. Smith: I see that my testimony is confusing. Under the 2nd bullet that reference to section 2 page 8, applies to the sentences prior to that reference, the smoking, so it doesn't specifically prohibit smoking, but by the definition of usable marijuana, it isn't included in there, that is how that is presented. I did want to make it clear that smoking wasn't allowed.

Senator Anderson: The definition of usable marijuana is on page 9, line 12 includes only the liquids and oils.

Ms. Smith: (1:31:16-1:34:00) continued testimony, last paragraph.

Senator Anderson: To clear up, in the 1st biennium after the approval that your costs would be higher because of startup costs, but when I look at the numbers $2.6 million for the first biennium, and then you're up to $3.19 million in the second biennium. Could you explain?

Ms. Smith: In the 1st biennium, we won't be doing the work of accepting applications are registrations for patients and caregivers until a year down the road, so we won't incur that expense until later, so these are partial expenses for the biennium, there's no need for staff until product is available. Enforcement staff would not be hired until needed, because there won't be anything to regulate or enforce.

Chair J. Lee: Is there any further information other than on the fiscal note on page 2 under 3a where it talks about the office of the state tax commissioner. This talks about sales and use tax income. Anything further about that or does that tell us everything?

Ms. Smith: That is everything we know at this time.

Ron Martin (1:36:50-1:46:45) Testified in favor, please see attachment #5.

Senator Anderson: One of the things you mentioned was no addresses on the grow centers, one of the things the bill has is to hold the public hearing in the local area about those centers meeting the zoning requirements. Those are in conflict, can't have a public hearing if we don't' want to disclose the address.

Mr. Martin: I'm not sure how you get around that. Every other state redacts that information I would imagine there's some precedent out there.

Chair J. Lee: It is a problem with local political sub-divisions having the right to consider having these located there. Public hearings are going to talk about where it is, because that's a part of the public hearing process.

Joan Lee (1:49:20-1:53:35) Testified in favor, please see attachment #6.

Opposition

Rep. Pam Anderson, District 41 (1:54:45-1:58:45) Testified in opposition, please see attachment #13.

Senator Anderson: Don't you think a child with intractable seizures has been to every neurologist their parents could find? They would go a lot further than Fargo to find that person they thought would help their child, don't you think?

Rep. Anderson: You can't cross state lines, if you only have 8 doctors who specialize and you live in Tioga I don't think it should be limited to just those, I think that's burdensome.

Chair J. Lee: Did you suggest that the pharmacists have locked up spaces, so they should be able to dispense this? The Board of Pharmacy wouldn't be happy about their licensed pharmacists dispensing a federally illegal drug.

Rep Anderson: In some states, they have hundreds of dispensaries. I don't think 8 is enough.

Chair J. Lee: We did hear from Mr. Martin that because of the economies of scale that it is difficult to make it profitable; so yes competition will speak.

Rep. Anderson: It's not covered by insurance so people have to pay. I think more competition will drive down the price. I think that will be beneficial.

Tracy Vearrier (2:01:30-2:03:30) Testified in opposition, please see attachment #7.

Linda Kersten (2:04:42-2:12:50) Testified in opposition, please see attachment #8.

Erik Johnson (2:13:30-2:17:05) Testified in opposition, please see attachment #9.

V-Chair Larsen: There's been a lot of talk about us defeating this bill, we're trying to make the best thing happen. Do you think the state of ND will pick up the tab to implement Measure 5? I don't see how the mechanics will work, the Health Department is saying it can't be done. If this fails and Measure 5 is implemented, do you think it will just sit there as an unfunded entity?

Mr. Johnson: I can't speak to that. We could probably find a better middle ground that leans towards Measure 5 more. Measure 5 wasn't perfect; we've moved so far away from it I don't believe it's fair anymore to the patients.

Chair J. Lee: The fiscal note says $1.6 million in revenues and $1.488 million in expenditures in the next biennium and 13 FTES. Part of that is in establishing the system, it's another thing to maintain it. This is different than the fiscal impact of Measure 5.

Chair J. Lee: recessed until 2:30.

Chair J. Lee: reopened the public hearing. Passed out Cole Memorandum, **please see attachment #15.**

Josh Wehri (2:21:00-2:24:19) Testified in opposition, please see attachment #10.

Gail Pederson (2:25:06-2:31:36) Testified in opposition, please see attachment #11.

Chair J. Lee: Which section were you referencing on the last page? The reporting incidents where someone is not authorized to possess marijuana reference?

Ms. Pederson: That's the one, am I going to have to break patient confidentiality?

Chair J. Lee: Well, if its legal to buy it, and they're choosing to get it illegally, then that would be a problem, that's true.

Ms. Pederson: It's patient confidentiality, and I want my patients to tell me what they're using.

Chair J. Lee: Do you think everyone who voted for it read the entire initiated measure? All 38 pages? The 8 lines on the ballot didn't give all the information. I think they were voting for

medical marijuana, but you can't say that everybody who signed the Measure will be opposed to everything in 2344, or that they supported everything in the Measure.

Ms. Pederson: When you think of marijuana, how do you think of ingesting it? You think smoking it.

Chair J. Lee: The point is it's a simplistic focus point and there's much more to it. That's the complication of initiated measures, there's no way to put the whole thing out there on the ballot.

Anita Morgan: Testified in opposition. Everybody has covered what we're concerned about, patient fees, wanted to thank whoever authored the legal protections maintenance of privacy.

Rene Mitchel: Testified in opposition. Is a small business owner from Fargo. Wanted to add perspective; other things that are legal: alcohol contributes to 88,000 deaths per year, tobacco use contributes to 480,000 deaths per year, prescription drugs contribute to 110,000 deaths, how many deaths per year attributed to marijuana?

Chair J. Lee: We don't know; you can't record deaths due to illegal drugs use, necessarily.

Ms. Mitchel: Stated that the government would make sure we knew about them if they could link them, that humans are biologically hardwired to interact with marijuana, and it should just be all legal so we don't have to spend so much money on regulating. Stated that she's sure everybody who voted for the Measure was expecting to smoke it and asked the committee if they were going to represent the people or themselves.

Return to Neutral

Kevin Cross (2:41:15-2:48:20) testified neutral please see attachment #12.

Chair J. Lee: Ended public hearing.
After the hearing, Attachment 14 containing personal testimony from citizens was submitted.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2344
2/13/2017
Job Number 28275

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Marie Dunn

Explanation or reason for introduction of bill/resolution:

A bill relating to implementation of the ND compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: Attachment #1. Common complaints

Chair J. Lee: 4 leaders, Arvy Smith from the Health Dept., Rebecca Ternes from the Governor's office, Wayne Stenehjem, Tara Brandner attorney for Health Department, talking about 2344 objections, AG office came up with common complaints, please see attachment #1, no smoking was common, read what I sent you from Colorado, do about smoking med marijuana in presence of children, pregnant and smoking we have strict rules for other kinds of smoking, think about addressing that somehow.

Senator Heckaman: Suggestion AG allow limited access, physician feels need that product vs pill or oil, vaping is allowed, the AG had appropriate language especially PTSD, and cancer patients that maybe need to have that smoke-able product and he was suggesting some language. We are not promoting smoking, but were allowing physician to determine what product that an individual can use for the medical marijuana.

Senator Piepkorn: Someone has to get a prescription from a medical doctor? So what are you just talking about?

Chair J. Lee: Recommendation, it's an illegal drug.

Senator Piepkorn: What weight does that carry?

Chair J. Lee: Enable them to get a registration card then which will enable them to purchase it.

Chair J. Lee: Vaping is allowed both in the initiated measure and in 2344.

Senator Clemens: You mentioned smoking for cancer and Post Traumatic Stress Disorder, the only two that there is evidence that it would help, it is them two?

Senator Heckaman: There's evidence that those are the two conditions that a smoke-able product is more effective than the pill or the oil. Your doctor has to say you need it. Not everybody will get it, I'm not sure how you're going to regulate it, the AG wording that we have to be comfortable with it, we have to be comfortable with it, given the fact that we've so hard on getting people not to smoke, anything, but this is ok, had meeting not used as heavily as a nicotine product, this last longer than nicotine product. The nicotine effect wears off and then you have to have another cigarette to take care of that, and this apparently lasts longer.

Chair J. Lee: The quantity will be lower in 2344 compared to the initiated measure, because it was too high. What we learned is that 3 ounces every equivalent of 250 joints.

Senator Clemens: Smoking marijuana, is that harmful to lungs? I imagine it is, it's smoke.

Senator Heckaman: I don't know. I don't have a lot of evidence on why you can't.

Chair J. Lee: I can't imagine it's any better for you than tobacco smoke.

V-Chair Larsen: It lacks nicotine, which is the harmful part, they're not touting that. We know that the measure is passed because a large number knew they were going to be able to smoke it. I handed out an email address that talked about, my thought allows them something to smoke, if you are being stopped med marijuana in your hand, you can't physically look at that and see. Use what's called hash or a butane hash oil, which isn't refined all the way down to the oil form, so then when you look at it, if you see the hash or the manufactured smoke-able product, not everybody in recreational field, can mimic it, these dispensaries do the additional production, then they don't have to vape it, they can smoke it, then we can allow smoke it, we will know the difference. That's an option to put into this bill. My fear is this, people already self-medicating, they're not going to search out, vs illegal. Senator Anderson said there is 2 pills coming out. I'm sure they'll be saying get this pill insurance company will cover, through the doctor not the suggestion of what their getting through the dispensary. So, I think that's going to go by the way side, dispensaries have off brand FDA pot pill. These people are wanting to some it, and if you give it to them, you can't determine the difference of those unless your lab determines it.

Senator Clemens: Allow smoke for cancer PTSD, then they get card, if you got the card, you're ok, no card, not ok. Allow smoke for the 2 diagnosis, we've fulfilled that part of the bill, I think might be a solution.

Senator Heckaman: That's an easier solution that Senator Larson's concern about this but, if you're stopped by a cop, you'll have a card that tells how much you can have with you. That decriminalizes the issue right there. I wouldn't know how much it would be.

V-Chair Larsen: Here's the problem, so I have my card, and I want to have my med marijuana, I can grow my own 8 plants, they'll have that hash product, grow plants in home can't make hash in your oven like you can manufactured, it's another step that it's going to be harder for them to produce and make, so when you get pulled over. If your allowing people to distribute it or not, or allow people to smoke for medical marijuana, and I have my card, I can guarantee you, I have my card, I am not going to the dispenser anymore, I am growing

my own. They're not going to manufacture hash in their kitchen. If you give them marijuana they can smoke, they'll grow their own. We've got to try to make it hard. When we put these roadblocks in the way, they'll just revert back to recreational.

Senator Kreun: What do they do in Colorado? Are they growing their own?

V-Chair Larsen: They are growing their own. They're not supposed to. They go once, get the barcoded container, refill it from home. You don't see hash at the Colorado or Washington or these other places because it is another manufacturing step that there not going to take time in doing.

Senator Kreun: What you're saying the smoking should be only with the hash?

V-Chair Larsen: Because it has a finger print. Now there will still be people making hash, you're not going to get a cancer patient who will manufacture but they will and they are going to self-medicate now.

Chair J. Lee: I think you should talk to Wayne and Arvy. Because if they are working on the amendment and Jennifer Clark too.

V-Chair Larsen: I have heartburn over the price of the card. We can tax it; I believe we should fund a large portion from the state. If you force me to buy a $200 card, I'm growing it in my back yard.

Senator Heckaman: The card funds the startup costs. They expect that. The bill says up to $300, Arvy's expecting that to drop off, every agency is cutting, hopefully down the line, drop that cost, after while down to a minimal. Right now they have no way to pay for this, so # 5 the people that drafted measure 5 didn't put in a funding mechanism in here and that's a big part of that. Because there are full time employees, going to have to work on this, start at $200 maybe not even that.

Chair J. Lee: I'm resentful that money is going someplace beside public health in the health department budget.

Senator Clemens: Language in measure 5, the act would provide for an identification card and registration which would be issued by the Department of Health. It doesn't get into the price, but it says.

Chair J. Lee: The proposed bill says $300, recommended actually by Rep. Weisz, that it would be an up too number, but in the discussion that we had last Thursday, the feeling was to have a flat figure that was lower, would be more acceptable because people are getting bent out of shape about the fees, but it's not going to be free. I did ask that this be shared with you, Kevin Cross, who was one of the people who testified last week had talked about taxing manufacturers and dispensaries, to help fund the program. For your info, go through rest of chart. Background checks were for both designated care givers and compassion agents, no felony offense or drug related misdemeanor convictions, 5 years prior to application. So both of them are the same. The fees for the compassion centers in 2344, the application would be, the growers would be $80,000, and the distributer would be $60,000

for a 2-year period. In the initiated measure it was $5,000 with a $25,000 license fee for 2 years. Again there has got to be a way to start this stuff up. The fee for the cardholders the measure didn't specify a figure, 2344, would be $200 for caregiver, $200 for a qualified patient, parent just one fee. Age for minor would be 19, no consumption by anybody still in high school. Initiated had no restrictions regardless of age. Business model nonprofit is required none for profit model but you can't get that because it's illegal federally, can't have it anyways. Apply in the 501c3 designation anyway. It's in that perfect initiated measure.

Senator Heckaman: They still would be able to apply through the Secretary of State as a non- profit?

Senator J. Lee: They can apply in the state, but they cannot get a 501c3 designation.

Senator Heckaman: 501c3 is a federal designation and they are not able to get the federal number that they want for that for writing off donations.

Senator J. Lee: Yes, they wanted donations.

Senator Kreun: What do you mean?

Chair J. Lee: Oh that they are so benevolent that they give money to various charities.

Senator Heckaman: Fund them and write off if 501c3 they can still apply as a nonprofit through state.

Chair J. Lee: North Dakota residency for compassion care agents, both measure and bill requirement. Quantity moving lower so as not to divert to the illegal market, although it's going to happen anyway. The background checks language in bill follows Cole measure. Not going to prosecute states that have medical marijuana, that are trying to comply with their lists of regulations that the feds think are appropriate, so the language in the bill is compliant with that. But the really big deal initiated measure did not decriminalize possession of marijuana, if you have it in your possession you will be a criminal if 2344 does not pass in both Houses. If we don't get 2/3 majority in both House's it goes back to the initiated measure and then you will be a criminal if you possess it. Guess what they forgot a pretty important part in the initiated measure. Review of the things we talked about in the meeting last week and stuff that will be coming up and we know that there are amendments that come will be a first draft kind of thing, and we'll all have to be going over them again.

V-Chair Larsen: On pg 7 line 1 some people covered the Hepatitis C issue, currently state pays for Medicaid expansion, anybody on hepatitis, unfortunately group like to start using recreational marijuana, if they fail a drug test, they're kicked off that. Something needs to be said that. If the state pays for Hepatitis C treatment, drug testing folks to save money if this passes, the Hepatitis C folks who are self-medicating or go get their card. That's a hiccup spot there. I don't think we want people self-medicating, if I understand the therapy, being on marijuana doesn't help it, it slows the process.

Senator Kreun: What does it say in the measure about this kind of stuff.

V-Chair Larsen: They shouldn't be on it Hep C. Prior to drug testing them, they were running through the whole process and paying for their Hep C programs while they are still self-medicating, and it wasn't working, avenue they could take to stop wasting money on it.

Chair J. Lee: Maybe we need to say caused by Hepatitis C, not under current treatment.

Senator Kreun: So they shouldn't have medical marijuana?

V-Chair Larsen: That's what my source says. They should not be on medical marijuana when they're taking their Hepatitis C that the state is paying for.

Senator Kreun: They get to make a choice then?

Chair J. Lee: If we look, if someone who isn't under treatment, with that drug, because not everybody is, they want to use it, they could be eligible, but that's why we maybe need to talk about something like that under current treatment. That may not be the right verbiage.

Senator Kreun: What happens if they're under treatment, try it, then tested.

Chair J. Lee: I don't want to waste $86,000 on people who don't even care enough to continue the treatment.

Senator Kreun: I know that's why they need to be tested and as soon as their tested with whatever drug that is not compatible with their Hepatitis C, then they are off.

Senator Heckaman: Maybe we could have Ian check with department to see if what their thoughts on are that? Because I would say if you're in the state penitentiary you're not going to get it anyhow.

Chair J. Lee: Veteran of Vietnam, they could be on expanded Medicaid. They are not on Medicaid if they are in the pen because we can't cover them there.

V-Chair Larsen: I can understand cancer; why would you need marijuana for Hepatitis C?

Chair J. Lee: It's not, for decompensated cirrhosis.

Senator Anderson: Decompensation means that as you get sicker, your liver gets worse, and consequently the cirrhosis gets worse, so your Hepatitis C gets worse, it's a kind of a downward spiral. Once you get into decompensation, then your heart pumps faster you're your congested heart failure gets worse and your heart pumps faster yet, then it gets worse.

Senator Clemens: That was Hepatitis C was in original, new bill added "caused by".

Chair J. Lee: That makes sense though, Ian you want to ask Arvy Smith in the Health Department about that.

Senator Anderson: Brendon in MA would know.
Chair J. Lee: Recessed until after lunch.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2344
2/13/2017
Job Number 28305

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Marie Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to implementation of the North Dakota Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: **Testimony attached #** 1,2,3

Chair J. Lee brought the meeting to order for committee work on SB 2344. All committee members were present. Joan Lee, Arvy Smith, and Tara Brandner were also present.

Chair J. Lee discussed the amendment. (see attachment 1)

V-Chair Larsen: "Is there a reason we can't have the age at 18?"

Chair J. Lee: "That would mean someone would be in high school."

Senator Piepkorn: "What's the $200 per year for?"

Chair J. Lee: "It is for the qualifying patient registry identification card. You have to get one every year."

V-Chair Larsen: "I'm not a fan of the non-refundable part."

Senator Piepkorn: "Is this a fund raiser then? For this $200 dollars?"

Chair J. Lee: "Part of it is needed to get this thing off the ground."

The Committee continued reviewing the Amendment.

V-Chair Larsen: "So we're going from the basement of a felony to the middle of the road felony? My concern is does the punishment fit the crime in this new legislation? It seems stiffer than it should be. I'm wondering where the registry of cardholders is kept? I think I put that in an amendment, but I haven't seen the amendments come down from Jennifer yet. I think there should be transparency on this. When you sign up for a cardholder, that you go

into a database. So if you get pulled over that will come up when you get pulled over or when you go to the doctor, all that comes up. I know there's the HIPAA scare, but in this issue, there should be total transparency, so everybody knows who's got the card."

Senator Anderson: "There's still no smoking in here?"

Senator Heckaman: "Yeah, there is."

V-Chair Larsen: "I didn't see it in the amendment, and I don't think it's in the bill."

Off-microphone discussion followed that was inaudible.

V-Chair Larsen: "So a designated caregiver applying for an application, they put forth their money for the application process, but during the application process they are found to have a felony conviction four years ago. So the $5000 is nonrefundable. I have a problem with that. I need an example of something else where you give an application fee and you don't get that back.

Senator Kreun: "Pharmacy license, I believe."

V-Chair Larsen: "Do you get your money back for a liquor license? I'm going to apply for a liquor license, I can't imagine they wouldn't give me my money back if I was denied."

Senator Kreun: "You don't have to go through a background check for that."

V-Chair Larsen: "Has everybody matched the amendments up to the bill? Is there any heartburn in any parts of it?"

Senator Anderson: "What was the reason for making felony convictions more severe?"

Senator Heckaman: "I don't know about that. We talked about that, that must have been something that they did internally through the AG's office after we left."

Senator Anderson: "I wonder if was because those violations in other parts of the code were similar to those new felony convictions?"

Senator Heckaman: "That may be true."

V-Chair Larsen: "I was looking for the consistency part of that. I know they want the age down from 21-19, so kids in high school won't have access, but we can be drafted at 18, we can smoke at 18, I can boat at 18. Also, we haven't talked about smoke-ables, these high school students are still only getting the pill and the oil. Due to the cost of the oil at $1700 dollars, my guess is they are getting it in the pill form? I don't have a problem with an 18-year-old getting prescribed Codeine; so I don't have a problem with an 18-year-old getting prescribed this in the pill form."

Senator Anderson: "Again, it's not a prescription it's just a recommendation."

V-Chair Larsen: "That's my point, these folks are going to get it. We're not talking about the smokable form so why not give it to them when they're 18-years-old? Why not give it to them when they're in high school?"

Senator Anderson: "Senator Heckaman asked how they are able to prescribe that, that's because Tetrahydrocannabinol was specifically categorized as a Class III Controlled Substance several years ago when the product was originally marketed. It actually has tetrahydrocannabinol in a liquid capsule; a gel cap. There's a new drug that will be introduced that has Cannabidiol in it, and that's the other active ingredient in marijuana. Which will also be available by prescription. When that becomes active we will probably schedule that right away; probably a Schedule III or Schedule IIII, so it can be prescribed right away."

V-Chair Larsen: "Is that in a gel cap form?"

Senator Anderson: "It's not, I'm not sure it can be smoked. Regardless, it is illegal to take a medication in any other way than what it was prescribed, unless given approval by your doctor."

V-Chair Larsen: "Can it be injected?"

Senator Anderson: "Yes."

V-Chair Larsen: "My personal opinion is that it doesn't matter what age you are to be prescribed it."

Senator Heckaman: "The industry is not complaining about any of the fees at all. I go back to the bottom line on here, and it's whether cities and counties are going to allow anything in their city and county."

V-Chair Larsen: "The dispensaries are at the eight district health units currently? Are they approving the dispensaries?"

Senator Heckaman: "They're going to okay eight dispensaries, but it doesn't say they're in the health units; it has nothing to do with the health units. We have an issue; we don't see any language in here that allows leaves or the flowers."

Chair J. Lee: "No, and there's supposed to be."

Senator Heckaman: "Tara from the AG's office will be checking on that for us."

V-Chair Larsen: "Where is the section where the diseases are covered?"

Chair J. Lee: "Pages 6 and 7."

V-Chair Larsen: "We want to keep this tight. I can see people coming in and ask what about this illness, and what about that illness. I think we should cut that part out and just leave it to what we have now. We can always change it later depending on what people think. Then bring that in as a bill amendment after the bill has passed."

Senator Anderson: "Whatever the Health Department (HD) decides would have to be done by rule, we could certainly add those in two years if those came to the legislature and said we want to have one of those."

Senator Heckaman: "My recollection of this is to be allowed by rule, but they would have a procedure to follow to petition the HD to add a condition. There's a mechanism in here, so if a medical practitioner has suggestions to add diseases to this bill then there would be a procedure to do that."

Senator Piepkorn: "The two main things people are upset about is the smoking and the cost. I think due to fair estimates; a person could look forward to $10,000 a year when everything was added up. That much money would drive people to grow their own."

Senator Heckaman: "I think the cost is fine, when my brother had cancer, even after his insurance paid, his personal payments were $4,000 a month for his cancer treatment drugs. I don't think this will make people do it illegally. I don't think our bill is going to add to that. I think our bill will give those people who really are sincere about using medical marijuana the opportunity to do it without becoming criminals, and that's where I'm at with the bill."

Chair J. Lee: "On page 54, lines 28-30, why was that confusing again, Joan?"

Joan Lee: "Reversing the English grammar in the sentence. A person may not cultivate, manufacture, or dispense marijuana unless the person is registered as a dispensary or a manufacturing facility. So if you reverse that, a person who is registered at a dispensary may cultivate, dispense, or manufacture marijuana – that's the way I read it."

Chair J. Lee: "But the dispensary, isn't supposed to be able to grow marijuana?"

Joan Lee: "Correct."

Chair J. Lee: "That needs to be rewritten so it's clear, maybe it takes two sentences? Seems to me that would be the cleanest way to do that."

Senator Anderson: "In the original bill it wasn't separated."

V-Chair Larsen: "On page 54, line 1, it says a resident can submit a petition. I don't like that. They have to go to district court to petition this, I say just let it run."

Senator Heckaman: "I've spoken with people in the House and they question whether it's convenient for everybody to be scheduled in the Burleigh County District Court, and why couldn't it be in their local jurisdiction?" That was one issue, another issue regards pediatricians. I was talking about some language that would say, 'in consultation with a pediatric specialist,' a child would have seen . . . I don't know. Something like that."

Chair J. Lee: "Can we find the page about the pediatrician?"
Chair J. Lee found the page - Pg8 very bottom, lines 26-30.

V-Chair Larsen discussed how he believes keeping the consistency of the age of 18 would match up with other regulations.

Chair J. Lee: "People whined about the age being 21. We backed it up to 19 and not 18 to keep the age out of high school."

V-Chair Larsen: "If we look at the listed diseases here: epilepsy, is usually for children under the age of 18; Alzheimer's, we're not going to have that as a child disease. I haven't heard a word about people who voted for Measure 5 saying they want this on the list, and this on the list, and this on the list."

Arvy Smith, Co-Director of the North Dakota Department of Health: "We got questions about AHDH. I don't know what the science is for that?"

Chair J. Lee: "Let's take it out and see what the House says."

V-Chair Larsen: "Then that eliminates 1-7 on the next page on page 54. The great thing would be to develop this and let it breath. I can see Burleigh county get inundated with petitions the first two years."

Senator Anderson: "Any additions would be made by future legislation."

Arvy Smith: "Our list is very comprehensive when compared to other states."

Chair J. Lee: "We talked about the 19-21 age, is there heartburn about that?"

Arvy Smith: "The original measure had no age restriction."

The committee discussed the issue with the age and how they considered a minor being age 18 and younger.

Arvy Smith: "If we could somehow write it so a child under the age of 18, or whatever we want to put for an age, if we can write it that the pediatrician could write the recommendation in consultation with one of these specialists, or if the child has a history with one of these specialists, that'd be best."

Chair J. Lee: "Let's see what we can do to loosen that up."

Senator Heckaman: "I think somewhere along the way that that child would have to be seen by a specialist."

Chair J. Lee: "Does Tara have an amendment on the leaves and flowers?"

Arvy Smith: "The smoking I did not see in these amendments either. What was discussed is that if the physician certifying says this is the best way for this particular person to receive this, then we would do it."

Tara Brandner, Assistant Attorney General, was called up to testify.

"I provide legal guidance to the North Dakota Department of Health, so I am here at that capacity. I think what the intent was is that we would go in and revise the definition of written certification which is made by the physician in order for you to get the marijuana, and we would say something to the effect of, 'the physician would have to say that you won't benefit from any other form of marijuana.'"

Senator Kreun: "So the only way you would be able to smoke is if there's no other way. What about vets with PTSD?"

Tara Brandner: "Your physician will say that the other forms won't benefit you."

V-Chair Larsen: "Could we have that language in the form of the butane-able hash oils instead of the leaves and flowers, because that brings up my concern that I don't mind them smoking it in the hash form, because that is smokable. That gives a fingerprint that is easily identifiable as compared to the leaf and the flower."

Chair J. Lee: "Could you do some research for us on Senator Larsen's comment?"

Tara Brandner: "Yes."

Senator Piepkorn: "I see the scientific logical step here; I just don't think it will fly."

Chair J. Lee: "If it's that or nothing, if they really care about the treatment, and not just about getting high, they should be okay with it."

Tara Brandner: "The language in the proposed bill right now may be broad enough to allow that as is without an amendment."

Chair J. Lee: "Well if we want to make sure it isn't grown; would it be useful to mention it?"

Tara Brandner: "It may be, yes."

Senator Piepkorn: "What does it cost to see a physician to get the recommendation?"

V-Chair Larsen: "$150 for office visit."

Chair J. Lee: "Why should that be cheaper than any other visit? You could just have a checkup with your physical and get this too."

Tara Brandner: "Did you have questions regarding jurisdiction?"

Chair J. Lee: "Is there a reason for the Burleigh County thing, or is there an option for other district courts?"

Tara Brandner: "We basically followed the process for concealed weapons. Burleigh County will have more expertise."

Arvy Smith questioned the manufacturers and dispensaries all having to be agents of North Dakota.

"I think the decision was not to change that. I still wonder about our border people and the odds of them going across the border."

Senator Anderson: "I think they can find investors in North Dakota.'

Senator Piepkorn: "It seems that restricting this strictly to North Dakota is going in the opposite trend of what we are currently doing."

V-Chair Larsen: "What's the big rub? I can't live in Florida and decide to come up and do this. Why does it matter? As long as I'm not a felon then it shouldn't matter."

Arvy Smith: "The fear is people from out of state may come and take over."

Chair J. Lee: "Talk to us about felony increases."

Tara Brandner: "We increased felonies from c to b. The idea of that was that our division has gone through it and right now if you're caught selling it on the street you are essentially charged with a class b felony not a class c felony. So we have gone in and basically evened it out to what it is now."

Chair J. Lee closed the hearing on SB 2344.

No motions were made, attachments #2 and #3 were provided via email after the hearing.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2344
2/15/2017
Job Number 28429

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Sandy Baumgartner for Marie Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to implementation of the ND compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: #1, #2, #3

Tara Brandner: This is the 2006 version #1, #2, #3 and should contain all of the original ones except the things that we decided to be changed. It will include additional changes.
Chair J. Lee: I can write on the 2000 version.
Tara Brandner: Manager number on page 6 line 25, those changes and anything related to that were from Secretary of State Office, and they allow Compassion Center to be a nonprofit corporation, a nonprofit LLC or a corporation. So that is that change. Then on page 7, line 21, those are all just housekeeping items. All the way up to page 8 line 17, replaced 21 with 19. That was one you had decided in committee. That's changing the age of a minor from 21 down to 19. So up until 19, an individual would be required to have a parent act as a designated care giver. That person would have to purchase their useable marijuana and that could only be pediatric medical oil. Page 8, line 29, we removed the specialty so the pediatric neurologist pediatric gastric enologist and the pediatrician and what else was there before, and we just said pediatrician. That was a change at the request of the committee.
Chair J. Lee: Were we going to say "in consultation with specialist"?
V-Chair Larsen: They can see a pediatrician. They have to have a consult with a specialist but, they don't have to go to the specialist each time they get their prescription filled. In the bill, every time they went to get the prescription filled the suggestion was, it had to be from the specialist. This way the pediatrician can confer with the specialist. That has to be in the record.
Tara Brandner: I can clarify a little bit. The way it's set up, they will come in after having a written certification from the physician, and they will have to renew that every year. If it was a child, they would have to see the specialist every year.
Chair J. Lee: The struggle is if there are only 8 in the state.
Tara Brandner: So you would only want them to have that initial consultation.
Senator Anderson: (audio too poor)
Chair J. Lee: Consultation with initial consultation with a specialist.
Senator Anderson: It could be any. As long as it can reach out to them.

Tara Brandner: So something to the extent, that a pediatrician will make the recommend after consultation with one of these.
Chair J. Lee: It doesn't have to be an in-person-visit or an examine by the specialist. It can be communicating with the specialist.
Tara Brander: You have to have something in that the child has seen one of these.
Chair J. Lee: I didn't think we were going to say that they had to see them. It just says that the pediatrician would be in consultation with a specialist.
Senator Heckaman: On Line 29 where it says, the physician must, then insert, "be in consultation with," and leave that. That is what we would insert.
Chair J. Lee: No, must be a pediatrician who would be in consultation.
Senator Heckaman: Is it going to be any easier for them to consult? Let's try it as see if it flies.
Chair J. Lee: They could do it by phone. I just want to make sure we are on board for everybody. That is what I was thinking we would do.
Senator Kreun: How often are we going to ask them to do it? Just a consultation once a year?
Chair J. Lee: Annually, but with regular visits to pediatrician. It may not be a chronic condition. It may not be going on for the rest of their lives.
V-Chair Larsen: Example would be epilepsy. Many people have it and take meds or don't take meds because of the drawbacks. They would have to confer with this person first to keep that going. I know someone now who has epilepsy and they are not taking anything.
Senator Kreun: If these people are sick, they're going to consult with a doctor more than once a year.
Chair J. Lee: They'll still be consulting with a pediatrician, but the specialist consultation with the pediatrician would be once a year. Because there is not enough of them in the state.
Senator Kreun: For what reason?
Senator Heckaman: To get the certification, to get certified.
Senator Kreun: So you're given medication and the consultation is once a year. Is that how a regular pediatrician or any other doctor consults with a sick person to give him medicine?
Chair J. Lee: The pediatrician is capable of following up on whatever recommendation that the specialist would have given him.
Senator Kreun: Who's giving the recommendation?
Chair J. Lee: It will be a miracle if anyone of us does that.
Senator Anderson: If their pediatrician who they see regularly wants to recommend marijuana use, then that pediatrician needs to consult with specialist before they make that recommendation annually. They can still see the individual every two weeks, if that is appropriate care. But in order to recommend marijuana, they have to have this consult at least once a year with this other individual.
Chair J. Lee: I know not everybody loves it. The way we are talking about it, but I want to know if 4 out of 6 thinks it is okay.
V-Chair Larsen: The pediatrician has this client, then they step out and ask the specialist, that conversation between the specialist and the pediatrician might say I want to consult in 6 months or see them person. Let them communicate before to push. Maybe they won't.
Chair J. Lee: I think we have to have some confidence in the professional behavior.
Senator Anderson: I think it remains that that person's pediatrician is who makes the recommendation. We're not asking that consultant who might be in Washington to make any recommendations specifically except to the pediatrician. From there the pediatrician takes it.
Senator Kreun: Why would you even have to consult with that other person?

Chair J. Lee: I have an expert idea.
Senator Kreun: That pediatrician would be doing that even if the child was sick anyway. It doesn't matter, I guess.
Chair J. Lee: I have confidence in the pediatrician and specialist.
Tara Brandner: I understand. On line 29, the physician must be a pediatrician who consults with a pediatric neurologist pediatric gastrologist. If we are done with that, pg. 10 line 29. That is the change from non-refundable to annual. We just call it an annual fee.
V-Chair Larsen: That's throughout as well. It will be replaced throughout. It is just not on that one line.
Chair J. Lee: Then we add the 200 there.
Senator Heckaman: That's not how its written. It says page 10 line 29. It not after non-refundable insert annual.
Tara Branner: I apologize, I misspoke.
Chair J. Lee: That is right.
Senator Heckaman: Why would we say non-refundable annually? We don't get half of it back.
Chair J. Lee: If they pay the fee they pay the fee. We are not pro-rating it.
V-Chair Larsen: I'm confused I thought I wanted the nonrefundable out, they can pay every year but if something happens and they don't get their application. Then they don't.
Chair J Lee: If they don't get their certification they get their money back.
Tara Brandner: No, the intent was.
V-Chair Larsen: My intent is I'm going to apply for my application and pay my fee, if I get my application I get my money, every year I will pay my money. But if a year or 2 years, or when I'm applying I want my money back if I don't get my application.
Chair J. Lee: But it still cost money and time for application.
Tara Brandner: The other thing that this will allow annual after nonrefundable is if a patient applies at the beginning of the year and they are on the program for 2 months, and then reapply in July, since they have already paid that fee they wouldn't have to pay again in the year.
Senator Anderson: There is no place where this says calendar year? It would be a rolling date.
Tara Brandner: On page 11 removes line 1-2. That is allowing the department to establish a fee not to exceed $300.
V-Chair Larsen: I was in favor of $25 for the fee. I want it on record.
Chair J. Lee: There isn't any state that that is $25.
V-Chair Larsen: I was just looking out for measure 5 folks.
Discussion followed:
Tara Brandner: The cleanup on pg. 11 and removing lines 1-2 pg. That is just cleanup language on fees established on the previous page. On page 12, after line 10 we would insert this language. This would essentially allow the department to wave a fee for a child who lives in the home of their parent who had to pay a fee to be their designated care giver. Next one just specifies again that it is an annual fee. The next one, pg.13, line 22, is a fee of $200. Again that will just give the amount. On the next one we're removing the caretaker and replacing with caregiver. It's just a clean-up item. Page 50, line 23, replace card holder with compassion center. This allows the department of the departments need to come in and come in if they have a reasonable suspicion that for some reason the compassions are violating this act. The way it is written right now, it would allow the department to do that for all cardholders, which would be qualifying patients designated caregiver. It allows them to

enter their house. We are trying to do with this language to limit that down, so the department would only be able to enter a compassions with reasonable suspicions. It means automatically. Page 50, line 26, Again it is just cleanup. We are replacing that registered designated caregiver with cardholder and on both line 26 and line 29. On page 50, line 31 is just replacing section with chapter. Continued on with explanation. Questions and clarification followed intermittently.

Senator Anderson: On page 68 line 28-30, a personnel record for each compassion center agent for a period of at least 3 years, is there a logical reason for keeping that record?

Tara Brandner: The original measure required it for 6 months, it was thought that if there was a criminal investigation at a later date 6 months was too short. So that was increased to 3 years.

Tara Brandner: Explaining the bill changes continued.

Chair J. Lee: We are eliminating #6, the first sentence on pg. 73.

Tara Brandner: Explanation continued on bill changes.

V-Chair Larsen: Hash oil is a process before oil but the process is before that, so it should go hash oil, a liquid including an oil. If you want the order of operation it would be hash oil, a liquid including oil, or a pill.

Senator Piepkorn: Does that just go in with the rest of them?

Chair J. Lee: We will decide if we want to include, but that is something recommended we include.

Tara Brandner: The intent of using the word oil was to include hash oil. That should be inclusive of hash oil. Say the form they could purchase would be a pill, a liquid, an oil. We tried to stay away from telling them how they could use that. Essentially, they could take the liquid, they could take the oil, or they could take the pill and use it how they choose. They could take the oil and bake with it. They could take liquid and vaporize it. This was just to define what forms are available and how you use it is your choice.

Chair J. Lee: In your opinion, you don't need the distinction of oil and hash oil?

Tara Brandner: Correct.

V-Chair Larsen: Hash is not an oil. So are the manufactures going to be making hash as a product and the liquid product and the pills as a product? We are getting the pills from the FDA. If that's the clarification I'm ok with that.

Tara Brandner: Perhaps it would be beneficial to the committee to define what an oil is.

V-Chair Larsen: Could include hash? Yeah. Expand the definition of what oil is.

Chair J. Lee: It's better to spell it out so people understand.

V-Chair Larsen: A liquid including an oil doesn't mean hash to me.

Senator Anderson: Who knows more about it than we do?

Senator Kreun: You can smoke hash, but you can't smoke oil.

V-Chair Larsen: You don't smoke oil; you cook with it.

V-Chair Larsen: It's called Butane, BHO, butane able hash oil. It falls under the category of oil. That's why I am confused. I have never called hash, hash oil.

Chair J. Lee: You get excited about anything with butane in it. It could just blow up.

V-Chair Larsen: That's why it is manufactured to make that product.

Chair J. Lee: It's not going to light on fire, but if you buy it, is it going to blow up?

V-Chair Larsen: Hash isn't combustible in that form.

Tara Brandner: Under this measure it would also need to be tested to make sure no solvents.

V-Chair Larsen: Exactly

Senator Kreun: You're manufacturing medicine here.

Chair J. Lee: The FDA isn't there to make sure everything is done correctly.
Senator Kreun: no audio
Chair J. Lee: Is that concept acceptable?
V-Chair Larsen: The only way I can move forward with a smoke-able form is if it has a fingerprint. If we see it in the leaf or bud form in one hand and recreational in the other, there is not distinction unless you take it to a lab. So when you pull somebody over on the road and they show it to you. We don't know. If we pull them over and they have a rock of hash in the pillbox we know that it might be counterfeit. It is a lot harder to counterfeit then the weed or the flower. That's the whole origin of the amendment.
Tara Brandner: I want to clarify for my sake as I go in and make the amendments. My understanding is that this is a hash oil, so the end product that the consumer would get would be an oil not a solid.
V-Chair Larsen: It is a solid. They call it wax or snap. Those are the street forms.
Senator Piepkorn: We have a failure to communicate. Using a common word oil and we know what that is. Hash oil is a solid, that's what it's called. It is not a liquid. It is a term.
Senator Anderson: I think hash oil or hash is a resin clears it up. You have a rosin. You extract form plant using butane.
Chair J. Lee: I'd like to have something we can all agree. I want to know about pg. 54. We need 2 sentences instead of 1. That's just language tweaking, but we have to fix it.
V-Chair Larsen: I thought you'd submitted those sentences.
Senator Anderson: We would break those into 2.
Ian Arendt: Jen said to tell you that it's not a specific clause and it doesn't allow you to manufacture, they specifically left it that way.
Tara Brandner: She's saying a person may not cultivate manufactured dispense marijuana or otherwise act as a compassion unless registered as a dispensary or manufacturing facility. What this is doing is referring a dispensary so nobody can do those things unless you are registered. The definition of dispensary specifically includes, that they cannot manufacture or cultivate and the definition of a manufacturer facility specifically include that they can cultivate, manufacture and dispense to a dispensary.
V-Chair Larsen: I like the 2 sentences that made it clearer.
Senator Anderson: When you mix them in there, there is always a question. Well it's in the same sentence. Just make it two sentences.
V-Chair Larsen: While we are on pg. 54, did we cut out line 1 about petitioning the department to add a medical condition that was in relation to page 7.
Senator Anderson: We cut it out.
Chair J. Lee: We replaced it with the registry identification cards information, which we deleted later on. So you will see a couple of sections that were moved and that is one of them.
V-Chair Larsen: This is something new not on your sheets. But from page 56, line 27, there is a bill in House currently reducing selling drugs in 1000 meters, could possibly go away. Should we cut this 1000 feet from school issue? You could be across the street and bee in compliance and when you're not then you are 3 more years in jail. Do we even want to make reference to that?
Tara Brandner: Right now in criminal law, if you're are caught dispensing or possessing a controlled substance within a 1000 feet of a school your sentence is increased. So that bill is removing that ability for increase. This one is just saying a compassion center can't operate within 1000 goal of a school and keep them separate.
V-Chair Larsen: Wouldn't that be in the zoning part?

Tara Brandner: This was in the original measure.
V-Chair Larsen: On page 71, let's talk about Compassion Centers and revocations. There's no suggestion about child support folks. This is just like the driver's license, if they aren't paying child support they don't need the card.
Senator Anderson: You wouldn't want to deny somebody their medicine just because they haven't paid their child support.
V-Chair Larsen: On page 73 line 20, it says we are only going to fine them a $1000 in violation, is that too low? A Compassion Center must be fined up to $1000 for violation, I think that's too low. I think about giving booze to minors, should it be worse?
Senator Kreun: It got changed.
Chair J. Lee: If a Compassion Center violates the law it could be fined up to a $1000.
Tara Brandner: It was written in consistent with the rest of the language in here so what we have done is rewritten it. The $1000 will still exist.
V-Chair Larsen: I think it's too low, I think about the protesting and cruelty to animals and what we are fining them.
Senator Anderson: Suggests since Mr. Bollinger is here, does he have any comments, since he's in charge of this?
Kennon Bollinger: We've been working on it since November. I've had 33 years in state health department. That's why I was asked to do this. I was in regulatory work for most of the time, but also served as Director of Crime Lab with a criminal lab testing background. You'll see a lot of me.
Senator Anderson: Does it look like it is more manageable?
Kennon Bollinger: I think these changes are all good. These are all manageable.
Chair J. Lee: Is there anything we're not considering?
Kennon Bollinger: I think you've done a great job. The is all manageable law that's somewhat fiscally responsible.
Chair J. Lee: The voters wanted to implement this. We are trying to make it not so restrictive that they refer it or have a new initiative measure next month. We also need to get 2/3 votes out of both house.
Kennon Bollinger: We talked to the initiated measure folks. We bounced some of these things off of them early on and seemed to be okay.
Chair J. Lee: There's a number of things that are in both places.
V-Chair Larsen: There's been a discussion of paying for this system. The cost of the card per individual has there been pushback? Do they know that it'll be up to $200?
Kennon Bollinger: They certainly were aware of it, they were concerned. I think there was misinformation by somebody opposing the fees. They said there is no state that had that a high fee. I know there are states that do. MN is proposing to go over $200.
V-Chair Larsen: We were hearing the numbers of between 1-5 per 1000 population that will be in effect of this. If they go and get pill in prescription form they don't even go through this system. Do you see this continuing to work with only 1000 people using this system?
Kennon Bollinger: We struggle with that. We don't know how many patients will register.
Arvy Smith: Kennon doesn't know this yet. We are doing scenarios preliminary. The fiscal picture relies heavily on numbers. We can be in the hole. If we go above 5 per 1000, we will have an excess. Then we can look at bringing the $200 fee down. If we fall short, we don't have enough money. If we fall short, we won't have enough money.
V-Chair Larsen: In a business if I start going backwards, what what point do you close? Are we just going to go under $600,000 or when do we quit?

Arvy Smith: I don't' know how we're going to play that out. We've had discussions about doing a survey. I don't know if we'll get good information to see how many will be in on the program. The smoking has a big impact on number of patients we're going to see. I'm trying to think what changes we can make until we see where we are at.
Senator Anderson: Don't you think if we come in and numbers are way too low for us to make budget, could the numbers of inspectors drop down? Obviously you have a minimum of staff. We could raise fees next session. We could have one Compassion Center and one inspector instead of having 8.
Arvy Smith: We did take that into consideration. I think we feel good about 5/1000. The state of Delaware doesn't allow smoking and they have 4.7.
Chair J. Lee: I would rather see something more limited now, with an explanation to people that it will take a year to set up and a year to work out the bugs. If you don't have the resources, it's much harder to pull it back in again. I would rather begin with something that's tighter with more control handles for what you've got to do.
Arvy Smith: We should be okay.
V-Chair Larsen: We bring on these huge projects. We always do a pilot project.
Senator Kreun: How are we going to roll this out?
Arvy Smith: We will add staff as we need. We have been advised to get one Compassion Center up and running. And then add the rest.
Kennon Bollinger: The rule making process will be key. It is hard to get to it when the legislature isn't passed. Comparing packages is first priority. There is no need to register patients if there is no product. We have to develop criteria for reviewing applications and addressing security and alarms system and those types of things.
Senator Kreun: Along with the type of seed and how you bring it in.
Kennon Bollinger: It's out there, they'll find it somewhere. It is different for medical.
Chair J. Lee: Recessed the hearing. Back at 4 o'clock.
Chair J. Lee: Reopened the hearing. Full committee here.
Chair J. Lee: We had a chat about hash.
Senator Heckaman: Did you present the language we discussed today Tara? Let's hear it.
Tara Brandner: This language changes on page 9, line 22, after it says the patients de-abilitating medical condition, we would add that a physician must also add "physician must state no other form of useable marijuana would be excepted and provided to the patients".
Senator Heckaman: That was the thing the Attorney General recommended as a way to provide some alternatives. I don't know what that means for line 13 though.
Tara Brandner: That language means change to say (audio difficult)
Senator Heckaman: That was one of the things that came through attorney general. I'm not sure where you came up with Senator Larson's recommendation.
Tara Brandner: We discussed a little bit defining oil. There were some concerns that hash is a completely different substance.
V-Chair Larsen: Are we cutting out or leaving in line 13?
Chair J. Lee: I'd like it left in there, if we get a lot of resistance that would be the language be could visit with our colleagues.
Tara Brandner: Consider that nothing in this measure eliminates ability to vaporize, which is similar to what combustible form would do. Is that sufficient?
Senator Heckaman: Can we get a copy of that language?
Senator Heckaman: Is the resin or the oil as strong or stronger. How does it relate?
Tara Brandner: That I couldn't say.

V-Chair Larsen: When a medical marijuana plant it only has so much THC. When a hemp plant is growing it only has so much. When a recreational plant is growing it only has so much THC. When you're manufacturing a resin out of hemp, out of recreation or medical, the THC should be the same. That is why we are testing it.
Tara Brander: Perhaps maybe Kennon, depending on how you breathe or use female plants, you can increase the THC.
Chair J. Lee: People who care about medical ought to care about dosage being consistent.
Tara Brander: The end product will have to be tested. That may raise some of the same difficulties testing an edible would.
Kennon Bollinger: I think you're right. We are going to mandate that all batches get tested. They have to be labeled with the levels are correct. We're going to make sure qualifying patients get the right levels. Some states have pharmacists suggest levels.
Senator Heckaman: If you're getting a certain level is that from a certain plant or certain concentration that is available in a plant?
Kennon Bollinger: It is a combo of both. Its various strains through the production of oils. You can have a concentrated level.
Senator Heckaman: For vaping, you could have concentrated form.
Chair J. Lee: Do we want to visit with colleagues or have this in?
Senator Kreun: The term says only the dried leaves of the plant in a combustible form.
Tara Brandner: This wouldn't be a resin. This would be the dry leaves.
Senator Kreun: We are trying to give the law enforce the ability to determine between recreational grown and medical grown and the resin form becomes the medical form.
V-Chair Larsen: In the news, someone got arrested for medical marijuana from another state in the leaf form, I guarantee it hasn't been tested yet. It takes time. It will take months to get it tested.
Senator Heckaman: On the issue the Senator Larsen is concerned about, how will law enforcement determine whether it's for medical if it is in a leaf or flower form?
Tara Brandner: They wouldn't. The department would have strict packaging requirements. They would have to keep it in their old package. That's the issue with combustibles.
V-Chair Larsen: This a dated deal. We were just saying they can't have it for 6 months, so if I have a package that was dated and I get pulled over a year later, that's not right.
Chair J. Lee: What do you want to do with this piece from AG office, do you have that question? Is that compatible with what we've just discussed. Is this compatible?
Tara Brandner: Can you clarify what you mean is this compatible?
Chair J. Lee: Only the dried leaves and flowers are in combustible delivery form. Is this comparable from the AG office for useable marijuana definition? Is the language in there what we want it to do if we have to go forward with dried leaves and flowers?
Tara Brandner: These are consistent.
Senator Anderson: If we include that language, 90% of what is dispensed will be in that form, the others will be in that form.
Senator Kreun: Does that go back to the question of the smoking capability with the resin form? Does that fit the definition usable marijuana in combustible form?
Tara Brandner: Resin right now? No, my understanding the resin comes from dried leaves and flowers we're allowing them to possess those dried leaves and flowers. I think the question goes down to hash and its position in the Controlled Substances Act. I need to verify this, in addition to legalizing marijuana you would also be legalizing hash.
Senator Anderson: I'd have to look at the Act, we'll do that.
Chair J. Lee: Are we in a position to act on these? I'd like to move this forward.

V-Chair Larsen: I make a motion to adopt 2006 amendments and 2007 amendment added in.
Senator Kreun: second.
Senator Heckaman: When we move this we are completely moving the bill and not consider anything else?
Chair J. Lee: We need to move to appropriations.
Senator Heckaman: I'd like some time to consider this one form the AG's office. That's got to be part of our conversation to include as much as we can in a safe and effective manner. I'd like some time to visit with caucus.
Chair J. Lee: Can't we move these amendments forward and look at further amending?
Senator Heckaman: What is your time line?
Chair J. Lee: How are we going to get it to appropriations if we don't meet until next week?
Senator Heckaman: You have to consider the other amendment from the AG's office.
Chair J. Lee: If it has to be something we look at on the house side, I'd rather not wait. Our committee isn't going to have a chance to meet this week.
Senator Heckaman: Your adding hash oil in without Tara. I'm fine with 2006, but not with 2007.
Chair J. Lee: The amendment is for both. If we don't want the hash oil one in there, then we have to not approve that amendment. It would be so nice if we could get that done.
Senator Heckaman: If they would amend the motion to do 2006 I would be happy with that.
V-Chair Larsen: I'll rescind and move to pass the amendments of 2006.
Senator Kreun: second
Motion passes 7-0-0
Chair J. Lee: That amendment passes, so it gives us this to visit with our colleagues about.
V-Chair Larsen: I motion to move amendment 2007.
Senator Kreun: Second
Senator Anderson: We have to refine language talk about resin but the intention is to add that product which typically users recognize. The idea would be to them a little more comfortable that they can vaporize or whatever that product in addition to the ones that are in the there. That's why I support it.
Chair J. Lee: We'll ask Ms. Brandner research before the final action because it is two different substances.
Tara Brandner: I'll make sure Char comes down.
Senator Heckaman: I'd be happier to know more. I'll vote no on the second amendment
Roll Called: 5 yeas, 2 no amendment passes. We will look at refining language as was discussed
V-Chair Larsen: I move SB 2344 as amended for a do pass and refer to appropriation.
Senator Kreun: second
Senator Heckaman: Consider the AG's wording.
V-Chair Larsen: I'll never vote for smoking a leaf or flower.
Chair J. Lee: I'd be more comfortable voting it out if we have time for visiting with colleagues.
Senator Clemens: In my opinion we've covered a lot of ground by working on 06 and 07.
Chair J. Lee: We've got to move it forward knowing it is far from perfect.
Senator Anderson: When you say move in forward are you saying we should table the vote? I'll second that motion to table until the call of the chair.
Chair J. Lee: That was a motion Senator Clemens that we table the vote?
Senator Clemens: Until you call a meeting.

Senator Heckaman: I'm comfortable with that if it destroys the bill. I'm happy to vote for 2006, but not for the rest.
Chair J Lee: This is a motion to table the bill.
Roll called: 5 yeas, 2 nays
Senator Anderson: If we look at the bill on page 8, lines 8-11, it talks about what marijuana means. It clearly says it includes the resin.
Chair J. Lee: I forgot it was in there. Any other comments? Do some research. We're adjourned.

2017 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2344
2/16/2017
Job Number 28486

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Marnie Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to implementation of the ND compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: 2 Attachments

Chair J. Lee: Called the hearing on Committee work on SB 2344 to order. Sen. Anderson was absent.
Jennifer Clark, Legislative Council: Testified in a neutral capacity. See Attachment #1 for 17.0630.02008 amendments. (Walked through all the changes from 2007 version.)

(8:18) Senator Kreun: What about private administration?

Jennifer Clark: I know that we have some records here about facilities and regulations. I do not know that we talk about using it in public. I would say tobacco laws all apply.

V-Chair Larsen: You can smoke on the sidewalk but not the other areas.

Jennifer Clark: The smoking laws apply, where can smoke in areas around facilities that is where you can use. I think that facilities have conditions, and I think reasonable accommodations can be made.

Senator Clemens: If you're allowed to smoke in a smoking area, it will be up to individual places of employment whether you can smoke over noon hour?

V-Chair Larsen: This is supposed to be medicine.

Senator Clemens: I know. You can take medicine at work

V-Chair Larsen: They will put a sticker on the window just like I can't carry my gun in the mall.
Jennifer Clark: That is addressed in here in any for. You have to decide if it is adequately addressed.

Senator Heckaman: What about the face to face?

Jennifer Clark: We have that in the definition of bonified patient relationship. If you think that is not adequately covered, we can amend that.

Tara Brandner, Assistant AG: The only thing that we may want to do if we are talking about the facility restrictions, on page 77, line 27, we allow a basic care facility, a nursing facility, and an assisted living facility, to limit vaporization; we may want to include combustibles there. Essentially we would add that it can be consumed in forms other than vaporization or smoke-able.

Chair J. Lee: Wayne Stenehjem had offered to visit about this and when I ended up getting in there we had several that had been talking about this. Tara and others are really helping us with this.

Tara Brandner: See Attachment #2 for a change to the definition for allowable amount of useable marijuana for medical use.

(16:00) Senator Piepkorn: How did you arrive at these figures?

Chair J. Lee: The expertise of the assembled group.

Senator Kreun: How much different is that from pgs. 5-6?

Chair J. Lee: None of the quantities are in the original bill or draft of what we are working with. It is the part in the middle that has the quantities that is not in there.

Tara Brandner: Part of the problem was that in the original definition, we were talking about liquids and how you measure those, but the part that didn't count towards that measurement was the weight of any non-marijuana ingredients. So if I had an extract that was made from marijuana, and then I added it to an oil, that oil addition didn't count towards the limit. So, the enforcement ability of law enforcement is essentially null. They would really struggle to determine how much too much. We put amounts on each thing, and we put a different amount for the pills, liquids, and oils because they have a much higher THC concentration amount and they can be more potent.

Chair J. Lee: Would you like to have Char come up and talk about the products and how the strength varies?

Tara Brandner: Yes. We would suggest removing the term "resin" from useable marijuana.

(18:15) Charlene Rittenbach, Forensic Scientist, State Crime Lab: The question was brought about the definition of useable marijuana and having the word resin in there. It poses concerns because no you are allowing hash products. The definition in code for hash means the resin extracted from any part of the cannabis plant. You are basically taking the marijuana plant and extracting out that resin to a more concentrated form. By having resin in useable marijuana definition, you're almost allowing hash products. On the liquids, you can have concentrated hash products where it is a more solid, sticky 80-90% THC, or you can have a liquid product that is like a tincture. Where it is extracted out of the marijuana plant, usually the alcohol solution that extracts the cannabinoids, and then that alcohol solution is filtered and that solution is sold as a tincture. It might be sold to put under the tongue. there's different products that can be sold. There are concerns of having resin or oil in the definition, you may be allowing somebody to sell 2.5 ounces of a very concentrated product. The amounts had to be adjusted for the liquids and oils versus the plant material. I believe when

the 2 ½ ounces and 3 ounces was originally put in was meant to go with the plant material. It didn't coincide with liquids because they are more potent, and we wanted to eliminate pure hash products being sold at 2.5 ounces.

(20:37) V-Chair Larsen: I thought that if a plant is grown and it has the capability of having 6% THC, that is all that plant can produce.

Charlene Rittenbach: Each marijuana plant can produce various levels of THC. When you say 6%, are you referring to the pediatric useable amount for that oil?

V-Chair Larsen: Yes.

Charlene Rittenbach: That is for the pediatric oil. That's not for any other oil that someone over 21 can purchase. There's no concentration in the original bill that defines that.

Chair J. Lee: It is significantly more potent than the combustible product.

Charlene Rittenbach: To give you a reference, on the average, smokeable plant material, is anywhere from 18-20% THC content. You can have hash concentrated products that vary from 30-90% THC. It's going to be important to label these.

Chair J. Lee: The idea is that it isn't the state responsibility to prove the concentration. It is the manufacturers responsibility to have it tested and prove the concentration and it is supposed to be on the label.

V-Chair Larsen: If we're producing this resin, can't that be cut with a wax product to dilute it to bring it down to a THC level that is consistent every time? Aren't we in the lab producing this smokeable resin?

Charlene Rittenbach: Yes, in the lab, and that is the point of adding these levels. It needs to be stated the maximum percentage. But when you make hash products the levels can be varied.

Chair J. Lee: It makes sense to have to set a limit of what the manufactures can produce.

V-Chair Larsen: There was discussing yesterday that there was a difference between hash resin and marijuana resin. Is there a difference or not?

Charlene Rittenbach: No, hash is the resinous extract of marijuana.

V-Chair Larsen: If we set up a facility to grow the medical marijuana, the plant is supposed to have lower THC in first place. That is what we are hoping for. We are not taking recreational marijuana seeds and planting them. We are taking medical marijuana seeds, much like hemp seeds with a different THC level and we are producing this hash product. When it is in its pure 90% form of THC, the next step in manufacturing would be to cut that with another resin to dilute that to the 6% or whatever. We are producing the number in the lab coming out of the facilities. Is that correct?

Charlene Rittenbach: Yes, you can dilute it and form it to whatever concentration that you need. But, from my knowledge, there is a difference between hemp seed and a marijuana seed, but there is not a difference between a medical marijuana seed and a regular marijuana seed. Medical marijuana is marijuana that is for the industry.

V-Chair Larsen: For clarification, some marijuana has a higher level of THC just because of breeding of the plant.

Charlene Rittenbach: Yes, various different strains have different potencies.

V-Chair Larsen: In CO you can go to a facility and they have several different varieties of plants that have different THC levels that could be possibly used for many different medical purposes.

Charlene Rittenbach: That's a hard question because the FDA hasn't approved this. As far a certain level for a specific thing, that is a question I cannot answer.

V-Chair Larsen: That is the crux we are in now. We have the pill, but we are hearing that it helps people better if they smoke or vape, etc.

Charlene Rittenbach: The route of administration of a drug greatly effects its affects. When you smoke it you feel the effects right away. When you eat an edible product, it takes time to feel the effects. With the tinctures that go under the tongue, those absorb readily and it is similar to smoking. The route greatly affects.

Senator Clemens: Could there be some dangers if you took too much in a brownie?

Chair J. Lee: How about and 85% THC that is put into brownies and they have 4?

Charlene Rittenbach: From what I have read and know, it's not possible to completely overdose on marijuana, where you lose the breathing capabilities like you would in an opioid, but you can overdose to the point where you get paranoid and your heart rate and blood pressure go up. As far as ending life, I have not heard of any, but there is still the possibility of going to the ER and having certain symptoms.

Chair J. Lee: After hearing from folks in the room and with Wayne Stenehjem, I am a great deal more comfortable with putting limits on the other forms of the products as well. I am pretty comfortable with this amendment. I would encourage us to look at this as being a favorable addition.

Senator Heckaman: I'm fine with the amendment on allowable uses. On her recommendation, we'll have to know where to take the wording our that she is suggesting we take out.

Tara Brandner: It was on the proposed amendment that you voted on yesterday.

Ian: It wasn't in the amendment.

Tara Brandner: Yesterday you voted on this amendment.

Senator Heckaman: On page 8, line 8, of the original bill, it states the resin extracted, does that stay?

Charlene Rittenbach: Yes, that definition coincide with Century Code definition of marijuana.

Senator Heckaman: The amendment yesterday needs to…

Tara Brandner: Correct, because all you are saying is this is the definition of marijuana and this is what facilities can have, but the end product that they can give the consumer is the useable marijuana form. That would be where the resin would need to come out.

Chair J. Lee: Looking page 9, line 12, which is the useable marijuana definition, it doesn't have hash oil in there.

Ian: We moved that amendment, but I can't access the documents to change it.

Chair J. Lee: That's right.

Tara Brandner: On page 9, line 12, it would say "useable marijuana means a liquid including an oil, or a resin, or a pill". You need to take out a resin.

Senator Heckaman: We have to reconsider our actions on amendment 2007 then.

Chair J. Lee: Yes.

Senator Heckaman: Moved to reconsider action on amendment 2007.

Senator Kreun: Seconded.

All were in favor.

V-Chair Larsen: I object, she can't bring it back because she voted against that.

(34:40) Committee discussion: Committee discussed rules and procedures. It was reminded to the committee that they had a motion to vote for the amended bill that was tabled previously.

(36:49) Chair J. Lee: Moves to discussion.

Senator Heckaman: Given testimony from AG office, I recommend that we do not pass amendments 2007. **Restated Motion to reconsider amendment 2007 (Do Not Pass Amendment.)**

V-Chair Larsen: Seconded. The weight of the amount of resin has been reduced so we don't have 2.5 ounces. My biggest fear is as soon as you put a leaf or flower in someone's hand that is unrecognizable as medical, there can be black marketed resins, but it's harder to get resins than it is to get the flower or the leaf. As soon as we do that, take fingerprint off. The card means nothing, because somebody will be getting these flower and they will be growing their own. They will keep container that it came in and they will put their own homegrown product in there to continue to have that as a counterfeit.

Senator Clemens: Is there someone here from criminal side to help us? What concerns should we have on the different forms of marijuana?

(39:20) Lonnie Grabowska, Deputy Director, DCI: As far as the criminal nexus goes. If an individual would be stopped today in a vehicle, there is no way to tell if the marijuana is going to be medical or recreational because marijuana is just marijuana across the board. The only way to know if that person can have it if this goes into effect as is written, we would have to check the system if the person is a card holder and see if they are able to have that product. With the smokeable, oils, pills, it is the card that tells us what they can have. Is it hard to

enforce right there on the street? The system will tell us if they can have it but it will be hard to qualify what they have. It will be hard no matter what we do. There is not a test out there that we can run.

V-Chair Larsen: In your job, how many times do you run across somebody with resins or a flower or a leaf?

Mr. Grabowska: We would see more of the leaf and flower then we would with the resin. With the resin you are talking about hash oils or hash itself. We don't see as much of that product on the street because it takes extra work to get that and manufacture it. You have to have a press to get the hash brick. It takes a lot of marijuana to make the hash oil. You actually lose a lot of your useable, smokeable product to make hash.

Charlene Rittenbach: Analyzing samples at the crime lab, we have seen a drastic increase in hash type samples in the last 3-4 years. It is probably due to the whole medical marijuana movement. There is a new extraction method to make hash that is very easy. It is called the butane honey oil hash and it makes very potent THC concentrates. There is more plant material marijuana but it is not uncommon to see hash sample.

V-Chair Larsen: Could you fingerprint that by a color that changes regularly to stay ahead of that?

Charlene Rittenbach: I'm not aware of a way to fingerprint that. That's not saying there isn't a way. The manufacture would have to add a discriminate to that product. Right now, no we can't fingerprint.

Chair J. Lee: There are a couple of people in the room that are not comfortable with hash being included. I would like comments on why that is a bad idea.

Tara Brandner: Shelby created spreadsheet on the differences. Hash is a felony to carry hash. Marijuana is a misdemeanor.

Chair J. Lee: Tell me again.

Shelby Schields, intern for the Attorney General's office.: Hash is a Class C Felony, and marijuana is a Class D misdemeanor.

V-Chair Larsen: Is there an amount that makes it a felony?

Tara Brandner: There is no breakdown that I have.

Charlene Rittenbach: From what I know, there is no gram limit on hash that enhances the penalty, but I do know that hashish itself is a felony.

Senator Kreun: You said hash or resin is much stronger than the leaf or bud, so can you cut that down with less strength to make pill form so that it could be monitored?

Charlene Rittenbach: Yes we can. The manufacturers can control the THC.

Senator Kreun: Which product sells the best?

Mr. Grabowska: the value of the item on street, the higher THC concentration on the street will sell at a higher rate and a faster rate. If we get a hash oil group come into the area, we will hear about it from our confidential informants and we go out and can get it at a higher

rate but it goes quickly. Within a couple of days, the hash oil will be gone. It can be put on tobacco and smoked or put into products and consumed.

Senator Kreun: So you will see more leaf and bud as useable then hash or resin?

Mr. Grabowska: Its easier for us to find leaf and flower than it is to find the hash, because it is a longer process. The higher THC is in the hash compared to the leaf and flower substance.

Senator Kreun: My concern is how's it going to get on the street.

Mr. Grabowska: No matter what comes out of this bill, there will be diversion of that product. That is the ugly part of this process. To alleviate some of that, the leafy substance will have lower THC.

V-Chair Larsen: Would it have a lower THC, or the same, if we have the grow centers that are growing the marijuana and making the resin and in the lab cutting it and maybe color it. Would you agree that that could happen?

Mr. Grabowska: I would hope that the care centers would limit the THC on the product. I do not have the background to say how they would do that. As far as coloring I don't know.

V-Chair Larsen: This stuff come out like honey, why can't you add food coloring! The way you make the resin, it comes out light colored. It doesn't come out black. I believe it can be monitored. Those manufactures are going to have their lab to make sure it medical THC levels.

Mr. Grabowska: I would not know how they do the process.

Chair J. Lee: I see this as a matter for rule. The absolutes for the details on how things are going to be manufactured, I don't think it's appropriate for us to decide, because we are all stupid about this. That is something for the Health Department would have expertise on and could manage. We cannot get bogged down on some of those details. We are in the weeds way too far.

Arvy Smith, Co-Director, NDDOH: I think we'd be fine with putting something like that in the rules. I've never heard of anybody foot printing it. We will look at that.

Senator Heckaman: Given the fact that we are being asked by the Attorney General's office to remove hash oil I call for my motion.

A Roll Call Vote Was Taken: 5 yeas, 1 nay, 1 absent.

Motion Carried.

Senator Heckaman: Moved to Amend with the 2008 version with the addition of the change in the allowable use.

Senator Clemens: Seconded.

Chair J. Lee: Discussion?

V-Chair Larsen: When we let leaves and buds be allowed to be smoked, people are going to go to the bar and they are going to get $65 worth of weed to last them a week and they

will get their $200 card saying that they can hold for that year and they are going to be self-medicating because we just priced it out of the whole deal and that is going to be everywhere.

Tara Brandner: In order for the dried leaves and buds to be available to an individual, their physician is going to have to attest to the fact that they won't receive a benefit from any other form. That is a high standard that physicians are going to take seriously. There is potential for a medical malpractice claim. You have to receive a certification from physician.

Chair J. Lee: We're never going to stop the street traffic.

V-Chair Larsen: I agree. I will also say that I know in doctors in CA were handing in out for sprained ankles. I guarantee that if this keeps going we are going to add to list and have people abusing.

Tara Brandner: Since you have removed the authority for the Department of Health to add to the list, the only way in next 7 years a condition could be added to the list is if it is approved by the legislature with a 2/3 vote.

Chair J. Lee: I didn't' know we couldn't change it for 7 years. We need to know that for sure.

Tara Brandner: That's a great question. I have to look in to that. (Reads from page 73, line 17, and page 74, line 4) Those in the original language.

Chair J. Lee: Page 54, lines 28-30, we were going to clarify that language.

Tara Brandner: You are going to over strike "dispensary or a", and at page 54, lines 30, you are going to overstrike "or a manufacturing facility" and instead of both of those terms you are going to insert "compassion center".

Chair J. Lee: We can add that in the amendment.

Senator Heckaman: I'd like that included in amendment.

Tara Brandner: On page 77, line 27, this was the one that we discussed about facility restrictions, we need to add "or combustibles".

Chair J. Lee: So, the amendment includes amendment 2008, the plus AG amendment, plus language pg 54 lines 29-10, plus pg 77 line 27. Got that?

A Roll Call Vote Was Taken: 5 yeas, 1 nay, 1 absent.

Motion carried.

Chair J. Lee: The vote that we tabled was on an amendment. Could you all withdraw you motions?
Senator Kreun: I withdraw motion on passing the bill.

V-Chair Larsen: I will not withdraw.

Voice vote was taken and it passed.

Senator Kruen: Moved a do Pass As Amended and Re-refer to Appropriations.

Senator Heckaman: Seconded.

Senator Piepkorn: I will vote against this. I am standing for over the 200,000 people that voted the initiated measure in. It is the states responsibility to enact what they voted.

Chair J. Lee: Do you think they read the initiated measure?

Senator Piepkorn: I think many of them did.

Chair J. Lee: I don't think so.

Senator Piepkorn: I believe that the state should work for the people and most of the people that want this or who could use it, can't afford the fees that it is going to take for them to get the medication. It is too cumbersome. I will vote no.

Senator Clemens: I've listened to comments from colleagues, and the way it stands right now, if we don't pass this, it will revert back to the initiated measure that has not decriminalized marijuana. They won't be able to take part in it. I agree with some things Senator Piepkorn is saying but we are doing a service to the people, unknown to them, and it may not be appreciated, but this is the only way they are going to be able to use medical marijuana.

A Roll Call Vote Was Taken: 4 yeas, 2 nays, 1 absent.

Motion Carried.

Chair J. Lee will carry the bill.

On 2/17/17 Senator Anderson recorded his votes for SB 2344. Job Number 28488.
Final vote on motion to reconsider: 6-1-0
Motion to adopt amendment: 6-1-0
Motion to do pass as amended and re-refer: 5-2-0

Prepared by the Legislative Council staff for
Senate Human Services Committee
February 14, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 6, line 25, after the second underscored comma insert "member, manager, governor,"

Page 7, line 11, after the underscored semicolon insert "and"

Page 7, line 21, remove "; and"

Page 7, remove line 22

Page 7, line 23, remove "the department"

Page 8, line 17, replace "twenty-one" with "nineteen"

Page 8, line 29, remove "pediatric neurologist, pediatric gastroenterologist, pediatric"

Page 8, line 30, replace "oncologist, or pediatric palliative care specialist" with "pediatrician"

Page 10, line 29, after "nonrefundable" insert "annual"

Page 10, line 29, after "fee" insert "of two hundred dollars"

Page 11, remove lines 1 and 2

Page 12, after line 10, insert:

"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."

Page 13, line 22, after "nonrefundable" insert "annual"

Page 13, line 22, after "fee" insert "of two hundred dollars"

Page 13, line 24, remove "The department shall establish an application fee in an amount not to"

Page 13, remove line 25

Page 15, line 1, replace "caretaker" with "caregiver"

Page 50, line 23, replace the first "cardholder" with "compassion center"

Page 50, line 23, replace the second "cardholder" with "compassion center"

Page 50, line 24, replace "cardholder" with "compassion center"

Page 50, line 26, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 29, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 31, replace "section" with "chapter"

Page 51, line 1, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 53, line 15, remove "**Debilitating**"

Page 53, line 16, replace "**medical condition - Petition**" with "**Registry identification cards**"

Page 54, replace lines 1 through 7 with:

"1. Registry identification cards must contain:

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. The date of issuance and expiration date;

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

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

g. A photograph of the cardholder; and

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

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

3. If a physician states in 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."

Page 56, line 14, after "fee" insert "of five thousand dollars"

Page 56, line 15, remove ", in the amount set by the"

Page 56, line 16, remove "department, not to exceed five thousand dollars"

Page 56, line 17, after "incorporation" insert "or articles of organization"

Page 56, line 17, after "bylaws" insert "or operating agreement"

Page 57, line 3, after "member" insert ", or of each member-manager, manager, or governor,"

Page 57, line 5, after "member" insert ", or each member-manager, manager, or governor,"

Page 57, line 8, after the first underscored comma insert "or for each of the proposed compassion center applicant's member-managers, managers, or governors,"

Page 58, line 6, after the underscored comma insert "or of the member-managers, managers, or governors,"

Page 58, line 28, remove "established by the"

Page 58, line 29, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 59, line 4, after "incorporation" insert "or articles of organization"

Page 59, line 4, after "bylaws" insert "or operating agreement,"

Page 59, line 29, remove "in an amount established by the"

Page 59, line 30, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 60, line 28, after "**Bylaws**" insert "**or operating agreement**"

Page 60, line 30, after "bylaws" insert "or operating agreement"

Page 60, line 31, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "ownership" insert "or management"

Page 61, line 2, after the second underscored comma insert "board of governors, member-managers, or managers,"

Page 63, line 20, after the second "be" insert "well"

Page 63, line 20, remove "as provided by"

Page 63, line 21, remove "rules adopted under this chapter and"

Page 69, line 11, after "member" insert ", member-manager, manager, or governor,"

Page 70, line 4, remove "established by the department in an"

Page 70, line 5, replace "amount not to exceed three" with "of two"

Page 71, line 16, replace "registration" with "registry identification"

Page 71, after line 25, insert:

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

Page 72, line 25, replace "C" with "B"

Page 73, line 2, replace "C" with "B"

Page 73, line 9, replace "C" with "B"

Page 73, line 20, remove "A compassion center must be fined up to one thousand dollars for a violation of this"

Page 73, replace lines 21 and 22 with "In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation."

Page 73, line 25, replace "C" with "B"

Page 73, line 30, replace "C" with "B"

Page 74, line 4, replace "registration" with "registry identification"

Page 74, line 9, replace "B" with "A"

Page 76, line 27, remove "child"

Page 78, replace lines 5 through 22 with:

"**19-24-35. Rules.**

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter.

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

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

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

Page 81, remove lines 1 through 16

Page 81, line 17, replace "**19-24-41**" with "**19-24-40**"

Page 81, replace lines 26 through 30 with:

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

19-24-41. Funding.

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

Renumber accordingly

17.0630.02007
Title.

Prepared by the Legislative Council staff for
Senator O. Larsen
February 14, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 9, line 12, after "oil" insert ", a hash oil"

Renumber accordingly

ET
2-20-17
p. 1 of 6

17.0630.02009
Title.03000

Adopted by the Human Services Committee

February 17, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 1, line 4, after the fifth comma insert "and"

Page 1, line 4, remove ", and 19-24-42"

Page 6, line 3, replace "usable marijuana" with "dried leaves or flowers of the plant of genus cannabis in a combustible delivery form"

Page 6, line 4, replace "usable marijuana" with "dried leaves or flowers of the plant of genus cannabis in a combustible delivery form"

Page 6, line 4, remove "The allowable"

Page 6, remove line 5

Page 6, line 6 replace "marijuana, such as ingredients added to prepare a liquid delivery form" with "A registered qualifying patient may not purchase or have purchased by a registered caregiver more than ten grams of liquid, including oil, or pill delivery form of marijuana with a maximum delta-9-tetrahydrocannabinol concentration of thirty percent in a thirty-day period and may not possess more than fifteen grams of liquid, including oil, or pill delivery form of marijuana with a maximum delta-9-tetrahydrocannabinol concentration of thirty percent at any time"

Page 6, line 25, after the second underscored comma insert "member, manager, governor,"

Page 7, line 11, after the underscored semicolon insert "and"

Page 7, line 21, remove "; and"

Page 7, remove line 22

Page 7, line 23, remove "the department"

Page 8, line 17, replace "twenty-one" with "nineteen"

Page 8, line 30, after "specialist" insert "or must be a pediatrician working in consultation with one of these pediatric specialists"

Page 9, line 12, after the second "marijuana" insert "or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form"

Page 9, line 13, replace "the dried leaves or flowers of the plant" with "marijuana infused food"

Page 9, line 21, after "of" insert "useable"

Page 9, line 22, after the underscored period insert "If the physician authorizes the use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, the written certification must include an attestation in the physician's professional opinion no other form of usable marijuana would be effective in providing the patient therapeutic or palliative benefits."

Page 10, line 29, after "nonrefundable" insert "annual"

Page 10, line 29, after "fee" insert "of two hundred dollars"

Page 11, remove lines 1 and 2

Page 11, line 15, remove "and"

Page 11, line 16, after "(7)" insert "If the physician authorizes the patient to use the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, attestation in the physician's professional opinion no other form of usable marijuana will be effective in providing the patient therapeutic or palliative benefits; and

(8)"

Page 12, after line 10, insert:

"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."

Page 13, line 22, after "nonrefundable" insert "annual"

Page 13, line 22, after "fee" insert "of two hundred dollars"

Page 13, line 24, remove "The department shall establish an application fee in an amount not to"

Page 13, remove line 25

Page 15, line 1, replace "caretaker" with "caregiver"

Page 50, line 23, replace the first "cardholder" with "compassion center"

Page 50, line 23, replace the second "cardholder" with "compassion center"

Page 50, line 24, replace "cardholder" with "compassion center"

Page 50, line 26, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 29, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 31, replace "section" with "chapter"

Page 51, line 1, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 53, line 15, remove "**Debilitating**"

Page 53, line 16, replace "**medical condition - Petition**" with "**Registry identification cards**"

Page 54, replace lines 1 through 7 with:

"1. Registry identification cards must contain:

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 the dried leaves or flowers of the plant of the genus cannabis;

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, a registry identification card expiration date must be one year after the date of issuance.

3. If a physician states in 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."

Page 54, line 29, remove "dispensary or a"

Page 54, line 30, replace "manufacturing facility" with "compassion center"

Page 56, line 14, after "fee" insert "of five thousand dollars"

Page 56, line 15, remove ", in the amount set by the"

Page 56, line 16, remove "department, not to exceed five thousand dollars"

Page 56, line 17, after "incorporation" insert "or articles of organization"

Page 56, line 17, after "bylaws" insert "or operating agreement"

Page 57, line 3, after "member" insert ", or of each member-manager, manager, or governor,"

Page 57, line 5, after "member" insert ", or each member-manager, manager, or governor,"

Page 57, line 8, after the first underscored comma insert "or for each of the proposed compassion center applicant's member-managers, managers, or governors,"

Page 58, line 6, after the underscored comma insert "or of the member-managers, managers, or governors,"

Page 58, line 28, remove "established by the"

Page 58, line 29, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

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Page 59, line 4, after "bylaws" insert "or operating agreement,"

Page 59, line 29, remove "in an amount established by the"

Page 59, line 30, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

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Page 60, line 30, after "bylaws" insert "or operating agreement"

Page 60, line 31, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "ownership" insert "or management"

Page 61, line 2, after the second underscored comma insert "board of governors, member-managers, or managers,"

Page 62, after line 6, insert:

"c. May not dispense to a registered qualifying patient or registered 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 useable marijuana."

Page 63, line 20, after the second "be" insert "well"

Page 63, line 20, remove "as provided by"

Page 63, line 21, remove "rules adopted under this chapter and"

Page 69, line 11, after "member" insert ", member-manager, manager, or governor,"

Page 70, line 4, remove "established by the department in an"

Page 70, line 5, replace "amount not to exceed three" with "of two"

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Page 71, after line 25, insert:

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

Page 72, line 25, replace "C" with "B"

Page 73, line 2, replace "C" with "B"

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Page 73, line 20, remove "A compassion center must be fined up to one thousand dollars for a violation of this"

Page 73, replace lines 21 and 22 with "In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation."

Page 73, line 25, replace "C" with "B"

Page 73, line 30, replace "C" with "B"

Page 74, line 4, replace "registration" with "registry identification"

Page 74, line 9, replace "B" with "A"

Page 76, line 26, replace "Vaporizing" with "Using a combustible delivery form of usable marijuana or vaporizing"

Page 76, line 26, after "the" insert "smoke or"

Page 76, line 27, remove "nonpatient"

Page 76, line 27, remove "child"

Page 77, line 27, after "vaporizing" insert "or combustion"

Page 78, replace lines 5 through 22 with:

"**19-24-35. Rules.**

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter.

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

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

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

Page 81, remove lines 1 through 16

Page 81, line 17, replace "**19-24-41**" with "**19-24-40**"

Page 81, replace lines 26 through 30 with:

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

19-24-41. Funding.

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

ET
2-20-17
p. 6 of 6

Renumber accordingly

Date: 2/15 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 17.0630.02006

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/15 2017

Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 17.0630 .02007

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman		X
Senator Oley Larsen (Vice-Chair)	X		Senator Merrill Piepkorn		X
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/15 2017

Roll Call Vote #: 3

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☑ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Larsen Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)			Senator Joan Heckaman		
Senator Oley Larsen (Vice-Chair)			Senator Merrill Piepkorn		
Senator Howard C. Anderson, Jr.					
Senator David A. Clemens					
Senator Curt Kreun					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

motion tabled, Please see Vote sheet #4

Date: 2/15 2017

Roll Call Vote #: 4

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☒ table

Motion Made By Sen. Clemens Seconded By Sen. Anderson

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)		X	Senator Merrill Piepkorn		X
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 2/16 2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation:
☐ Adopt Amendment
☐ Do Pass ☑ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____

Motion Made By Sen. Heckaman Seconded By Sen. Kreun

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)		X	Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/16 2017

Roll Call Vote #: 2

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 17.0630.02009

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Heckaman Seconded By Sen. Clemens

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)		X	Senator Merrill Piepkorn	X	
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/16 2017

Roll Call Vote #: 3

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☒ withdraw motion

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)			Senator Joan Heckaman		
Senator Oley Larsen (Vice-Chair)			Senator Merrill Piepkorn		
Senator Howard C. Anderson, Jr.					
Senator David A. Clemens					
Senator Curt Kreun					

Total (Yes) passes No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote

Date: 2/16 2017

Roll Call Vote #: 4

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2344

Senate Human Services Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☒ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Sen. Kreun Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Senator Judy Lee (Chairman)	X		Senator Joan Heckaman	X	
Senator Oley Larsen (Vice-Chair)		X	Senator Merrill Piepkorn		X
Senator Howard C. Anderson, Jr.	X				
Senator David A. Clemens	X				
Senator Curt Kreun	X				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Sen. Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2344: Human Services Committee (Sen. J. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2344 was placed on the Sixth order on the calendar.

Page 6, line 3, replace "usable marijuana" with "dried leaves or flowers of the plant of genus cannabis in a combustible delivery form"

Page 6, line 4, replace "usable marijuana" with "dried leaves or flowers of the plant of genus cannabis in a combustible delivery form"

Page 6, line 4, remove "The allowable"

Page 6, remove line 5

Page 6, line 6 replace "marijuana, such as ingredients added to prepare a liquid delivery form" with "A registered qualifying patient may not purchase or have purchased by a registered caregiver more than ten grams of liquid, including oil, or pill delivery form of marijuana with a maximum delta-9-tetrahydrocannabinol concentration of thirty percent in a thirty-day period and may not possess more than fifteen grams of liquid, including oil, or pill delivery form of marijuana with a maximum delta-9-tetrahydrocannabinol concentration of thirty percent at any time"

Page 6, line 25, after the second underscored comma insert "member, manager, governor,"

Page 7, line 11, after the underscored semicolon insert "and"

Page 7, line 21, remove "; and"

Page 7, remove line 22

Page 7, line 23, remove "the department"

Page 8, line 17, replace "twenty-one" with "nineteen"

Page 8, line 30, after "specialist" insert "or must be a pediatrician working in consultation with one of these pediatric specialists"

Page 9, line 12, after the second "marijuana" insert "or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form"

Page 9, line 13, replace "the dried leaves or flowers of the plant" with "marijuana infused food"

Page 9, line 21, after "of" insert "useable"

Page 9, line 22, after the underscored period insert "If the physician authorizes the use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, the written certification must include an attestation in the physician's professional opinion no other form of usable marijuana would be effective in providing the patient therapeutic or palliative benefits."

Page 10, line 29, after "nonrefundable" insert "annual"

Page 10, line 29, after "fee" insert "of two hundred dollars"

Page 11, remove lines 1 and 2

Page 11, line 15, remove "and"

Page 11, line 16, after "(7)" insert "If the physician authorizes the patient to use the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, attestation in the physician's professional opinion no other form of usable marijuana will be effective in providing the patient therapeutic or palliative benefits; and

(8)"

Page 12, after line 10, insert:

"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."

Page 13, line 22, after "nonrefundable" insert "annual"

Page 13, line 22, after "fee" insert "of two hundred dollars"

Page 13, line 24, remove "The department shall establish an application fee in an amount not to"

Page 13, remove line 25

Page 15, line 1, replace "caretaker" with "caregiver"

Page 50, line 23, replace the first "cardholder" with "compassion center"

Page 50, line 23, replace the second "cardholder" with "compassion center"

Page 50, line 24, replace "cardholder" with "compassion center"

Page 50, line 26, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 29, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 31, replace "section" with "chapter"

Page 51, line 1, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 53, line 15, remove "**Debilitating**"

Page 53, line 16, replace "**medical condition - Petition**" with "**Registry identification cards**"

Page 54, replace lines 1 through 7 with:

"1. Registry identification cards must contain:

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 the dried leaves or flowers of the plant of the genus cannabis;

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, a registry identification card expiration date must be one year after the date of issuance.

3. If a physician states in 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."

Page 54, line 29, remove "dispensary or a"

Page 54, line 30, replace "manufacturing facility" with "compassion center"

Page 56, line 14, after "fee" insert "of five thousand dollars"

Page 56, line 15, remove ", in the amount set by the"

Page 56, line 16, remove "department, not to exceed five thousand dollars"

Page 56, line 17, after "incorporation" insert "or articles of organization"

Page 56, line 17, after "bylaws" insert "or operating agreement"

Page 57, line 3, after "member" insert ", or of each member-manager, manager, or governor,"

Page 57, line 5, after "member" insert ", or each member-manager, manager, or governor,"

Page 57, line 8, after the first underscored comma insert "or for each of the proposed compassion center applicant's member-managers, managers, or governors,"

Page 58, line 6, after the underscored comma insert "or of the member-managers, managers, or governors,"

Page 58, line 28, remove "established by the"

Page 58, line 29, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 59, line 4, after "incorporation" insert "or articles of organization"

Page 59, line 4, after "bylaws" insert "or operating agreement,"

Page 59, line 29, remove "in an amount established by the"

Page 59, line 30, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 60, line 28, after "**Bylaws**" insert "**or operating agreement**"

Page 60, line 30, after "bylaws" insert "or operating agreement"

Page 60, line 31, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "ownership" insert "or management"

Page 61, line 2, after the second underscored comma insert "board of governors, member-managers, or managers,"

Page 62, after line 6, insert:

"c. May not dispense to a registered qualifying patient or registered 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 useable marijuana."

Page 63, line 20, after the second "be" insert "well"

Page 63, line 20, remove "as provided by"

Page 63, line 21, remove "rules adopted under this chapter and"

Page 69, line 11, after "member" insert ", member-manager, manager, or governor,"

Page 70, line 4, remove "established by the department in an"

Page 70, line 5, replace "amount not to exceed three" with "of two"

Page 71, line 16, replace "registration" with "registry identification"

Page 71, after line 25, insert:

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

Page 72, line 25, replace "C" with "B"

Page 73, line 2, replace "C" with "B"

Page 73, line 9, replace "C" with "B"

Page 73, line 20, remove "A compassion center must be fined up to one thousand dollars for a violation of this"

Page 73, replace lines 21 and 22 with "In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation."

Page 73, line 25, replace "C" with "B"

Page 73, line 30, replace "C" with "B"

Page 74, line 4, replace "registration" with "registry identification"

Page 74, line 9, replace "B" with "A"

Page 76, line 26, replace "Vaporizing" with "Using a combustible delivery form of usable marijuana or vaporizing"

Page 76, line 26, after "the" insert "smoke or"

Page 76, line 27, remove "nonpatient"

Page 76, line 27, remove "child"

Page 77, line 27, after "vaporizing" insert "or combustion"

Page 78, replace lines 5 through 22 with:

"**19-24-35. Rules.**

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter.

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

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

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

Page 81, remove lines 1 through 16

Page 81, line 17, replace "**19-24-41**" with "**19-24-40**"

Page 81, replace lines 26 through 30 with:

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

19-24-41. Funding.

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

Renumber accordingly

2017 SENATE APPROPRIATIONS

SB 2344

2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee
Harvest Room, State Capitol

SB 2344
2/21/2017
Job # 28523

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Rose Laning

Explanation or reason for introduction of bill/resolution:

Relating to implementation of the North Dakota Compassionate Care Act to authorize medical marijuana

Minutes: Testimony Attached # 1.

Legislative Council: Sheila Sandness
OMB: Lori Laschkewitsch

Chairman Holmberg called the committee to order on SB 2344. Roll call was taken. He reminded the committee that we are focusing on the fiscal note and will be passing the committee recommendation to the floor.

Senator Rich Wardner, State Senator, District 37, Dickinson, ND
Introduced SB 2344.
This bill was discussed thoroughly on the floor yesterday and this hearing is to discuss the money. We need to do some funding as it's rolled into the health department, but the Attorney General's office will need funding. You need to know what is being dedicated to this medical marijuana program. The person that can answer your questions is Arvy Smith from the Health Dept.

Arvy Smith, Deputy State Health Officer, North Dakota Department of Health
Testimony on the fiscal note – Testimony Attached # 1.

Senator Mathern: I imagine its quite difficult to ascertain the exact number of persons to get to this fiscal note, but in light of the information about the actual medicine being available through prescription through pharmacists in the coming year. This ingredient that's in marijuana will be available in pill form to dispense through pharmacies. Is that figured in here as in the numbers of growers, users and dispensaries?

Arvy Smith: There are currently two prescriptions available through pharmacists. There is an additional one that is supposed to be coming available anytime now, but I've been hearing that for about a year. That would be hard to factor how much use that would have. Where did we come up with 5? The State of Delaware has similar conditions covered and similar forms of use covered. They are experiencing 4.7 patients per 1000 population, so that's how

we landed at five. We thought we were most comparable to that situation. It's a difficult estimate. If those numbers go way down, our revenue goes down and we could experience some financial difficulty, but that is the best estimate we have at this time. If the activity is much higher than that and we have additional revenue and will be in a much better fiscal position.

Senator Hogue: In the measure itself, it made clear that all fees were to go into a compassionate care fund and never touch the general fund. We want this to be a self-sustaining proposition. The measure said we wanted this to be funded by the state. Any fees that are collected go into this fund. Are we changing the intent of the proponents of this by telling them that they have to pay for it when they said we all have to pay for it – not just the participants?

Arvy Smith: The original measure had the fees being deposited into this operating fund so we did not change that. The original measure also had a continuing appropriation out of that fund and we did not change that as well. We are having all of the fees going into the operating fund. We noted in model law, language developed by MCSL, and that was something that was done – that the fees must cover the costs of the program. That was where we went with SB 2344.

Senator Hogue: The proponents of this measure did not specify in there that it was to be self-funding so in your judgement, are we changing the dynamic because as I read through it, they expected us to provide the full-time folks from DoH that were necessary and the fees that were generated by the measure would go into the fund to help support it, but there is no indication in the measure itself that its going to be self-sustaining. I think they're expecting an implicit subsidy from the state, from our general fund to make this program work. We're turning around and saying no, it's going to be self-funding. Am I wrong?

Arvy Smith: That is correct. It is a change from the original measure.
In 2019-21, we expect, even at the $200 level, to cover all costs. If it was the expectation for the state to subsidize this, those fees could go down. That would be the result. But we went with the model law on that issue.

Senator G. Lee: I'm trying to understand the cash flow. If it's going to be a cash basis essentially because the banks don't seem to want anything to do with it, how is it going to be monitored in terms of the revenue that they take in, in terms of paying the tax? Is there going to be audits routinely on their sales so you know they have a good number, in terms of what you're saying here is going to be actual revenue?

Arvy Smith: There is available in states, some great management information systems that will track all of the product. We are concerned about these needing to be cash transactions. As far as them paying the fees to the state, those will be by check. That is allowable to pay for the registration fee but the actual transactions of sales of medical marijuana to individuals will be cash transactions. The systems out there track all of the revenue and all of the inventory. We've got the growers separated – there will only be 4 growers and then there will be eight dispensaries. We'll add more if access isn't good enough across the state. We have the authority to add additional dispensaries if necessary. The growers have to track it seed to sale – the plant and so once they sell it to the dispensaries, we will have an inventory.

By that inventory coming and going and the prices, we should be able to know how much cash they should have and how much inventory they should have based on sales receipts. We have built in one half of an auditor into this scenario to help us do that using the electronic management information system.

Senator G. Lee: How do you know how much they're going to have on hand and how much they sell. What's the yield? Senator Wanzek's combine tells him what the yield is. How do you know what the yield is on 8 plants?

Arvy Smith: In the growers, that's going to be a little more difficult. From what I understand, they bar-code every plant. There is seed to sale tracking and they'll have to tell us the plant numbers. They'll have to track their plants that did or did not produce. That will be difficult in the growers and that's why it's good we're limiting that to only 4 growers. Once we know that produce, they can only sell to dispensaries. They cannot direct sell to patients.

Senator G. Lee: The growers and the dispensaries can have an unlimited amount on hand. If they have a good crop, whatever they have in terms of yield, that's what they can have on hand? They're not limited to a certain amount? The same with the dispensaries – are they limited to a certain amount they can have on hand?

Arvy Smith: I believe we landed at 1000 plants and 3500 ounces. The growers are limited to a thousand plants and that is in any stage of maturity. And 3500 ounces of marijuana. The dispensaries is limited to 3500 ounces of product in their dispensary at any given time.

Senator Dever: If SB 2344 failed to get 2/3 vote, that the default would be the measure. What would the fiscal note look like then?

Arvy Smith: I believe it would go back to the original Gov. Dalrymple level of $7M. $2M from the general fund. Many aspects of this fiscal note would change, expenses all the way around, revenue would change drastically. Revenue to the general fund would change drastically as well, however, going back to original measure, it does not provide the de-criminalization and so it would be very difficult to move forward with implementation knowing that anybody doing anything allowed in the measure is subject to getting prosecuted and arrested. I don't know how we would implement if the bill fails.

Senator Robinson: You referenced the State of Delaware as a model you've looked at in putting this package together. How many states currently have in place medical marijuana?

Arvy Smith: I think it's 28 now, however just note that one medical marijuana program does not at all resemble the next. Some of them are so limited that they offer only one condition and one form of use. Others are very broad. I would see ND on the broader edge of the spectrum. The ones that are having .6 patients per 1000 population are more like MN and a couple other states that are only covering one condition.

Senator Wanzek: The $80,000 is a registration fee that is paid every 2 years? (answer - yes.) I talked to the Bank of ND this morning and they've already had calls from farmers wondering about a loan to become a manufacturer or a grower. Because of the criminalization, they can't loan any money out to any producers so this is going to take

somebody with means. I have one constituent about being a grower, but it's going to be in a controlled environment – like a greenhouse type environment?

Arvy Smith: The places that grow will need a local permit to do so. There are many regulations related to security, use of pesticides and many different conditions that they have to meet; what their security looks like, control over the product, locked facilities.

Senator Wanzek: Is the Department of Agriculture going to participate in any way helping to monitor that?

Arvy Smith: The original measure and SB 2344 put all of the regulation on the Department of Health. We needed to add some clarifying language regarding the for agriculture department's role in this. In our oversight, if we find cases where pesticides were used, that is when the ag department becomes involved. As of now, no pesticides are allowed to be used on the plants.

Senator Wanzek: How are you going to narrow it down to 4 if you get a bunch of applications?

Arvy Smith: The criteria to apply are pretty significant. We've had several organizations contact us wanting to grow asking what they need to do. There are about 15 pages of regulations they need to meet to become a grower or a seller. There is a $5000 application fee to be submitted upon application. The restrictive requirements, which were in the original measure may limit some of that, but we will have to do a competitive award. When they come in the door, and if they meet all these requirements, we've got checklists from other states that they're using for this that we'll model after our law. They'll have to come in good compliance. We'll probably try to put them in different areas of the state, but look at the best applications that can meet the need.

Senator Bowman: Is there any liability to the state if something doesn't go right in this first implementation because until we do it and its tried, we never know where the little catches are going to be. Is there any liability issue for the state?

Arvy Smith: It has been discussed in various aspects. We learned that when we do our regulation, for example, if they have more plants than they're supposed to, and we want to confiscate some, we cannot do that. When we go take independent random samples of product, we cannot touch the product. That would be asking our employees to commit a federal crime. We will have to figure out a way to do the random independent testing. If we see that product needs to be confiscated, we'll have to bring in local law enforcement.

As far as other liabilities, for example, if somebody has adverse effects, we did add language to get those reported to us. We understand that the new Attorney General is not supportive of marijuana. If that would change, I believe individuals are at their own risk.

Senator Hogue: Looking at the measure, it provided for the $5000 application fee and a $25,000 permit fee and I think it allowed the growers to be the dispensers. What we have in the bill now is a bifurcation of the growing and the dispensing. The growers have the $80,000 fee and the dispensers have the $60,000 fee. Can you give some insight into how those numbers were arrived at? Your fiscal note shows about 4000 patients and administrative

imposition with the patient's application fees and the fees that have to be paid by the growers and the dispensers. It works out to between $500-$600 per patient. Where did the $60,000 and $80,000 fees come from?

Arvy Smith: We looked at other states and what their levels they were at. To some extent, we backed into those numbers. We saw what the expenses were and what needs to be covered. They are a little bit higher than some of the other states. There are so many unknowns that our tendency was to set them a little on the higher side because if we don't get the patients and the activity, and we don't have enough revenue, we end up with a big hole in our budget. If the activity goes above the 3800 and we have more revenue, we may be able to look at lower amounts down the road. We have to get a biennium under our belt and see where this thing lands in the state.

Senator Krebsbach: Would it be fair to say that we now have a system in marijuana similar to or patterned after our three tier system in alcohol? Meaning a manufacturer, whole-saler and distributor.

Arvy Smith: This is based on having the grower-producer and they not only grow but put it into product. We did this based on visits with several entities that are wanting to come into state and do this and have members on their team that are experienced in other states as growers, sellers, etc. We put the production and the growth together. Then we have the dispensaries or the sellers. They only get their product from the growers and then those sellers sell either directly to a patient or in some cases to the patients designated care-giver if the patient is not able to go purchase for whatever reason. A designated care-giver can have up to 5 patients including themselves.

Senator G. Lee: In terms of the growers fee and the process they have to go through, I assume there is a process on the county, township or city level that they may have to abide by. If I'm going to be a grower and go through your process and pay the $80,000, then do I go out to my location for approval? Or do I go there first and then come to the state.

Arvy Smith: When they send an application to us, they must already have that permit in place so that we are not spending months getting them qualified only to find out they can't get a permit.

Senator G. Lee: In the fiscal note with the FTEs, and there's a rental cost in there. Is this going to be a self-contained unit off capital grounds somewhere where everyone will do just that – the marijuana?

Arvy Smith: We are considering space right now. The Dept. of Health's Emergency Preparedness section is housed south of WalMart in the south end of town. It's the old Sykes building. We are already renting ½ of one of the buildings for emergency preparedness. We may look at the other ½ of that building for this group. Depending on how this comes out with the number of FTE, we'll look whether there's some room at the capital or not. It will be housed authority-wise within our Health Resources section which is the part of the DoH that does nursing home regulation, food and lodging regulation and now we just add medical marijuana regulation into that group.

Senator Mathern: What would be the average cost per patient or consumer of marijuana for a year under this scenario of these fees and conditions. What is expected that someone would be paying per year for their medicine?

Arvy Smith: We have heard estimates of the cost of medical marijuana at anywhere from $200-400 per ounce, so we went with an average of $300. That is not a fee that we establish. That is established by the industry. It could get quite expensive for them. It's not covered by insurance or workers comp. If they use 3 oz. a month every month, so 3 oz. time $300 is $900 a month. Times 12 months - $10,000. We hear that the oils come in somewhat higher than that. They need far less – not ounces, only grams of oils, but the price per unit of oils is very high.

Senator Oehlke: Being in the insurance world, did the insurance department testify about whether a grower or compassion center would be able to obtain liability coverage for the products that they're growing and or selling? It won't cover illegal acts.

Arvy Smith: We did not have that conversation and I don't recall any testimony. I imagine they would have trouble getting insurance on a federally illegal product.

Senator Oehlke: Did we consider since that might be a likelihood, that a grower or a compassion center wouldn't be able to get liability coverage, should we consider a bond? If one of our residents is injured, they'd have recourse? It would have to be a cash bond because a bonding company wouldn't issue a bond for that either.

Arvy Smith: What we did build into the bill, was that they need to have a bond in case they were to set up shop and go bankrupt and leave and leave a mess for us to clean up. I don't know if the state would get involved. It's highly unlikely that risk management would want to be involved in the state taking on that kind of liability to assist in that.

Senator Oehlke: The Secretary of State requires bonds from many businesses and that's kind of what its for, in case someone bails and doesn't have insurance coverage, there would be something there to provide relief for the person that's injured. Those bonds aren't typically that large, but a bond for this might have to be.

Arvy Smith: These entities are required to be registered with the Secretary of State and in good standing. I'm not quite sure what their bonding requirements are.

Chairman Holmberg: That might be a question if the bill passes the senate that you share with our colleagues over in the House saying it was a question that was brought up and there is not satisfactory answer one way or another. We want to give them something to do if we pass the bill.

Chairman Holmberg: Asked if anyone else wanted to testify on the financial arrangement in this bill. None. Closed the hearing on SB 2344.

Senator Krebsbach: Moved a Do Pass on SB 2344.
Senator Dever: **Seconded the motion.**

Senator Robinson: There is a tremendous amount of confusion out there with what is happening with the legislation. Wants to commend the work of the committee that has worked on this so far. There are still a lot of unanswered questions. I would hope the House can pick up where this committee has left off and by the end of the session, we will have resolved the questions that we're aware of. As we move through the next 24 months, there are going to be additional questions that surface. We've got a challenge ahead of us and its difficult to connect the results of the November election with reality. We're trying to implement something that is far-reaching.

A Roll Call Vote was taken: 8 yeas, 5 nays, 1 absent.
The bill goes back to Human Services and Senator J. Lee will carry on the floor.

Date: 2/21/2017

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2344

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Senator Krebsbach Seconded By Senator Dever

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	Y		Senator Mathern		N
Vice Chair Krebsbach	Y		Senator Grabinger	A	
Vice Chair Bowman		N	Senator Robinson	Y	
Senator Erbele		N			
Senator Wanzek	Y				
Senator Kilzer	Y				
Senator Lee		N			
Senator Dever	Y				
Senator Sorvaag	Y				
Senator Oehlke	Y				
Senator Hogue		N			

Total (Yes) 8 No 5

Absent 1

Floor Assignment Human Services (J. Lee)

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2344, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2344 was placed on the Eleventh order on the calendar.

2017 HOUSE HUMAN SERVICES

SB 2344

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2344
3/21/2017
29533

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to implementation of the ND Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide continuing appropriation; and to declare an emergency.

Minutes: Attachments 1-25.

Chairman Weisz: Called the committee to order and opened the hearing on SB 2344. Is there testimony in support of SB 2344?

Senator Rich Wardner, **District 37:** Explained SB 2344, handed out written testimony. (See Attachment #1) (2:05-15:00)

Chairman Weisz: Are there any questions from the committee?

Representative McWilliams: Senator when it comes to the fees how do the $80,000 and $60,000 fees for the manufacturing and dispensing measure up with other states?

Senator Wardner: That was calculated by the State Health Department, they took the thought we would have with people involved with medical marijuana and took fees from other states and figured it out. There will be further testimony that will address this, but it did come from lots of research.

Chairman Weisz: Is there further testimony in support of SB 2344?
16:00

Rep. Al Carlson, District 41: In support of SB 2344. I will talk about several important things on how we make decisions on medical marijuana in North Dakota. It passed by the public, almost 63% voted in favor of this bill. It would authorize the Department of Health to regulate this. Explained the written handout. I only make one suggestion, I know there will be a lot of technical amendments that are coming on definitions and I urge caution that sometimes you try to put so much in a measure and you should leave some of that to rule and let that be written by the Health Department. I was in Colorado and on every other street corner I saw shops that had advertisements that said "Get your Commute Joint - $8.00" and

I said I don't think that is what North Dakota wants. Give this an open mind and clean it up as best you can so we give the citizens what they thought they were getting, a safe product that have medical conditions that fall in the list. (See Attachment #2). (16:05-26:20).

Chairman Weisz: Are there any questions from the committee? Seeing none. Is there further testimony in support of SB 2344?
27:30

Senator J. Lee, District 13: In support of SB 2344. Explained written testimony. (See Attachment #3) (27:30-38:57)

Chairman Weisz: Are there any questions from the committee?

Representative McWilliams: What is the chief concern for protection? What do we need to protect them from?

Senator J. Lee: One of the things is the dosage must be clear. It needs to be on the package so that people know what they are getting. The growers and manufacturers are responsible for testing and labeling with what the dosage is. Patients need to know what dosage is appropriate for them. We need to protect the children. Also the decriminalization needs to be put into place to protect the people who are using it.

Representative Skroch: In section 28 you are saying that there need to be background checks and fingerprinting among staff at a child care facility, was it a consideration that these people would also be required to be fingerprinted as part of their being employed at a Compassionate Care Center?

Senator J. Lee: I can't tell you what it says in the bill at this time, I don't have a copy with me. Please ask the experts that will be testifying after me to help sort out some of those questions you may have.

Chairman Weisz: Is there further testimony in support of SB 2344?

Jennifer Clark, Attorney for Legislature Council: 43:25 Neutral testimony and explanation on SB 2344. You have an 82 page bill, when this came in Legislative Council made decisions on how to draft this. We could have repealed and replaced the initiated measure that is in effect right now and it would have been half the size, but it might be helpful to allow people can see what was and what it was changed to. It went to the Senate and they amended it, so that is why you have an engrossed bill in front of you. You can kill it, amend it, pass it, if there are no changes, it goes to the governor. It can go back to the Senate if you agree or amend it. As an initiated measure it takes 2/3 vote for 7 years. If there are disagreements it will go to a conference committee. It could die there if there is no agreement. I worked with the Senate on the amendments they added to this. Definitions of in the bill are important, we tried to find definitions that will be the same all the way through the bill. They answer lots of the questions you might have. Lots of time went into those definitions. It helps as you read the remainder of the Chapter you can understand. Definitions include Usable Marijuana, who can get the card to use it, a physician and the relationship they need to have access to that card, who is a designated caregiver, Compassion Centers

– two types, manufacturing and dispensaries and our qualifying patients. That is our whole circle of how this works. The State Department of Health is primarily monitoring this and taking applications and selecting where the compassion centers will be. The Dept. of Agriculture is included because we are growing something. The State Department of Health will start accepting proposals for manufacturing facilities and dispensaries. There is a limit on the number and we authorize them to have a few more dispensaries if there is a need. Lots of detail in here to be respectful of the original language that was submitted to the voters. You will see some detail on what the security system needs to be on the Compassion centers and on what the employee handbook needs to look like. A positive is you know what you are getting but a negative is to change it you need a legislative measure to do it and it needs to have a 2/3 vote for 7 years. If you want to come back and change it a little bit in a couple of years, you will need a 2/3 vote to do it. In the last section of this bill is talk about the decriminalization which is an important part.

Representative Porter: Inside of the bill where is the part that says the compassionate care center and the dispensary have to be two separate independent operators?

J. Clark: It says if you operate as a manufacturer, that is your sole job there, they have to be different facilities and different applicants, I don't know if they have to be different owners.

Representative Porter: I hear what you are saying, but I don't see it.

J. Clark: On page 56, line 27-31 it says that if you are a manufacturing facility you cannot be a dispensary.

Representative Porter: It doesn't seem to limit the investors or ownership from owning both. That is an issue we will have to look at. (56:00)

Chairman Weisz: Further questions? Seeing none. Any further support for SB 2344?

Arvy Smith, Deputy Health Officer for the North Dakota Dept. of Health: In support of SB 2344. (See Attachment #4) (56:38-1:19:00)

Chairman Weisz: How are you protecting minors if you are allowing minors to be given marijuana?

Arvy Smith: We limited the ages and the strength that is available to children.

A Smith: continued her testimony. (1:19:00)

Chairman Weisz: Are there any questions?

Representative Schneider: You said you used the state of Delaware as an example because it looked like North Dakota. Were the costs, which have been a complaint in the proposed bill, here as high for the qualified patient or cardholder and how do the charges compare to other states you compared?

A Smith: We used Delaware where it seemed to look like North Dakota as far as developing the charges and looked at other states and compared the rates they had. We landed on $80,000 for the growers and $60,000 for the compassion centers for a two -year period. With the regard to the compassion centers we were seeing some at $25,000 a year or at $40,000. If we lower these costs the state will have to invest more in the start-up. We could adjust those if it needs to be the next biennium. We don't know how many businesses are going to make ends meet because it depends how many people need this. Our goal is to get a grower and seller up as soon as possible.

Representative Schneider: How do the cardholder costs compare?

A Smith: The other states are lower but they have many more people to spread their fixed costs over so ours cost are a little higher.

Representative Schneider: I saw on my desk an amendment that you would have the ability to grow if you were distant from a dispensary and that has been removed. Then the amendment now is to add that back in. What did you see as reasons for removing it or barriers to be putting it back?

A Smith: Our concern were the more growers out there and they were allowed to have as many as 8 plants per patient, that would be a large amount of marijuana if there wouldn't be a medical purpose for that it might cause an illegal market. Also if people grow their own it will cut back on how many people buy it from the dispensaries and their profit would be less and it might make it much more difficult for them to sustain a business. The voters said they wanted this and gave us the starting point and we have been developing improvements and the Senate has also. We may be back in two years and improve to it again.

Representative McWilliams: Do you know how much marijuana is used per month per patient on average? Is the average use 2 or 2 ½ ounces?

A Smith: No we don't know. We took into consideration what other states said. We had heard that 3 ounces every 14 days was very high, some states allowed 2-3 ounces per month. So we settled in the middle but we don't have any actual data on usage.

Representative Porter: On page 57 section 14 that talks about the zoning. I am questioning what happens with the local zoning if they don't approve the center or manufacturing? If we say this is something that is legal this is a land use in this particular act, we are taking that authority from the local zoning provisions.

A Smith: I don't know what local governments will do with this. I would think some would allow it in certain areas, just because the grower is in an area doesn't mean a dispensary has to be right there. We have had many conferences about this with various businesses. I would expect there will be local governments that will approve these.

Representative Porter: Aren't we allowing the local government to veto the ability to do the business? We don't give them that authority in other areas of agriculture and

commodities. Why wouldn't we say this is a function of the state instead of a local zoning ordinance?

A Smith: That is a component you can look at. The local permit was not a requirement in the original measure. We just said we want it up front and we did add that.

Representative Porter: On the actual sale of the product at the compassionate care center is the sale taxable?

A Smith: Yes, it is a taxable sale. This is not a prescription. The role of the physician is to say the individual is my patient and that they have the qualifying condition and that they may benefit from the use of marijuana to alleviate that condition. They are never prescribing it is a recommendation.

Representative Porter: On the fiscal note you only listed the revenue in you figuring $1.7 million in 17-19 biennium is just from the sales and use tax. There isn't anything you figured on the city side of it?

A Smith: We did not calculate the cities side of it, that would vary.

Representative P. Anderson: I look at this that one of the roadblocks could be zoning. I think we need to get this off the table.

A Smith: It was unclear and it was in NCSL's model law and suggested by other states and that was our basis for putting it in. We just didn't want to go through the whole process and then find out that they did not want the dispensary or manufacturer there.

Representative P. Anderson: If we added grow your own would that impact the time period of one year?

A Smith: If we added grow your own individuals would have quicker access to product. The would be able to begin as soon as we got an application process out there. If we allowed that for that we would have to collect an application a registration fee from all of these patients and designated caregivers, allowing them to start growing. If there was 2000 of them in an area and then a compassion center come in, meet the requirements and get certified. What would we do with all these individuals who were growing. We would have to shut them down and collect the product. That seems like a big concern with doing that. There is significant cost to regulate those growers and for local law enforcement to track that.

Representative P. Anderson: Would there be a way say once we have the dispensaries up that you could say if you are outside of the 40 miles you could grow your own?

A Smith: Our preference with that would be to say if we had a facility in Dickinson and they weren't getting out to Bowman we would allow another dispensary in Bowman or we would say they have to cover them. We do need to provide access to the patients. 1:36:48

Chairman Weisz: Is there any testimony in support of SB 2344? Seeing none is there any testimony in opposition to SB 2344?

Anita Morgan, Compassionate Care Act Coalition:(See Attachment #5) We are here in opposition to SB 2344. Explained written testimony. (1:37:57-1:51:43).

Chairman Weisz: Questions from the committee?

Representative Schneider: Your comments on the debilitating disease not being in there, because on page 7 line 19 subsection M says that a "debilitating medical condition or treatment for such disease or medical condition that produces one or more of the following".

A. Morgan: Cancer and its treatments, alzheimer's, dementia and its treatments is omitted, so what does that mean, that you may have cancer but we are not going to cover you for your treatment long haul also the adding of illnesses is most important. People ask me to add my disease to this list but now that option is gone.

Representative McWilliams: You referenced the 6% THC content as it pertains to pediatric cannabis, what is the maximum recommended THC content across the industry and what is the possible complications or impacts of that?

A Morgan: They start with .5, it can range from 5-10% depending on the diseases, it is in the handout, but it depends on what diseases they might be weaning the child off of. The medical marijuana may need to be higher if they are trying to get them off of something. It is by weight and how many seizures they might have, and what their disease is, etc.

Chairman Weisz: Further questions from the committee?

Representative Porter: On the option to add conditions the only way for the Health Department to do that would be to go through the Health council and administrative rules which would take longer with their public hearing requirements than just coming back to the legislature every 18 months and doing it. Inside of your group have you discussed that the fact that it might be faster and more efficient to come back to the legislature than to go through administrative rules process.

A Morgan: I never thought about that, but whatever would be fastest would be good. It is always patients first.

Representative Porter: You mentioned opposition to the bill. If it doesn't get to what you want and it fails to meet the necessary vote, then what is left is not able to be put into effect.

A Morgan: The specific takes precedence as far as legal. We are already in jeopardy for patients because you took out Century Code Chapter 19-03-4 the paraphernalia was covered in the original but it is not covered in SB 2344.

Representative Porter: Inside of the original possession wasn't covered according what the Attorney General has said to us. This requires a much higher level of legislative approval to

make these changes and if they don't happen and we fall back to the original way it was passed and it is not able to be implemented then you have nothing.

A Morgan: North Dakota Century Code 1-02-07 from 1943. Whenever the general provision in statute is conflict with the special provisions in the same or other statute the two must be construed if possible so that the effect may be given to both provisions that when conflict comes the specific trumps the general.

Chairman Weisz: Further questions from the committee? Seeing none. Further testimony in opposition to SB 2344?

Ray Morgan, I am bringing neutral testimony for someone that could not be here. Kevin Cross from District 5 in Minot. Would like to be a grower of Medical marijuana for North Dakota. (See Attachment # 6) (2:02:35-2:06:14).

Chairman Weisz: Questions from the committee? Seeing none. Further testimony in opposition to SB 2344.

Erica Schmidt, Chronic pain sufferer. 20 -year -old individual. In opposition to SB 2344. (See Attachment #7) (2:07:00-2:11:03).

Chairman Weisz: Are there questions from the committee? Seeing none. Is there further testimony on SB 2344?

Maxine Schmidt: Erica's mother. In opposition to SB 2344. (See Attachment # 8) (2:11:30-2:18:09).

Representative Schneider: Would the edibles have helped your daughter?

Maxine Schmidt: Yes, they would have.

Representative McWilliams: One of the concerns we have is what kind of confusion could there be between edible marijuana and other edibles that children could get into? Is there an advantage in using an edible in the form of a brownie or gummy bear over a pill or an oil?

Maxine Schmidt: There are lots of issues. I know there are some that can't take pills or can't tolerate patches, or oils, etc. There is so much we don't know unfortunately. I am thinking like a cookie, a very small cookie and the medication would be distributed slowly and preventing side effects. I know you are worried about keeping it safe from small children just as I worry about my other medications not being accessed by small children. It would be a normal parenting to protect our children. The edible marijuana can be a very good alternative for some people.

Representative P. Anderson: When your daughter was 6 or 10 years old and you went to Mayo Clinic and the way the bill is written now in order for a child to and oil was through pediatric neurologist, gastrologist, oncologist or by pediatrician consultation with one of

those specialists. Would that have limited you in being able to have medical marijuana for your 10-year-old?

M. Schmidt: Yes, especially when there was so many people in the medical field that did not understand her illness was real. The cancer was gone but the chronic pain did not go away. They tell us the surgery of the cancer and treatment was the cause of the pain.

Representative P. Anderson: Who was her primary doctor provider when she was a child?

M. Schmidt: She had a pediatrician, we did make many trips to Mayo Clinic and a cancer doctor in Fargo.

Chairman Weisz: Any one that can't be here this afternoon?

Connie Falkenstein: I suffer from fiber myalgia, arthritis, depression, panic disorder and it is very difficult to be in front of you. I cannot take any pain medication because I am allergic to almost everything. How can it be legal to give kids Ritalin which is meth and not legal to give them something that won't harm you like marijuana. Explains about her grandson that has ADHD. Wants the bill fixed and put into effect for those that suffer. (2:24:48-2:27:47).

Chairman Weisz: We will take a break for lunch and return and continue after the session. Called the committee back to order. Is there continuing testimony in opposition to SB 2344? (2:27:34)

Andre` Thom: In opposition to SB 2344. (See Attachment #9). (2:27:40-2:38:34).

Chairman Weisz: Questions from the committee?

Representative Skroch: Did you testify before the Senate Human Services committee? Are you aware if any of your concerns were addressed in the Senate Human Services committee?

A. Thom: No I did not. They were discussed and addressed but not to my desire. I was not present there, so I am not able to speak to what amendments were being put forward.

Representative Skroch: My question is related to your final statement in your testimony about wanting a do not pass. If we kill this bill what do you think we will be able to work off of to allow the people of North Dakota to be able to get what they desire.

A. Thom: I believe this is an opportunity to amend it then if this would fail then it would be put into effect as it is written. I would hope that we can amend this to be more in conjunction with what the people want. If it goes back to the act it would give the Department of Health to add qualifying conditions. The largest concern is the decriminalization portion of it. I would like to see it focus on issues better and not to change wholesale issues within the act specifically to the 6% and removing of the authority from the department. I believe if it would revert back to the act the Department would have

the power to add qualifying conditions which I feel is extremely important for the success of this program. I feel the act is still stronger than what is being proposed currently.

Representative Skroch: You do realize that there has to be some regulation to roll this out in the way you want it.

A. Thom: I think the Dept. of Health needs more authority. The decriminalization needs to be dealt with and the what was removed, the delivery, transportation of medical cannabis or paraphernalia, that should remain. The Department might have some jurisdiction in the testing of the product, but beyond that perhaps the criminal code is where the legislature has its strength.

Vice Chairman Rohr: You said there have not been any deaths in Minnesota from prescribing THC. Have there been any near misses?

A. Thom: It was the DEA fact sheet that states there is no recorded deaths at all. That is direct deaths and indirect deaths in Minnesota none has been recorded.

Vice Chairman Rohr: If the patient feels that their practitioner is not giving them as much or the strength they want? What mechanism is in place for that in Minnesota?

A. Thom: They would have an option to search for a new caregiver. In Minnesota the pharmacist recommends the dosage and the certified health practitioner just decides if the individual meets the definition of a qualifying condition.

Representative Porter: Does Minnesota allow non-residence to participate in their program?

A. Thom: No they do not.

Representative Porter: Does Minnesota allow them to smoke it?

A. Thom: No they do not. No it is extract only.

Representative Porter: The North Dakota program far exceeds Minnesota in the availability of different types of products.

A. Thom: Yes it does have more available options in terms of medication itself but fewer conditions.

Representative Porter: As we look at a North Dakota law for North Dakotans, the comment about non- residents isn't relevant because there really aren't any other states that touch us that allows our residents to go over and receive product is there?

A. Thom: Nevada does. A couple other states allow card holders to possess their medication but not necessarily be able to purchase in the state.

Representative Porter: I said states that touch us.

A. Thom: I am unsure beyond Minnesota and North Dakota.

Representative Porter: Didn't Nevada just pass recreational marijuana use so the medical is really off the table anyway.

A. Thom: They are two separate programs regulated completely differently.

Representative Porter: So if you wanted to buy recreational marijuana why would you have to worry about talking about a doctor first?
A. Thom: Your age and if you can bring it across state lines and transporting it across state lines.

Representative Porter: So if you can bring it across state lines, what is going to happen at the airport?

A. Thom: They might be asked to throw it away. They might confiscate it, or there might be criminal charges.

Chairman Weisz: Is there further testimony in opposition to SB 2344?

Linda Kerstin, North Dakota resident of District 6, Retired teacher: In opposition to SB 2344. (See Attachment #10) (2:53:24-3:05:14)

Chairman Weisz: Are there any questions from the committee? Seeing none. Is there further testimony in opposition to SB 2344?

Bill and Patty Wilhelm, North Dakota Residents: Bill has Crohn's disease. In opposition to SB 2344. (See Attachment #11) Do the doctors have a paradigm in place and how much money will be wasted in the process? We need guarantees on how this would work for us. We believe it should be between the patient and the doctor. (3:05:55- 3:10:10).

Chairman Weisz: Are there any questions from the committee? Seeing none. Further testimony in opposition to SB 2344?

Marty Riske, a co-signer on the Compassionate Care Act: In opposition to SB2344. I want to review history because the constitution does not say anything about what people should consume. When the women's temperance movement decided that alcohol was not good for our society they did it right when they passed an amendment to the constitution in 1920. They said they will only go after the distributors, if you want beer or wine you can make it in your basement. What a difference today. Medical marijuana has been legal in Washington DC for 20 years. In 2014 they passed recreational marijuana. Let's get on with making our patients better. 3:10:36-3:13:30

Chairman Weisz: Any questions from the committee? Seeing none. Further testimony in opposition?

Rilie Ray Morgan, resident of Fargo, North Dakota: In opposition to SB 2344. (See Attachment # 12). (3:13:48-3:19:46).

Chairman Weisz: Are there any questions from the committee? Seeing none. Is there further testimony in opposition to SB 2344?

Gail Pederson, Special Practice RN in Holistic Nursing: In opposition to SB 2344. (See Attachment #13). (3:20:17-3:27:26).

Chairman Weisz: Questions from the committee?

Representative Schneider: Do holistic nurses in other places incorporate marijuana into their program?

G. Pederson: I don't know, because I am very isolated when it comes to other holistic nurses.

Representative Skroch: You made references to the child use of medical marijuana product. Are those dosages and variety of options spelled out in the Compassionate Care Act?

G. Pederson: I don't know.

Representative Skroch: You stated that there needs to be legal research and development in the state.

G. Pederson: I think there needs to be freedom to test these develop and research the other forms of the product.

Representative Skroch: If we kill this bill and it is not in your original bill how would this happen?

G. Pederson: I think it would be beneficial to the state to be able to do this.

Representative Skroch: If you can't transfer this across state lines how would we be able to supply this to the people of North Dakota?

G. Pederson: I don't know if that is a section that needs to be added to the dispensaries and grow facilities. I am more in the concern of the patients.

Representative Porter: On page two of your testimony you said that you should not have to do criminal background checks. That we aren't doing it for other class 1 medications. Are you familiar with the prescription drug monitoring program we have established within the state? Don't you think that is tracking prescriptions and individuals receiving class 1 drugs and it is monitoring pharmacies, doctors and recipients of the class 1 medications.

G. Pederson: That is a good program. Opioid over prescribing and overuse is an epidemic. There is studies that have found marijuana has decreased opioid use. They are not background checked though.

Representative Porter: They are in the system and red flags thrown up and they will be denied access to the medications if there is a problem. They don't need a background check to refuse them access. If there is an abuse of the program or an individual who is a drug seeker, rather than someone who has a medical condition how are we as the regulatory agency supposed to track them if we don't have a system to monitor them.

G. Pederson: I still don't think it is necessary. You have the card, that is essentially your regulatory. Why the extra $45 for the background check. That person is already in the system with the card. Isn't that criminalizing those people who is seeking the use of what is now in North Dakota a legal substance.

Representative Porter: We mandate as a regulatory agency that someone who is a daycare provider have a background check so everyone is aware up front. What would be wrong with doing the same thing?

G. Pederson: The cost. It is an unnecessary cost is the bottom line. Why should they have to pay extra money for that to be done?

Representative Porter: Do you know how much medical marijuana will cost? If they are at the full 3 ounces per month from the dispensary?

G. Pederson: I have no idea. I know what the underground cost would be.

Representative Porter: That would be the illegal marijuana market?

G. Pederson: Yes.

Representative Porter: This is going to be a legal market.

G. Pederson: Yes.

Chairman Weisz: Are there any further questions from the committee? Seeing none. Is there further testimony in opposition to SB 2344?

Listed below is written testimony not presented orally in opposition to SB 2344:
Jake Anderson, Turtle Lake, ND: (See Attachment #14)
Jared Poe, Patient in Minnesota's Medical Cannabis Program: (See Attachment #15).
Kari Olavson, Minnesota Resident: Mom to Jacob who suffers from epilepsy. (See Attachment # 16).
Maggie Ellinger-Locke, Legislative Counsel for Marijuana Policy Project: (See Attachment # 17).
Joan Lee, Casselton, ND: Nursing background. (See Attachment # 18).
Nathan Prince, Watford City, ND: Has Grandmother who would benefit from Medical marijuana. (See Attachment # 19).
Carel Two-Eagle, ND Resident: In opposition to any marijuana usage. (See Attachment # 20).
Patrick McClellan, Minnesota Resident: Has Muscular Dystrophy and enrolled in the Minnesota Cannabis program. (See Attachment # 21).

Sheri Paulson, Galesburg ND Resident: Has Muscular Dystrophy. (See Attachment # 22).
Dr. Sue Sisley, Arizonza Physician: See Attachment # 23).
Sonya Jensen, Fargo, ND: Mother of a child with Chronic Pancreatitis and non-alcoholic steatohepatitis with liver atrophy. (See Attachment #24).
Danielle Goble, Minot, ND: Wife to war Veteran with PTSD. (See Attachment # 25).

Chairman Weisz: We will close the hearing on SB 2344.

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2344
3/27/2017
29734

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Donna L Whetham

Explanation or reason for introduction of bill/resolution:

Relating to implementation of the North Dakota Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: Attachments 1-11

Chairman Weisz: Called the committee to order and opened the discussion on SB 2344. Anyone with amendments, please hand them out. We will go through the Sections of the bill one by one discuss and agree on any amendments. We will address the amendments by section, some of the amendments will be duplicates and in the end the intern will make one amendment. (See attachments 1-11).

Chairman Weisz: I assume we are all good with section 1 in SB 2344. Ok, section 2 the definitions. They basically start on page 5.

Representative Schneider: On page 5, I just want to be sure we are not counting the liquids in the amount of marijuana that a person can possess.

Tara Brandner, Assistant Attorney General of North Dakota and Legal Council for the Department of Health: We are saying how much THC can possess every thirty days, that 2000 mg would just be the THC not the liquid or additive. The Department will be requiring packaging and labeling that identify the amount of THC in the product. We arrived at the different amounts of THC in the products by looking at Oregon's program. They allow 4000 mg and they said that is very high and they have had a medicinal marijuana program since 1998. They said the patients have adapted and developed a tolerance. Then we checked Minnesota and it has the same model of what North Dakota is looking at. Introduced and explained the amendment. (See Attachment #1, 2 and 3). (9:55-17:06)

Chairman Weisz: Questions from the committee?

Representative P. Anderson: The bill that came over from the Senate, they had 9% versus 6% for the THC, right?

Tara Brandner: In terms of pediatric and medicinal marijuana oil that number is 6%. We have taken out the section with the amount and percentage of THC in a product and just left it as how much they can have in total
Representative Seibel: What is Minnesota's limit per month?

Tara Brandner: They have a 30 day supply. In Minnesota they have pharmacists that are involved and they decide what the limit is. In North Dakota the pharmacists did not want to be involved.

Representative McWilliams: Are they going to have enough with our limit, that is only 44 mg a day? Is that enough to care for the patients?

Tara Brandner: In Minnesota they offer products in 5, 10 and 15 mg doses and goes up to 25 mg as well. If our maximum is at 25 mg, yes they could have enough.

Representative Skroch: Who determines the dosing and decides what they are getting and do they have training to justify those dosages with?

Tara Brandner: It is the Compassion Care center, in Minnesota they are pharmacists, in North Dakota there is no requirement that they be a pharmacist or medical physician. It is a hard place to be because we are trying to make a determination of how much a person should have with a medicine that hasn't been FDA regulated or tested. We did our best to look at other states and see what was available. One thing the Department requested be in SB 2344 was the requirement once you are licensed to become a Compassion Center, you essentially say your qualifications and that is something they can consider in whether or not to allow a Compassion Center to register. There are no required qualifications except they can't have a felony conviction and can't have a drug charge.

Representative Skroch: So there can't be an overdose since there is no specific training into what dosages should be?

Tara Brandner: One of the things we have done is try to protect children by putting the maximum percentage of THC at 6%. Delaware does the same thing.
One of the other items that the Department added to SB 2344 is the requirement that Compassion Centers and other individuals report adverse effects they receive from Medical marijuana so they will be able to study that.

Representative P. Anderson: On page 9 line 30 through page 10 lines 1-2 where the physician says you can smoke it or not. That is problematic because the physician can only say this is your condition and medical marijuana may help. We need to take that out.

Chairman Weisz: Can you wait until we get to that? We are looking at the amendment and it changes the limits to 2000 mg in a 30 day period and it adds the transdermal and tinctures. If there are any issues let's hear them. Instead of 30% it is 6% maximum. I don't want motions for each one we will take each section and agree on what to have for amendments. Any issues on number one? It does clarify it and make it easier.

Representative McWilliams: I just want to make sure that 2000 mg is enough in some cases.

Charlene Rittenbach, Forensic Scientist with North Dakota State Crime Lab: Looking at some of the other states and different dosages, marijuana is not FDA approved and there is no typical dosage amount. We looked at Marinol, synthetic THC, when you are talking about the capsules it is schedule 3 and FDA approved. It comes in 2.5 mg, 5 mg, and 10 mg capsules. It is prescribed for cancer patients and HIV for appetite stimulation and one study said a maximum of 20 mg a day. Under capsules there was 50 mg max per serving but they wouldn't have to make the capsules 50mg, it can be smaller. If they did make 50 mg capsules they would get 40 capsules per month. That would be more than one a day. I would say the 2000 mg for the capsules would be good. In comparison a typical joint weighs .66 grams and if you take your 2.5 ounces allowed per month you could get 107 joints per month. That is 3.5 joints per day for 30 days. Marijuana THC will range from 8 to 20%. Colorado's average is 18%. I took 20% to figure the percentage of THC. So basically 13 mg THC per joint. That is 52 mg of THC per day if we use 4 joints per day if they smoke it and times 30 you are at 1584 per month. We did try to make it all fit under the 2000mg level. That was another verification for the 2000 mg. We did compare it with Minnesota products and their mg are under the 2000. We are just setting the 2000 mg of THC per month no matter how they take it in.

Representative Porter: My question falls back to the products that are FDA approved with the same components. Are they now limited too or are they on a different limiting factor?

Tara Brandner: Products that are FDA approved the physician can prescribe them, so the limits don't apply.

Representative Porter: There are a lot of medicines that are FDA approved and on a schedule, but they use them off label to treat something that they weren't made for. Are they now limited if they find a different use for Marinol, as an example and where is that found? (33:44)

Tara Brandner: The products that are FDA approved a physician can prescribe for those specific conditions it is approved for. Any new product that would come out, if it is FDA approved, a physician can prescribe them, then it is not covered under this.

Chairman Weisz: Then would the limits apply? If the patient has a prescription is that amount counted in their total?

Tara Brandner: No, if it is prescribed it doesn't count. The marijuana products are not prescribed they are only recommended by the physician.

Chairman Weisz: Let's go on to Section 2. Page 6 line 13 in the bill. Explains the bill. There are 5 conditions of the bona fide physician-patient relationship. Any problem with these?

Representative Porter: Why is it listed as physician all the way through the bill when the primary care giver could be a nurse practitioner, not a physician?

Tara Brandner: We limited it to just physicians because that is what was included in the original measure 5. So the nurse practitioner could not do it. It would have to be a physician that you are seeing for the debilitating condition.

Representative Porter: What if the individuals primary care giver is a Physician's Assistant and all of their medications are prescribed by the PA not a physician. I think that we need to have the primary care givers included instead of just physicians. I think are making a mistake to leave that out.

Tara Brandner: The goal of this language is to eliminate the possibility of criminals we also need to remember we are talking about a federally illegal substance. I think physicians and nurses as well would have anxiety to be involved in this.

Representative Skroch: I don't disagree with Representative Porter, but maybe we need to just make this as close to what they voted on as we can.

Representative McWilliams: I agree with Representative Porter. I think it needs to be consistent with whatever the we do across the board with primary care providers.

Chairman Weisz: Adjourned for lunch and called committee back to order afterward. We are page 6 of the bill on the bona fide Physician-patient relationship.
50:00

Cheryl Rising, Legislative Liaison for Nurse Practitioner Association: We have not been testifying on this bill because marijuana is schedule 1 and we are not able to prescribe that. The way the bill is written here I do agree we should add the Advanced Practice Registered Nurse (APRN). When you read Page 6 section 2 it would be appropriate to have that added to review the records and work with the primary providers and to be able to document the decisions made.

Tara Brandner: I will clarify that the inclusion of the APRN should not go in the definition of the Bona fide physician-patient relationship, it should go in the definition of physician on page 9 line 1.

Chairman Weisz: Anyone else have anything on A, B, C, D, E? If we do add that APRN in by the definition of the physician and then we can leave this as physician because we are saying either or.

Representative Porter: Legislative council has a huge issue with using definitions with descriptions of law. The word physician has a definition in the century code and if you change the meaning of that just for this portion of the century code that may raise a huge red flag. You cannot use the word physician interchangeably to represent an Advanced Practice RN. We need to have that clear and concise inside of number 2 on page 6 where you are going to put APRN and then you might need a new definition of what an APRN is inside of this section.

Chairman Weisz: I think we need a new definition for physician on page 9.

Representative Porter: You can change it to health care provider.

Chairman Weisz: Is everyone comfortable with that if we change the language where ever it says physician it will say health care provider and we will add APRN and it will be defined in number 19. Number 3 is cardholder, does anyone have an issue? Number 4 compassion center is both the manufacturing and dispensaries. They are separate but both considered a compassion center. Number 5 is the compassion enter agent. Number 6 is contaminated is impure or inferior. Number 7 Debilitating medical condition. Someone suggested that we add terminal illness if you have 12 months or less to live to the list of conditions. Does anyone have a problem with that?

Representative P. Anderson: Isn't terminal illness defined somewhere? If you are going into hospice care it is usually 6 months.

Chairman Weisz: We were asked for 12 months but if it is already defined as 6 months is everyone comfortable with leaving it at 6 months. Ok. Then we will add terminal illness.

Representative P. Anderson: One of my amendments deals with this and that the Health Department can add other medical conditions to the list. Arvy Smith testified we should just start with these diseases and add others later. I would rather say after a certain date the Health Department could add. (See Attachment #4).

Representative Porter: People stated when they were testifying that they were very unfamiliar with the process of working through the Health Department. We are not here for 18 months but certainly they could have the hearing and make the addition of the condition put the emergency clause on and it becomes effective right away. I think that is a better process than doing the part that was put out in the ballot measure.

Chairman Weisz: Would you be comfortable with it if we basically add a portion that will say that the Health Department look at other illnesses and suggest them to the next session.

Representative P. Anderson: I would be fine with that. I just don't want it left out of the bill we are never going to add another medical condition.

Chairman Weisz: Is the committee comfortable with adding Health Department shall look at other identifying conditions and report to legislative management the possible suggestions for the next session?

Vice Chairman Rohr: How did you come up with the list of illnesses you have here?

Tara Brandner: These are the illnesses in the Measure. Some of the opposition to the Senate bill was after cancer and some of the other treatments were removed. That was removed because in M. it says "a chronic or debilitating medical condition or treatment for such", so it falls in that encompassing area. These are the conditions allowed in Delaware. In terms of adding the conditions there is an advisory board that is part of the Compassion Care program. One of the tasks is to provide recommendations to the Department and the Legislature. Because of the lack of scientific evidence and if they chose not to add a condition

and the potential for a law suit the Department and the Senate Human Services prefers that the legislature adds the additional illnesses. (1:05:07)

Representative Kiefert: You say cancer. If I have a cancerous mole or if I had prostate cancer, do you think that is too broad?

Tara Brandner: The way SB 2344 is written it would be cancer but you would have to be suffering from the disease at the time. So if you no longer have the cancer you would no longer qualify.

Chairman Weisz: Continued to go through definitions in the bill Section 2.
8 Department means state department of health
9 Designated caregiver
10. Dispensary
11.Enclosed, locked facility
12 Manufacturing facility
13 Marijuana (1:07:19)

Representative McWilliams: Does marijuana have an expiration date? Does it get old? Will it have a date just like any other drug?

Mylynn Tufte, State Health Officer: In some of the forms of marijuana that have been presented in this bill would be like other medications and have an expiration date. It would be certified and attested by the State Health office as quality and efficacious medication.

Chairman Weisz: Continued to go through definitions in the bill Section 2.
14 Medical marijuana waste
15 Medical use.
16 minor is defined as under the age of 19. Any problems with that?

Representative McWilliams: Why is it 19 here and 18 everywhere else? I would be more comfortable if we just did 21 all the way across but allowing for some sort of an appeal with a guardian to be able to access higher levels of THC after the age of 18. So we are still keeping it out of the schools.

Tara Brandner: The Department of Health had proposed that the age of a minor be 21, the academy of Pediatricians says anyone 21 and under should not be using marijuana. The age 19 was done by the Senate Human Services committee as a way to insure that marijuana stays out of the high school but that students who are in college can access it without their parents.

Representative P. Anderson: I think one of the reasons 19 was in there is that it was not legal for someone under 19 to smoke marijuana and if you are under 18 you could only do the oil.

Tara Brandner: One of the reasons for defining a minor is that marijuana is federally illegal, however under the Obama administration it said we will prioritize certain items and one is the distribution of marijuana to minors. In measure 5 there were no restrictions for minors. We

added in a definition to a minor and what specific product, they can only have medical marijuana oil that has 6% THC and requires a parent or guardian dispense it and keep it in a locked storage at all times.

Vice Chairman Rohr: When you mentioned the Academy of Pediatricians saying no use under the age of 21 is that smoking?

Tara Brandner: That is any use of marijuana.

Representative P. Anderson: On the question of the age of 19, I put in a bill that you had to be 19 to buy cigarettes so you weren't smoking in high school. I think this is where this comes from. We could say you have to use the oil until age 19 and it can stay 18 everywhere else.

Tara Brandner: Right now it says under the age of 19 all across the board.

Chairman Weisz: Under 19 they have to use the oil at this stage. Is everyone ok with that? Then we will leave it as is. Continues to discuss the bill definitions.
17 North Dakota identification.
18 Pediatric medical marijuana oil
19 change it to healthcare provider so it includes physician or APRN. Is this the consensus of the committee?

Tara Brandner: I did provide the 3-27-2017 amendment, they have minimal changes, it changes the language to no more to a maximum concentration or amount of THC, it is just a clarification.

Representative Schneider: I am ok with that definition, but I think we are too restrictive. I think we can deal with that when we get to 23 on page 9. We can leave the definition of the oil to whatever is stated there. But then I want to look at the restriction of that being the only treatment for pediatric. I have an amendment coming that would start on line 5 page 9 that a physician must be a pediatrician comma and then go on with the rest of the specialists and on line 6 we would have a period after specialist. That would serve to be the decision making in the hands of the pediatrician who is also a specialist. It would keep us out of defining a medical practice of what they must do and who must do it. (See Attachment #5)

Chairman Weisz: Doesn't it say that where it says "or must be a pediatrician working in consultation with one of these".

Representative Schneider: I think there is circumstances where the pediatrician would be specialist enough to make the decision without being forced to consult with the other specialists when it is not needed.

Representative Seibel: I agree, the pediatricians are already specialized and I wonder how pediatric gastroenterologists we even have in North Dakota. I trust the pediatrician to do the best for a child, personally.

Representative P. Anderson: It says if the qualifying patient's medical condition is Post Traumatic Stress Disorder the physician must be a licensed psychiatrist and we have so few of those in North Dakota and it is an extra cost. It seems to me that a health care provider can prescribe all the mind altering drugs so why is it just one condition that you have to go to a licensed psychiatrist? I think we should take that statement right out.

Tara Brandner: The Department did not make changes to that section because that language is from the original measure in regards to the licensed psychiatrist.

Representative Porter: I think we can put a period on page 9 line 2 after the word humans, where it is and get rid of the rest through line 7. A physician is a physician I think we are splitting hairs here. I don't think we can practice medicine from this committee table.

Tara Brandner: Most states when dealing with children or minors do require them to see a pediatrician or pediatric specialist of some sort. That was the reason the Department added that language in.

Chairman Weisz: In a rural area a child may have a provider that is not a pediatrician even if he does go at times to the larger cities to see one. How would that work?

Tara Brandner: The pediatrician would be the provider for that qualifying condition. That pediatrician could write that certification. They could have both.

Representative Porter: The pediatric patient that has a seizure disorder I don't think the pediatrician is going to do different than what the family practice physician will do. If the family practice physician thinks they need the extra input they will refer the patient to University of Minnesota, to Rochester, to some place that has the pediatric neurologist. I think the safeguards are already in position inside of the physician. We don't have to get down into what the practice of medicine is in code.

Vice Chairman Rohr: Didn't we say we were going to start with healthcare provider?

Chairman Weisz: The majority is ok with that. We are going to eliminate everything after the period on line 2 through line 7 on page 9. Continues to discuss the bill definitions.
20 Posttraumatic stress disorder, we would take out "or a future addition". We would use the current edition of the DSM. Any other changes in line 20? Seeing none.
21 Qualifying patient
22 Registry identification card

Representative Porter: On line 22 page 9, do we want to allow for electronic cards?

Chairman Weisz: There could be an issue with tracking.

Tara Brandner: The card will be a card like your driver's license with a picture of you. There will be a scan bar on the back that law enforcement will be able to verify if it is valid.

Representative McWilliams: If someone goes to a dispensary will they just have to see the card or do they have to scan it?

Tara Brandner: They will have to scan it.

Chairman Weisz: I am trying to think of the language that we could use, it would depend on how they do inventory tracking and cash management. You could have

Representative Porter: After the word document you could insert "or electronic document".

Tara Brandner: We would be the first state to have an electronic document and I don't know if law enforcement would have problems with that.

Representative McWilliams: Would it be better to just leave it as it is, let the program take effect and then see if it needs to be added later next session.

Representative Schneider: I like the electronic document it is safer and more secure. I would say after document insert "or its electronic version" and leave it up to the Department to sort it out. .

Representative Seibel: Is that going to increase the cost too to come up with the electronic version?

Representative Skroch: Won't they need some kind of a reader too to do that and would the dispensaries have to pay for that on their own.

Tara Brandner: The Department will have to adopt the same system or one that is compatible with the ones the Compassion Centers have. I think the way it is written now the Department could probably add electronic to it.

Representative D. Anderson: I think we should just leave it the way it is and see what the department comes up with.

Chairman Weisz: I guess I would recommend that we do leave it, but it is up to the committee.

Representative Westlind: Our driver's license is a card and you have to show it. I think this should be left too.

Chairman Weisz: How many would like to leave it or change it? It looks like we will leave it the way it is now. We may come in to it later. Now we will go on to:
23 Useable marijuana. Any changes?

Representative Schneider: When we get to it in that section I would take out the last sentence the pediatric medical and leave that to physicians practice to determine if there is a better combination or item to use.

Chairman Weisz: Is everyone ok with the addition of the products? OK. Representative Schneider would like to take out

Tara Brandner: The 6% limit for children was chosen based on other states if you go back to all forms then there is not a 6% THC limit. We do know THC has a negative effect on children and developing brains.

Charlene Rittenbach: When it comes to pediatric products a lot of them are high with CBD or cannabidiol and lower in THC. The definition right now says 6% THC and the cannabidiol level is open. The studies from the Scholarly Journal referenced CBD oil with a 25 to 1 ratio of CBD to THC. So the THC was low. Most of the pediatric products are more dealing with CBD and that doesn't have psychoactive effects compared to THC.

Chairman Weisz: We just got done arguing over the age of 19 as a minor. With these products is there a difference between an 8 year old and a 17 year old?

Charlene Rittenbach: I am not sure I can answer that. Most of the pediatric products are in oil form. Because inhalation and smoking obviously can cause adverse health effects. With patches for children I don't know if there is studies on that. If you limit the THC to 6% and the cannabidiol is higher that would be allowed.

Representative Schneider: None of us are doctors and yet we are trying to restrict the doctors from doing what they think is best. I see the value in the limitations of THC. Maybe that limitation should come from Physicians or somewhere outside of the century code. (1:39:43)

Chairman Weisz: Is the main rationale to limit the THC? Could you limit the THC in other things like patches?

Tara Brandner: Yes. In the studies the CBD has the most beneficial effect in the children. You could have a patch made at 6% THC. Remember this is not a prescription and that the people in the compassion center are not medical personnel. Remember that the people in the compassion center are not medical personnel.

Representative Schneider: But they are medical professionals who are entering a recommendation.

Tara Brandner: No, essentially all the physicians and APRN's are doing is saying the individual has glaucoma as an example and she may benefit from the use of marijuana. No dosage or form. Then you would go to the compassion center where you would get the marijuana. You would have to give them some way for it to be limited in children.

Representative Skroch: If we have research that says that THC is harmful to the brain of a child. I would rather err on the side of caution and wait until we have more research. We wouldn't want to do something that would be harmful to a child.

Charlene Rittenbach: Medications for pediatrics is usually done in terms of the weight of the patient. When you have an age of the minor being 19 that dosage is different you typically have a sliding scale. A pediatric patient that is 6 is a lot different than a pediatric patient that is 18 years old

Representative Porter: Based on the testimony I would rather that we left the concentration to 6% no matter what method of use there is. It could be a patch or whatever as long as it was limited to 6% for the pediatrics.

Representative McWilliams: I have a question and a suggestion at the same time. Do we have any other medications that are given according to age instead of by weight?

Tara Brandner: Unfortunately this has not been scientifically tested and we can't really know.

Representative McWilliams: Do we have a precedent in law that says like for oxycodone that you have to be the age 18 to prescribe that or other opioid pain killers?

Tara Brandner: You have to remember this is a federally illegal drug, it is not oxycodone or a prescription.

Representative McWilliams: Should we be looking at something weight based instead of age based?

Chairman Weisz: Basically it is trial and error because there is no research that tells you if you weigh 85 pounds you should have this much oil.

Representative Anderson: Could we solve some of this with a patch and go back to pediatric marijuana is and limit the 6%.

Chairman Weisz: If we go to page 8 line 18 and just say that it could any of the products as long as they stay at 6%. The committee agrees to limiting it at the 6% maximum THC. We would add the tincture, capsule, patches, topical would all be available if they can be at 6%. We will add the language that shows those products.

Tara Brandner: So you would be saying that medical marijuana products under 6% would be allowed for pediatrics.

Chairman Weisz: Yes, that is what the committee is saying. Continuing on the definitions:
24 Verification system
25 Written certification. We would change physician to healthcare provider.

Representative Anderson: That's where "Physician's professional opinion" needs to come out.

Chairman Weisz: The physician has the ability to recommend then it says if they on page 9 line 25 where it says "authorized the use of dried leaves or flowers" and on to the physician's professional opinion". I am not sure about the physician giving the professional opinion.

Tara Brandner: The reason for adding this on the Senate side there was some hope that dried leaves and flowers would go back in. When we are talking a medicinal product, that medicine is producible and it is consistent. The dried leaves and flowers in a dosage is

neither. There is also a vaporization method. The concern is how you get the product into your body.

Representative P. Anderson: You are saying a physician says. Here's the condition that made them available for marijuana but as a last resort it is dried leaves and flowers. The physician is not involved in this.

Tara Brandner: It is the physician who can authorize dried leaves or flowers.

Representative McWilliams: Do physicians really know what is going to be the best? Do they know?

Tara Brandner: The concerns the patients raised on the Senate side is here are certain conditions that can only be helped by smoking the leaves and flowers. They asked who would be best in answering that and the physician would be best. I think there is a concern about the inhaling carcinogens.

Representative Schneider: That really is saying a physician is prescribing. No physician is going to do that. I would suggest putting a period on line 30 page 9 after debilitating medical condition. Let the physician do what is best, they know about carcinogens.

Representative McWilliams: As far as I know smoking is still legal. Smoking is putting carcinogens into your body. No doctor is going to tell you that you should smoke.

Tara Brandner: It is legal to smoke tobacco but under state or federal law it is illegal to smoke marijuana. If we talking again about a medicinal product and are dried leaves and flowers really medicinal. This is the language the Senate preferred.

Representative P. Anderson: We should just end where Representative Schneider said at condition. I think this just limits the smoking of the leaves and flowers. (See Attachment #6)

Tara Brandner: There are some states that limit to specifically oils. It is not that the dried leaves and flowers can't be used in the products, it is only that you can't just smoke them on their own.

Representative P. Anderson: I think we will have a problem if we can't have smoking to use it.

Representative Skroch: Has there been a lot of interest in getting the dried leaves and flowers in Minnesota if they were limited to the oils?

Tara Brandner: They just allow all the other things in Minnesota except the dried leaves and flowers. They will not offer the dried leaves and flowers because they don't feel it is medicine.

Representative P. Anderson: Our measure said you can smoke it, that is where the 2.5 ounces came from and they were talking about the size of a joint.

Tara Brandner: It is not that smoking is not allowed under this measure but it would require an extra step of a physician saying that would be your most beneficial product.

Chairman Weisz: Instead of stopping at your period on line 30 you could just say the physician can authorize the use of dried leaves or flowers in a combustible form.

Representative P. Anderson: I would like to talk to some physician's to see if they would sign for someone to smoke it.

Chairman Weisz: That way they could come to the physician, say that the smoking would help them and get the doctor to sign the certificate.

Representative McWilliams: I think we are going to get into this again when we get to growing it. The ability to grow your own is in the original measure itself and if we take that out and put in that you have to consult your doctor to be able to smoke it. We will end up with more problems.

Chairman Weisz: Currently the bill does not allow growing your own. So we are talking about going to a dispensary and getting their product.

Representative P. Anderson: Maybe the card could say all useable forms of medical marijuana. That way it would include smoking.

Chairman Weisz: We are just saying that the doctor gives the certification.

Tara Brandner: The way it is written right now it does say it on the card that they can get any form. It would identify that the option was available.

Representative P. Anderson: We should stop at delivery on the bottom of page 9, the other is a last resort.

Chairman Weisz: It would need to say something about the physician may authorize the use of dry leaves and flowers. So we will stop after the word delivery on the last line page 9.

Representative Skroch: Would the Health Department be more comfortable allowing the other forms on the card if this process with the physician takes place. Do they need that kind of protection in there to be able to write those rules?

Chairman Weisz: The compromise removes that and they can write the rules because we are not limiting them and they will write the rules according to this. The last sentence Section 2 on page 10 would stay in where it starts " a written certification" up to Section 3.

Tara Brandner: We did add the definitions of the products in our amendments and the local zoning laws and we had changes on the allowable amounts. (See Attachment #1)

Chairman Weisz: We already limited it to the 2000 mg in a 30- day period for all the products. We agreed to add the all the products and the maximum of 6% THC for topicals.

Representative McWilliams: When I first looked at this I thought it was only for pediatric that was 6%, but this is saying that all of these are limited to 6%.

Tara Brandner: Yes it is limited to 6% for lotion for your skin or head. That number is based on Oregon's percentage they allow in their topical. They have had medicinal marijuana since 1998.

Representative Porter: The only problem I had with zoning is, are we creating a new definition of what local zoning is or is this just what is already in place? Why do we need a definition of local zoning?

Tara Brandner: Local governments have the authority to regulate time place and manner. This was proposed by the League of Cities and the Association of Counties so they had the specificity in statute which they could reflect to. We are just being very clear about what we mean by that/

Representative Porter: But if we don't put what we mean by that then it defaults to a different section of the code.

Representative Devlin: I don't think we need the part time, place and manner. That is what they have in their ordinances. Whatever they have in there is up to them. If we don't put that in there it falls back to Century Code.

Stephanie Dassinger, Deputy Director of League of Cities: We asked this language to be included to make it clear what our authority is. In cities it is not as much of a problem, because we have ordinance making authority under title 40. Counties it is less clear exactly how far their zoning authority goes. This provides more clarification for counties and townships on how they can regulate the zoning for these particular facilities.

Chairman Weisz: So you want the time, place and manner. Ok committee what do you want to do.

Stephanie Dassinger: Yes, I don't know that zoning is defined in code real clearly. There is case law but to my knowledge there isn't one clear definition.

Chairman Weisz: Representative Devlin says we can get rid of time, place and manner and Representative Porter wants to just get rid of it altogether.

Representative Skroch: What if one of these centers wants to go 7 days a week 24 hours/day and it is against the city ordinance. Would that be defined by zoning laws?

Chairman Weisz: I think that would be covered by the language. It would give the ability to the local on how when and where it goes.

Representative Porter: When you get into the bill on page 57 line 15 it says you have to have the approval of the local zoning law so they already have the authority. It is a common practice inside the local zoning law. I don't see the need to put a new definition in here

Representative Devlin: I agree with Representative Porter.

Chairman Weisz: Certainly they would have time to address all of this in their zoning ordinances prior to this going into effect.

Representative Porter: This was my concern in the beginning so that if the boards say they

are not going to have a facility in their town. They could already say no we aren't having it in our town.

Representative Westlind: I would leave it off completely.

Chairman Weisz: Committee how many want to leave it in or out? For now we will leave it out.

Representative P. Anderson: If we are following Oregon and the maximum concentration the 6% and 50 mg and they allow 4000 mg maximum and we allow 2000 Mg. I think we should increase it to 3000 mg. If they have been in the business that long and we are doing only half of the amount.

Chairman Weisz: I think the limits are in there so that they do not sell what they have left over.

Tara Brandner: We talked to Oregon and they said that the 4000 they allow was very high and that their patients had adapted to that. We just divided it in half and came up with 2000.

Representative P. Anderson: So our patients would adapt to that as well. So I say we should move it to 3000 mg.

Representative Skroch: There was a testimony this morning that 2000 was a good number as a starting point and I am comfortable staying at that point.

Stephanie Dassinger: It is an impossible number to come up with so that is why we did separate the oils and concentration of THC and see what the concern was. We started at 4000 and went in half. It was just decided 2000 would be the starting point.

Chairman Weisz: How many want 2000, how many 3000? 2000 wins.

Representative P. Anderson: How about 2500?

Chairman Weisz: Moving on to Section 3? (2:31:42)

Representative Porter: We just need to clean up the language on the bottom of page 11 and make it consistent, like the healthcare providers.

Chairman Weisz: We need to remove the language on page 11 lines 27 from "attestation" through line 29 where it says "palliative benefits". But the "signature and date" still has to be in place. We already removed that somewhere else, so we have to remove it here too.

Representative Schneider: I have an amendment to decrease the card price to $50 for individuals on SSI, SSDI, medical assistance and Veterans.

Chairman Weisz: I would just as soon set a fee and keep it there for all of them. I would agree $200 is a bit high. We are looking at $50.

Representative Porter: I am fine with $100.

Representative Skroch: I think $100 is ok.

Representative Devlin: I think $50 is enough for everyone.

Chairman Weisz: We have two proposals. How many people want $100 and how many want $50? Ok it looks like the $50 wins. It has to support itself though, so we will have a discussion further down the road. Just so we are clear this will change the fiscal note a few hundred thousand.

Chairman Weisz: Are there any other changes in Section 3. We have to make the changes to add APRN all the way through.

Representative McWilliams: On page 11 number 5, what does the "medical justification" looks like?

Tara Brandner: We looked at Delaware's forms and this was on their forms to clarify that the patient has cancer and here is my medical reason why.

Chairman Weisz: So is everyone ok with that?

Representative McWilliams: The Bona fide physician patient relationship. Could we run into a problem where you would have to have a previous relationship with that physician, because if you went to a specialist you may not have much of a relationship, you may just see him once?

Chairman Weisz: It would be a one on one relationship. You would be under the care of the doctor that is treating you for whatever the reason for the treatment is. (2:41:37)

Representative Skroch: Line 26 page 12, we say if the applicant is a minor we mean it is under the age of 19?

Chairman Weisz: Yes. A minor is defined as under age 19.

Chairman Weisz: Section 4 is there any changes?

Representative Porter: We need to change the fee from $200 to $50 in two places.

Chairman Weisz: Does anyone else have a problem with section 4?

Representative Seibel: I struggle with the criminal history check because there is a lot of people on opioids and other things and they don't have to go through a background check.

Chairman Weisz: Is that for the care giver or the individual?

Tara Brandner: The individual or qualifying patient is not required to have a criminal background check. It is just the care giver and the agents and employees of the Compassion Center that have to have a criminal background. Not the patient.

Chairman Weisz: Are you ok with that if the patient doesn't have to have that?

Representative Seibel: Yes.

Representative P. Anderson: We are talking about a registered care giver and if my son was the caregiver, I don't think he should have to have a criminal background check either, if there are 5 people then that person should have a background check.

Tara Brandner: In the measure there is an exception for the fee so if you were the caregiver and your son was the patient, if you are a care giver the measure required a background check for everyone so the department did not change that.

Representative P. Anderson: I wonder if we could make an exception if it is just a family care giver.

Representative Skroch: I just think it is something we need to be sure they are not dealing drugs.

Chairman Weisz: Section 5. Now we are into the qualifying.

Representative Seibel: So where ever physician is in here it will be changed to healthcare provider, correct?

Chairman Weisz: Yes.

Representative P. Anderson: I have an amendment so that if someone is extremely ill the health department might be able to expedite a card on page 19 number 4.

Chairman Weisz: It says 30 calendar days and obviously it takes time to process the card and then it could be expedited under those conditions or a temporary card.

Representative Skroch: If we start developing the registry of care givers could someone that was extremely ill use someone else's caregiver and be able to access the care giver that way rather than having to apply for it you personally?

Tara Brandner: The patient would have to apply and qualify, the departments intent is to do it as quickly as possible. Especially in those situations. The goal was because the department doesn't know how many applications that they will get, that it was the 30 days

from application. As to the care giver point they would have to have a card to go to a care giver.

Chairman Weisz: I think you could give priority to terminally ill people in the application process and get the card out as quickly as possible. I don't think you need to put that into code.

Tara Brandner: The intent of the department is to go through the applications as fast as possible within the means they have available to them.

Representative Skroch: I started with qualified patient and designated care givers page 19 with 30 days. I thought that was just for the care giver.

Tara Brandner: Both the patient and the designated care giver will have to apply to the department. A patient could apply themselves if they need it faster, because the patient doesn't have to have a care giver.

Representative Seibel: I have a question in subsections 6 and 7 about the application that they can deny if they forget something and then can't apply again for a year. What if they miss one little thing in an application and they have to wait a year to reapply. I think that is too extreme in case they just forgot something.

Chairman Weisz: I think they should be able to reapply right away again and produce the right materials.

Representative Schneider: Page 20 on line 14, I think it gives the department a little wiggle room. We could limit it to C and D too.

Arvy Smith: The intent was not to deny anyone, but if we try and try and can't get us what we need then they would be denied. We would not deny because they missed one piece. I don't know what wording I would suggest but the intent wasn't that.

Representative Seibel: We have it on record of what the intent was so we can go back to that if we have to.

Chairman Weisz: Anything else in Section 5?

Tara Brandner: We did have a minor change on page 20 line 8 after the word "act" it should say "as". It is just missing that word.

Chairman Weisz: Hearing adjourned on SB 2344.

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2344
3/28/2017
29768

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature	Mary Brucker

Explanation or reason for introduction of bill/resolution:

Relating to implementation of the ND Compassionate Care Act; to authorize medical marijuana; to provide a legislative management; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: No attachments

Chairman Weisz: Re-opened the discussion on SB 2344. We are starting at section 6 on page 23, the language about expiration date. If there's nothing further there we can move on. On page 41 it talks about transferability. Is everyone okay with that? Hearing nothing, let's go on to section 8. This is asking for a 30-day notification. Is everyone ok with this? Hearing nothing, we will go on. We're on the bottom of page 50. I know there are questions. We need to address it because some of this language came about because initially we were still looking at allowing home growing. On page 29 the department may conduct an onsite interview of a card holder or registry identification card applicant to determine application or renewal eligibility. This doesn't just include the caregiver or the compassion center agent, it also includes the patient or the card holder.

Representative P. Anderson: If we just take out qualifying patient will that work? If I carry my own card, I don't think the Health Department should be able to call and say they are coming into your home in 24 hours. If I'm a designated caregiver for other people I get it, but I don't know that they should just come into an individual's home.

Representative Skroch: Are we going to take out growing in your home then? If we allow that then it has to be in here to be able to know how much they are growing.

Chairman Weisz: Yes, if we allow them to grow their own we will have to change this. At this stage the bill doesn't have that. The proposal would be to eliminate qualifying patients from the onsite interview.

Representative Skroch: I would be okay with that as long as the other safeguards are in place that determine how many doses and so forth, a person can get their hands on.

Chairman Weisz: We've already approved that language that talks about the limits and things.

Tara Brandner, legal counsel for the North Dakota Department of Health: This language came from the original measure so it would allow the department to enter the home of a qualifying patient, a designated caregiver, or with the compassion center. It was the goal to monitor when plants were available. Without the plants I don't think the department is as concerned. There was a concern about possibly addressing identification issues, but that could be done in a way that doesn't involve entering a patient's home.

Chairman Weisz: By identification do you mean who they are?

Tara Brandner: Yes. The patient will send in their application, their identification, and some other information. If there is a concern about whether or not the patient is who they say they are that would be when the department anticipated they would use this. I don't think it's necessary for the department to achieve what their goal is, so the department isn't opposed to this.

Chairman Weisz: I would hope not because DOT doesn't seem to have to go to the homes to ID, which is pretty stringent.

Representative McWilliams: On the top of page 51 line 1 where it says, "our compassion center agent", is the word "agent" a problem? What exactly does that mean when it says "compassion center agent" instead of just "compassion center"?

Tara Brandner: A compassion center agent is anyone who is either an owner, employer, or volunteer. If your concern is entering individual's homes, you could strike the entire language. Right now the department has the authority, later in the bill, to enter the premises of the compassion center. If they were concerned about the compassion center agents, then they would just visit them at the compassion center, more than likely not their homes. The department isn't opposed to striking the entire number 1 if that was decided.

Chairman Weisz: That may make more sense.

Tara Brandner: The only concern with that is as long as the girl is not back in.

Chairman Weisz: Right, if it comes back in then we'll have to readdress that issue. Committee, we will strike Number 1. Number 2 is getting into the center itself. That requires an onsite. Are there any problems with number 2? Number 3 seems reasonable so we should be able to provide what they need. Number 4 is failure to provide the needed information.

Representative McWilliams: In looking at number 3, are there any limits to what that could be limited to? Could that be carried over to medical records? I wonder if that language is too broad.

Chairman Weisz: It's broad because they are having to determine they are who they say they are.

Tara Brandner: One of the other things we noticed in researching other states is that they require the qualifying patients to sign a HIPAA release because they are saying if we need these records we can obtain them. The likelihood the department would go looking through somebody's medical records is low, I think they will rely on a doctor's statement. In the instance when that might come into question then at least they have the ability to do that.

Chairman Weisz: No issues with number 4. They can take action. Number 5.

Tara Brandner: There is an alternative section further in the bill that discusses the review of compassion centers as a whole, so if you want to remove the word "premises" you could because that's addressed later in the bill.

Chairman Weisz: That is covered so you would be okay with that?

Tara Brandner: Yes. Section 21 of the bill addresses the inspection of compassion centers.

Chairman Weisz: We will remove the word "premises" so we'll say "the material owner information is provided may result" then "take an action." I don't see anything on number 5. Anything on number 6? That seems self-evident. Number 7.

Tara Brandner: The department did all the amendments that are proposed to include removing the words, "registered qualifying patient or registered designated caregiver" and replacing that with "cardholder." Cardholder is a defined word that we use to mean those people so it's really just clean up language. That would be for 5, 6, and 7.

Chairman Weisz: Is everybody okay with changing that to cardholder? Okay. We'll worry about the technical language there. Number 7 is when they have to provide written notice, five days to correct the violation. If you have a violation and you close the place down what happens to the product?

Tara Brandner: The intent is for the department to address the disposal of marijuana product in administrative rule. They would have the authority to do that. If the place is shut down it would have to go through law enforcement.

Chairman Weisz: Let's say they temporarily lose their license and then they get it back.

Tara Brandner: My understanding is that there is the ability, if a license is suspended for a period of time, the compassion center would ultimately be able to keep their product, they just wouldn't be able to dispense.

Chairman Weisz: On page 52 is there anything on D and E? Everybody's okay. We'll go on to section 10. Does anybody have anything? It gives you 10 days to give you a change of address notice. Is that number just pulled out of the air or does it have anything to do with other areas?

Tara Brandner: I believe that number came from the original measure.

Chairman Weisz: Is there anything else in section 10?

Representative McWilliams: I think we should change that 10 days to 30 days since everything has to be changed when they move and a lot of things get missed.

Representative Skroch: Can this all be done online?

Tara Brandner: I can't answer that.

Chairman Weisz: If we change it to 30 days then everything has to be changed.

Tara Brandner: In addition to the change of a name or address we are also talking about a change that would render the patient no longer eligible.

Chairman Weisz: You're giving them 30 days also to continue using the product when they are not eligible.

Representative McWilliams: Is that 10 business days or is that 10 calendar days?

Chairman Weisz: It's 10 calendar days.

Representative McWilliams: If we aren't going to change it to 30 days then how about two weeks?

Representative Skroch: Instead of that just say 10 business days.

Tara Brandner: I believe calendar days is used throughout the bill so instead of switching to business days in the end it may be more efficient just to say the 14 calendar days.

Representative Skroch: In line 19 where we use physician, will we just make the adjustments on that?

Chairman Weisz: Yes.

Representative Skroch: Then on lines 24 and 25 where it says registered qualified patient, maybe we could change that to cardholder.

Chairman Weisz: Yes, that's in the amendment they proposed. All the technical changes we won't cover anymore because they will all be made, and Jennifer in Legal Council will make the changes where it needs to be cardholder versus agent. How many want to change it from 10 calendar days to 14 days? There are four. How many want to leave it the same? There are six. I guess it will stay the same, it will stay 10 calendar days for this one. There is a part in number 6 that says you have to dispose of any usable marijuana within 15 calendar days. If your card becomes void for whatever reason, then number 6 on page 53 states you have 15 days to dispose of any usable marijuana. Your department would then say how to dispose of it?

Tara Brandner: Correct.

Representative Skroch: How do you enforce that if you don't allow an in home inspection? How do you guarantee they are destroying a product in 15 days?

Chairman Weisz: You can't guarantee it, but if you get stopped, you have it in possession, and you don't have a card then you'll be in trouble.

Representative Skroch: Who enforces it?

Chairman Weisz: Law enforcement for possession of marijuana.

Tara Brandner: Essentially, those cards will have an ID number and law enforcement will have access to an electronic system so they can verify whether or not that card is valid. If somebody's card was expired and they would still be in possession, then law enforcement has the ability to determine that.

Vice Chairman Rohr: How do they destroy the stuff?

Tara Brandner: That's something the department was looking at with other states.

Kenan Bullinger, North Dakota Department of Health: We visited a bit with our division of Waste Management who oversees all, either destruction by burning or burying in landfills. We would work with them in the adoption process.

Chairman Weisz: You're going to ask the person to bring the product back in then you will dispose of it.

Vice Chairman Rohr: They wouldn't be going into a pharmacy and dropping everything into the pill box?

Kenan Bullinger: Not at all.

Chairman Weisz: Are we okay with 5, 6, and 7? Let's go on to Section 11. Now we're talking about what's going to be on the cards. Based on our language change we said the doctor would authorize it, so wouldn't that be fine then? Part of that letter of recommendation from the doctor says that patient is authorized to use the dried leaves.

Representative P. Anderson: I'm still struggling with the fact that a doctor can do that but that's how we left it in the bill.

Chairman Weisz: It was more of a compromise I guess. That would be covered there at least unless that language came back out completely then there would be an issue here.

Tara Brandner: The intent of that language is because the combustibles require that extra step, and that's identified on the card, so the patient would easily be able to obtain that product.

Chairman Weisz: The card would show that identifying they can use the combustible product.

Representative Skroch: In our drivers licenses we have things in them to make sure they are not fake or duplicated, will these cards have that too?

Kenan Bullinger: Yes, there will be characters in these cards as well. We talked with DOT and their system would be very expensive to convert to what we need, but we found another system that is much less expensive. DOT had told us it would be $200,000 and we found a system that would allow us to do that at a much less cost to the department. They would have needed to make a legislative change to be able to do that as well.

Chairman Weisz: Tara, on g it says if you're a designated caregiver then it has to show the qualifying patients. As patients come and go for that caregiver…

Tara Brandner: Under the measure as written a caregiver has the authority to go to a dispensary and purchase the product on the patient's behalf, up to five patients. The intent is that a caregiver will have, in addition to their own member, they will also have the member of their patients. If their patient is no longer eligible they should no longer be able to purchase for them. By having both members on there it would allow the dispensary to know that both cards are active and valid.

Chairman Weisz: I understand all that. Say I'm a caregiver for Karen so that's on the card, then I pick up Representative Kiefert, and now I have to get a new card right away.

Tara Brandner: You'd have a new card for each patient. As soon as Karen is no longer eligible that card would not be valid.

Chairman Weisz: I would have my own card as a caregiver?

Tara Brandner: You'll have a card that lists each one.

Vice Chairman Rohr: How do you dispose of the cards that are no longer active?

Tara Brandner: I'm not positive about that. I think that is something the department would address in administrative rules. Since they have that number on them they would ultimately be invalidated, sort of like how your driver's license would no longer scan. The department and the dispensaries are all required to scan it and make sure it is valid at all times. Law enforcement has that ability as well. Even if you possess the card, if you've been determined that you are no longer eligible it will come back as no longer eligible.

Chairman Weisz: Let's go on to section 12. Now we're getting into the manufacturing and collation.

Representative P. Anderson: I have received a lot of emails about the manufacturing and dispensaries need to be different owners. Is that what the bill says? It seems to me this says you can grow and dispense with the same corporate people.

Tara Brandner: Your corporate structures have to be different. Your owners could be the same but you would have to have different legal entities.

Representative P. Anderson: How do you feel about being the same?

Tara Brandner: I'll let Arvy respond.

Arvy Smith, Department of Health: We had discussions with the perspective investors and more than one of them talked about how you have to have a physical separation of those two entities. We really didn't get into a lot of discussion either way, whether the actual owners of those needed to be separate. Physical locations and separate entities would need to be. Same owners are not specified, that it isn't allowed as it currently stands. We don't have strong feelings. We don't want a big organization to come in and form a monopoly, but maybe that wouldn't happen in North Dakota.

Representative P. Anderson: What do other states do?

Arvy Smith: We're seeing a combination of that; some do and some don't.

Representative Skroch: If we would permit the same owner but of a different LLC or corporate structure where they set up their business, once a monopoly is established that system it would be very hard for someone else to compete with that structure. I feel we should have multiple people involved and let it sort itself out as they go along.

Arvy Smith: We talked about dealing with that in administrative rule or through preferences, like what if we don't get enough applicants? We need to go that route to provide access. As we look at applications, if we don't get anything else in we may have to go that route in order to get access to dispensaries. Initially, when this measure passed we had many phone calls from people who wanted to start a business in North Dakota; both local and out of state people. I always referred them to the 15 pages of requirements to run one of these places in North Dakota. I'm not sure if this has deterred people or not from starting a business in North Dakota.

Chairman Weisz: You put your language in here for four manufacturing and aid dispensaries. Minnesota is losing a lot of money in the manufacturing. Having four manufacturing areas in our small state, is that going to be an issue?

Arvy Smith: It comes to how many conditions are covered and how many forms of product are allowable. Minnesota is very restrictive in these areas, we're more similar to Delaware so that's who we look to. They have three but they are geographically small.

Chairman Weisz: But on the manufacturing that's not really an issue.

Arvy Smith: Right. On the manufactured row it's not as big of a deal as dispensaries.

Chairman Weisz: How long have they done this in Delaware?

Arvy Smith: Two years.

Representative P. Anderson: Are they limited to 1,000 plants?

Arvy Smith: I think that's where that came from.

Chairman Weisz: How many dispensaries does Delaware have?

Arvy Smith: I think they were together.

Vice Chairman Rohr: Are we going to be geographically locating these centers so that there's not an access for these people?

Arvy Smith: Yes, we will look at those applications that come in, look at first come first service, and then geographic area. We're not going to put four of them in Fargo and none anywhere else. We also require them to tell us about their distribution plans of how they're going to assure access in their area.

Vice Chairman Rohr: Representative Anderson, what are the people that are contacting you saying about the issue with manufacturing and dispensing under one umbrella?

Representative P. Anderson: The product could be more expensive. I think limiting it to four farms would be a mistake as well. What happens if one of the farms gets a disease or gets in trouble?

Representative McWilliams: In the hearing there was one testimony that said we should maybe look at canopy size instead of plant count. Does the department have more information on that?

Chairman Weisz: We're not at that point in the bill yet. I have a problem with the four farms as well. I think you're going to have a problem with viable competition.

? speaker: That is a difficult issue, there is no doubt about it. It depends on how many qualifying patients we get to register. Two growers may be enough while four may not be enough. We have no way of knowing how many or how much we need.

Chairman Weisz: Number 4 on page 56 gives you the ability. From the information I got I think there is going to be reluctance for legitimate growers to come in. I would prefer that we cut that number and then give the department the option of raising it. It won't help if we have 20 growers and they are all bankrupt then they won't help anyone. Do you have any idea how many patients they have?

Tara Brandner: Just over 2,000. Minnesota invested heavily in labs at their own facility and does a lot of research and development as well so that increases their costs.

Representative Skroch: Wouldn't it be a good idea for us to have NDSU or some other college doing research too? Is that a dangerous place to go if we're allowing other manufacturers to develop the procedures and so forth for manufacturing?

Tara Brandner: My understanding is that the federal government has been very specific about who can do research and development on marijuana because it is a federally illegal drug. My assumption is that NDSU would not be willing to jeopardize federal funding unless they were authorized by the federal government to do this.

Representative Skroch: Unless we're bringing people of expertise in who already know how to manufacture, they have to get it right. How do we get it right if we don't know how to do this right?

Tara Brandner: As far as Minnesota's model, Leaf Lines is run by a medical doctor who has a degree from Georgetown. The majority of their staff are forensic scientists and they have a number of pharmacists on staff, so they have the skills to be in this area. The hope is that a similar company would come to North Dakota or would be available in North Dakota.

Chairman Weisz: That's why I think we should start with two because it has to be worth their while to come in and do it right. If we need more I think the department could do that.

Vice Chairman Rohr: Do they have a R and D arm?

Tara Brandner: I believe they do but I can't say for certain. They have been developing and they continue to develop their products to ensure they are safe for patients.

Vice Chairman Rohr: Do you know if they are getting federal dollars for the research?

Tara Brandner: They are not.

Vice Chairman Rohr: There is an arm under alternative medicine. It would be a possibility. I like the idea of them doing it right.

Representative D. Anderson: Do you have any idea how much money a typical user spends in other states?

Tara Brandner: I do not.

Kenan Bullinger: It's all over the board. They spend anywhere from $600 to $1000 a month per user and not covered by insurance.

Representative P. Anderson: At our hearing there was someone that couldn't get to the hearing, but his parents have grown medical marijuana in Oregon since 1997. They do research and development. He said the 1,000 plants are fine to start with, but if we could add 50 plants in research and development only because they do that on the manufacturing side.

Chairman Weisz: We'll have to discuss that plant limit once we get to that point in the bill. What does the committee think on the manufacturing? I suggest that we drop the manufacturing to two, add language of four, and give that flexibility to the department. We would drop the manufacturing to two but add the flexibility of number four for the Health Department to add manufacturing facilities.

Everyone agreed

Chairman Weisz: What if you have two applications and that is it?

Kenan Bullinger: Based on the phone calls and emails I get, we will have more than two people. We will have pretty stringent requirements though, so they won't all be able to do it. When you're talking dispensaries, part of the process was to have them submit to us possible distribution when they distribute into an area where we might not have a dispensary. That would be one of our criteria for selection.

Chairman Weisz: I'm good with that then. We're going to add manufacturing on number 4. We will go on to Section 13 which deals with manufacturing facilities.

Tara Brandner: We have changed the language regarding producing and processing which would include the cultivating and everything else, so we've gone throughout the measure and revised that language. Where it says "cultivating" it now says "processing and manufacturing" is considered producing and processing.

Chairman Weisz: Does anyone have any questions or issues with section 13? We'll move on to section 14. We already had some discussion on local zoning on line 15.

Tara Brandner: The language relative to the local zoning was included in the original measure.

Chairman Weisz: The question came up and they compared it to liquor licenses. Some of those could be sold for $200,000. Could you have an issue of them because they would define that as a different class of business that has a permit application of $20,000-40,000 for someone. There is concern of zoning costing them out of the market. Did that question come up?

Tara Brandner: It didn't come up with the Department of Health. I'm not an expert in local zoning laws so I can't say. This was the language from the original language.

Simon: We looked at it a bit to see how they would compare to liquor licenses and they are all over the board all across the state. It is really established at the local level.

Representative Damschen: I wonder if there are any ramifications for counties or townships that allow the growing or processing of federally illegal substance? Is there a liability issue there?

Simon: I don't know.

Representative Skroch: Is there a way to categorize these dispensaries more like a pharmacy or drug store versus having them associated with liquor licenses? Maybe how it's described will impact that and how zoning references this?

Chairman Weisz: I was not comparing these to liquor licenses in that sense. I just know that some communities can raise the prices and charge a lot for the licenses.

Representative Schneider: I wonder if someone has done some research where some states have prohibitions on zoning restrictions as it relates to dispensaries or what we would call a compassion care center? Have you checked to see what Delaware or other states have done with making the zoning accessible and without exorbitant fees for these folks?

Simon: We have not looked into that. I think that's an issue the local planning and zoning officials would address on their own.

Representative Schneider: I would appreciate it if someone would look into that because the information I got was that some states have prohibited these centers from being zoned out, or perhaps other restrictions I'm not aware of. Not wanting to get involved doesn't give us the whole picture of what's possible here.

Tara Brandner: We can look further into that. We looked at Oregon and they allow the exact opposite; they allow counties to decide. I believe Colorado does the same thing where the counties have the jurisdiction to choose. I can look to see if there are any counties that have the prohibition.

Representative P. Anderson: Downtown Moorhead has a dispensary, so maybe we won't have a problem.

Tara Brandner: I don't know Minnesota law relative to zoning.

Representative Skroch: What kind of business is this described as; what kind of license would this fall under?

Tara Brandner: I can't speak to that exactly but my understanding is that the bill itself does not classify it; that would be up to the local zoning to make that decision.

Chairman Weisz: We may need to clarify the manufacturing, dispensary, and ag business because the Tax Department has raised that question. They don't want it to fall into an ag enterprise, because we don't want them to get all of the deductions for ag. The bill doesn't address that either way so then it will be open to a matter of interpretation. That's something we'll need to clarify and have LC draft some amendments.

Stephanie Dassinger, League of Cities: Regarding the zoning, we have been meeting with city attorneys mostly from the dispensary side for the cities and so far we're not seeing a problem. Liquor license law gives us a very broad authority to control the alcohol and there are some maximum fees that are associated. More of the exorbitant fees are more on the business to business transfer where if you want to buy my bar we'll include my liquor license and apply to transfer it for x amount of dollars. I don't think the laws you're looking at for marijuana are going to allow that. Ordinances from other states have a variety; some are conditional use permits where you'd apply for any non-permitted use and there's usually a small fee for that. Other jurisdictions have had a separate permitting process specifically for marijuana facilities. I don't know how the cities would like to regulate this. You might want

to put in a maximum fee that cities could charge if that's a worry for you. This will take city council meetings and public hearings so there will be a cost associated to local governments for permitting these.

Representative Damschen: If they don't zone it out are they subject to not being covered by the insurance or any type of liability insurance?

Stephanie Dassinger, League of Cities: I would have to ask the insurance reserve fund that question. I will get back to you with an answer.

Representative Schneider: Why wouldn't this be considered more like a drugstore instead of a liquor store so we don't price this product that already has a lot of fees and expense out of the reach of people with disabilities?

Stephanie Dassinger: That has been discussed and the three cities that have been involved with the committee have discussed allowing it as a use in the way that a pharmacy would be a permitted use.

Chairman Weisz: So with more information coming is it alright to leave that language in number 1 and 2 under D? Committee agreed. Under E it talks about it having to be locked and not visible. Are there any questions? Under F there has been some questions. This requires that they have consented to a criminal background check.

Representative P. Anderson: This is officers and board members but not investors, so this is probably fine.

Tara Brandner: I can't recall if investors were required to identify themselves or not.

Chairman Weisz: Under G we're talking about experience. Does it need to be in code?

Tara Brandner: The majority of this information comes from Delaware's code. Some of it we thought would be better in rules, but since it was here and done, we thought it was easier to adopt it and not change it at this time. If it's left here instead of the department moving it to rules, at least then its complete and the department doesn't have to go through that process.

Chairman Weisz: True. It begs the question of how you determine relevant experience and that it qualifies.

Tara Brandner: The idea was that the individuals would submit this information and if the department would enter into a situation where they had four people submit applications and there were only two dispensaries allowed, some of this information may come into consideration when determining who is best fit to operate the compassion center.

Representative Skroch: I've had conversations with people who are interested in this being developed in North Dakota. They state there are people who are licensed pharmacists on board and they'd be more qualified at dispensing these products than a dispensary who

doesn't have these professional people on board. I can see where that would be important to include in the criteria.

Chairman Weisz: Is everyone comfortable with the language? In H and I that is strictly security. Are we okay with those? J is just an operations manual that the department would put together.

Tara Brandner: The compassion center would put that together and submit that. The department has a change for K. After the word "patients" strike everything after and insert "on the basis of registered qualifying patients with limited financial resources" just so it's not limited to those individuals on those various programs.

Chairman Weisz: That just came off the measure?

Tara Brandner: That was originally put in there.

Chairman Weisz: The jest of it was in the measure. We are good with I? How about M? It doesn't require background but it does require loans of every investor having any interest.

Representative P. Anderson: There is a problem with M. The people that I have heard from are fine with the board members and officers being checked, but not the investors because they don't have to do that with the Secretary of State.

Tara Brandner: The memo issued by the US Justice Department talks about things we have to have in law in order to ensure we're meeting the federal guidance. One of those is preventing diversion and preventing the people owning these facilities from being in the process of illegal activities as well. This is to insure that the owner or investor is not someone that might do this and divert the money or use it for illegal activities. The investors just need to make a report; it is not meaning they would have to have background checks.

Representative McWilliams: What happens in the case where a compassion center is renting a space and that space changes ownership?

Tara Brandner: They would submit that information to the department. These are all things they need to have in their application in order to have a complete application.

Vice Chairman Rohr: Would this information be made public and be on your website?

Tara Brandner: No, I don't believe so. There are confidentiality provisions in the back and if that is a concern it is something we could add to the confidentiality provisions.

Representative Schneider: What information would they have to disclose if it was a corporation registering?

Tara Brandner: I can't speak to that for sure. I believe it would just be the information that is required on the articles and the filings.

Chairman Weisz: There is some opposition on this so which direction does the committee want to go on this section?

Representative Skroch: I think since this information is confidential it may be important for this investor/creditor portion to be included. This information may be helpful later in any implements used to affect future changes to this in the legislature if there might be an investor that may try and sway law a certain way because of their investment.

Chairman Weisz: Is this the majority? Let's go on to Number 2. This is laying out the criteria the department is going to be using. Is everyone ok with A – H?

Vice Chairman Rohr: How will they do the testing? Will that be part of the operations?

Tara Brandner: The department will address the testing for medical marijuana in regulations or how they anticipate that going. I'll let Kenan speak to the specifics.

Kenan Bullinger: We will be doing a lot of testing on this because we want to be sure that we have a safe product. We'll be looking at a number of possible contaminants. No pesticides will be allowed by the EPA. If any is present it will be considered to be adulterated and it will have to be destroyed. We will look for molds, fungus, heavy metals, and anything that could contaminate it. In Minnesota a lot of the manufacturers have invested in their own testing. The equipment is very expensive, and we at the department, are not going to be doing this. There is not a lab in the state of ND that can do this. We will not be doing this at the State Health Department because we are not allowed to handle the product. We had contact with one lab in Williston that is doing some minimal work for industrial hemp on PHC content. They have expressed interest but I haven't touched base with them to see if they expanded their laboratory capabilities. The lab equipment necessary for this is extremely expensive. The planning for this and hiring of the scientists and chemists is pretty expensive.

Chairman Weisz: The way this is written; it is the responsibility of the applicant to have it tested.

Kenan Bullinger: That's correct. The applicant will have to do the testing, so it will be their cost.

Representative Skroch: Is there a way to contract with Minnesota to do our testing?

Kenan Bullinger: Reciprocity would have to be explored. That could be looked into, but right now it can't go over state lines. It is a federal law that it can't be transported across the state line.

Representative Skroch: In the event that we would do this, could we frame it as not being an exchange of money in terms of the sale of product but just analysis?

Kenan Bullinger: We are fully supportive of that. We're going to need a lab or we aren't going to have product into the hands of qualifying patients. How we do that would need to be worked out somehow, or this program won't move forward.

Representative McWilliams: Is there a requirement when they get their product tested that they have to disclose where the lab is or be able to certify the results from somewhere?

Kenan Bullinger: The lab that works for us will have to be certified and accredited. Our lab certifies and accredits labs in North Dakota. If there was one that came forward like the one in Williston, our lab would help certify and accredit that lab to do the work. We wouldn't handle any product and wouldn't double check what they're doing, but we would look at their results and the methodologies they used to get their results.

Representative P. Anderson: It doesn't say the lab has to be located in North Dakota. Couldn't we contract with another lab to do our testing?

Kenan Bullinger: It all deals with the interstate movement of product and that not being allowed. We'd have to work out those issues on the movement of product and work out a reciprocity agreement.

Chairman Weisz: It's a federal issue that you can't move product across state line. Until the feds allow this there is nothing in this legislation that would prohibit an applicant from using a Minnesota lab.

Representative McWilliams: Is the THC content testing the most expensive?

Kenan Bullinger: No, the THC content testing is the cheapest to test, it's less than $200 that the Ag Department is paying. The chemical analysis, heavy metal analysis, ICP testing, and some others can be up to a million dollars per instrument.

Chairman Weisz: Ok committee, are we good with Section 14? We will take a break until 11:15.

Chairman Weisz: Section 15 is the registration certification. I don't see any issue with this. Section 16 is renewal.

Representative McWilliams: In section 15 line 25 it says, "$60,000 for a dispensary and $80,000 for manufacturing facility", how did they come up with those numbers and how do they compare with other states?

Chairman Weisz: When we finish up the bill and do the fiscal note then we will come back and address all of the questions regarding the dollar amounts. Section 16 is the renewal. I see it requires a 60-day pre-application fee like we did for daycare centers. Are there any questions? Section 17 says they're nontransferable. In other words, if someone else wants to do it they have to start the process at the beginning and do it all. Section 18 states the bylaws have to be provided. Page 62 section 19, says it requires financial reports and maintains records for seven years. I don't see an issue with that. Section 20 is the dispensing part.

Representative P. Anderson: On line 28 "the usable marijuana dispensed to a minor must be in the form of pediatric medical marijuana oil" so we'll need to take "oil" out.

Chairman Weisz: Good catch. That complies with what we did earlier. The department wants to change line 30 to a registered designated qualifying patient.

Tara Brandner: We are just cleaning up the language.

Chairman Weisz: On page 63 the language in c shouldn't follow with the change we made because that would be on the card if they can have the leaves or flowers.

Representative P. Anderson: With all of the 28 states, they all say the physician describes it and may benefit and nobody excludes.

Chairman Weisz: Section 21 allows for random inspection. We all agree that is good.

Tara Brandner: On section 3 the department's change was removing the words fungi, pesticides, and molds replacing it with contaminants. That way the department can address what specifically those are in rule.

Chairman Weisz: Section 21 looks good. Now we're on section 22.

Tara Brandner: This language in section 22 was put in here by the Department of Agriculture. They just want to be sure the product is reported to them if it is contaminated so that it can be destroyed.

Chairman Weisz: Why does it need to be reported to them because they're going to destroy it anyway when it has a contaminant?

Tara Brandner: My understanding is that the Department of Agriculture regulates plants so they want that information reported to them to ensure it would be destroyed.

Representative McWilliams: In number 4, it says the compassion center shall pay the cost of all random quality sample testing. Wouldn't that make more sense if that was the manufacturer?

Tara Brandner: Correct. The compassion center includes both the manufacturer and the dispensary. If, for some reason, the dispensary would have a product or they would be concerned about a product, if that product was to be tested they would want that cost to go to the dispensary. Likely, the dispensaries were purchasing product from a manufacturer making sure the manufacturer has tested the product to ensure its safety. They want to sell a good product to their patient.

Representative Devlin: In section 22, if the department of environmental quality goes through the legislature they might want to be involved in this section as well because of the pesticide.

Kenan Bullinger: The Ag Department is in here because this would be a misuse of a pesticide so they would take the regulatory responsibility over making sure that product is destroyed properly, just as they would any other food producing crop.

Chairman Weisz: Section 23 gets into the volume. Where did you come up with the 1,000 plants and why did we need to limit the number of plants for the manufacturer?

Tara Brandner: The 1,000 limit and the 3,500 ounces both came from the original measure. In conversations the department had with potential growers and manufacturers they didn't see an issue with the plant limit so there was no change.

Chairman Weisz: Why do we care?

Tara Brandner: The department cares about the number of plants to ensure that diversion isn't happening. If we have a vast number of plants, we need to ensure that they will stay where they are supposed to be and compassion centers don't have access then the desire is there to divert that into the illegal market.

Chairman Weisz: When you say 3,500 ounces is usable is that dried or what's that based on? It's based on weight but the weight on what?

Tara Brandner: It is the weight of the entire product. I think it's around 200 some pounds.

Chairman Weisz: How do you do the limit of 3,500 ounces? What about the moisture content?

Tara Brandner: It is 3,500 ounces of product. This wouldn't be a THC thing. There is no requirement that the dispensary had that much at any point in time. If they go through 3,500 ounces a day they could get that from the manufacturing facility. We are limiting the manufacturing plant regardless of what form it is.

Representative P. Anderson: Could we put something in here about having 50 plants in the manufacturing for research and development? Then we wouldn't be taking the 50 out of the usable 1,000.

Tara Brandner: I think that's more of a policy question.

Representative P. Anderson: If we're limiting it to plants we could put in there a manufacturing facility could have no more than 50 just for research and development.

Kenan Bullinger: I don't know that the department would have any problem with that. We would definitely want to earmark which of those are to an identification process. Every plant in a grow facility will have an ID number and tag so that they can be tracked when it's harvested. If those 50 plants are used for research and development, we'll want to make sure we can track that some way as well.

Representative P. Anderson: I think that would be okay.

Chairman Weisz: I guess we could do that but we need to specify it was for research and development only then read the rules on how they were going to track it through the department.

Representative Westlind: What happens to those plants when they are done with research? Are they used or are they destroyed?

Representative P. Anderson: It would be my understanding that they would be destroyed. They could put that into the rules.

Representative Schneider: Could we put something in there that would allow up to 50 plants for research and development at the department's discretion?

Vice Chairman Rohr: Would you design the research protocol and what they can study?

Kenan Bullinger: I don't think we want to get into that. It would take some oversight. It would be to do hybrids and cross pollinate so that's where I would see the most benefit of this. If they wanted to do medical research on them, we wouldn't direct them on that.

Vice Chairman Rohr: Who's doing the research? Are they qualified? Do they understand the process?

Kenan Bullinger: We could spell it out in the rules.

Chairman Weisz: The majority of the research is ag research to grow a better plant. So the committee is ok with adding up to 50 plants for research.

Representative D. Anderson: I think that would have to be in a separate room because if there is cross pollination your results wouldn't be very accurate.

Representative Westlind: If they have new stronger and better plants would the seeds be destroyed with the plants when they have to destroy them? I think that is unnecessary. Normally a grower would probably, in the process of production, try new strains just like any other type of farming operation. If you found a good new strain, then save some of the seed to expand that particular variety.

Chairman Weisz: I don't think that they would destroy the seed. They wouldn't be able to use the plant either. It would be up to the Health Department to set the rules on that.

Tara Brandner: I don't think this would be the Health Department. I'm not sure if the Ag Department would be involved.

Chairman Weisz: You can't do GMOs without having approval from the USDA.

Kenan Bullinger: I don't know if the Ag Department would have the authority but the State Seed Department, which I think is at NDSU, may have some jurisdiction.

Chairman Weisz: Their jurisdiction isn't certified as registered seed.

Vice Chairman Rohr: We have an Ag research center in Mandan.

Chairman Weisz: That is the USDA. They aren't regulated; they're just researching crops for the northern plains.

Representative Schneider: The only reason I think this might be helpful is that they wouldn't have to come back if they wanted to do the research and development. It gives them the flexibility to have a better plant or maybe have a better medicine that comes out of this.

Chairman Weisz: Do you like the 50 plant limit and then the department can establish the rule?

Vice Chairman Rohr: How much are the plants worth? If the research isn't credible then who's going to want to look at the recommendations? If there are rules set that will all have to be determined. I think 50 plants is fine.

Representative McWilliams: What is the dollar value for 1,000 plants? In looking at the bill, with the $80,000 application fee every other year, does 1,000 plants generate enough income?

Tara Brandner: The value of the plants depends on how big they are. The plants coming out of Colorado are worth up to $42,000 a plant but that will vary on the market and the size of the plant. They are high producing plants.

Chairman Weisz: This is for 1,000 plants at any time, not just for the year. Section 24 relates to security. I don't see an issue with that.

Tara Brandner: The only change are the words cultivating or manufacturing.

Chairman Weisz: Section 25 is inventory controls. Does anyone have an issue with that?

Representative Porter: The only thing that I want to add a point about is adding the card into an electronic form. Everyone else has to have all of that end coding and technology to run the business, but yet we as a state can't come up with an electronic card for this?

Broke for lunch.

Chairman Weisz: Called the committee back to order. We will continue with SB 2344. Section 26 is setting up the criteria for the compassion center's operation manual. I don't see any issues with this. Section 27 is the training curriculum. I don't see any issues with this section. Section 28 talks about the records with agents.

Representative P. Anderson: When we talk about these records, how do we know that all of these records will be kept confidential.

Chairman Weisz: The confidentiality section is in section 37. That seems to address everything.

Representative P. Anderson: Does the submission of the annual report cover everything so is that open?

Tara Brandner: Section 39 addresses the annual report and includes all of the things that are out there would be covered.

Representative McWilliams: Can we change page 70 section 2a? Why is there the duplication with the driver's license?

Tara Brandner: This was language in the original measure. The department didn't see a problem leaving it in the event a person didn't have a driver's license or an identification card with them.

Representative McWilliams: I would like to suggest we have it as an "or" otherwise you have to go the Department of Vital Records and get a certified copy of the birth certificate.

Tara Brandner: Or you could remove "certified".

Chairman Weisz: You should be able to say that the agent has to verify the person is 21 years of age. If they don't have a driver's license or ID, they would have to produce a copy of the birth certificate. You could say you're verifying the agent is at least 21 years of age. The issue under 2b is where it says it has to be a North Dakota resident.

Representative Porter: The other question we have to ask is if they have to be a citizen of North Dakota, but do they have to be American citizens? It depends on what the department is trying to get at here on whether or not they need to be.

Tara Brandner: Just to clarify the language was from the original measure requiring that the individual is a North Dakota resident.

Chairman Weisz: Do you want to clarify that they have to be a resident of the United States? You can be a resident of the state, but not an American. First, I think that we need to know if the committee is ok with a manufacturer from out of state.

Representative McWilliams: I think that we need to think about letting people from other states come and do it so we have some experience.

Representative Porter: It should matter to us where the person is from, but the company has to be incorporated in our state and under our laws. If they are going to form a LLC, a regular corporation, or a sub chapter S it has to be incorporated inside the state of North Dakota so it's under our laws and under our control. As long as it's not from Delaware then seeks shelter in the state of Delaware under their corporate structures.

Chairman Weisz: Is the committee ok with that?

Representative Porter: There is nothing that stops an individual who is not a resident of the state from incorporating within the state.

Tara Brandner: There is something now in the measure for workers. If you wanted to make that change I would suggest leaving b as it is on page 72. You could go over to 12 where it

discussed not withstanding subsection 2, "The department may issue a registry identification card to an otherwise qualified compassion center agent who is not a North Dakota resident" and strike the reference to the employer or volunteer and say "a qualified compassion center agent who is not a North Dakota resident.

Chairman Weisz: Even so, would this language prohibit someone from incorporating outside the state of North Dakota?

Tara Brandner: I'd have to go back and check but my understanding is that it had to be a North Dakota LLC corporation or a not for profit corporation. If that isn't addressed and that's the intent, then I think we can put that clearly in there.

Chairman Weisz: Where does it say that in the bill?

Tara Brandner: I thought it was in the part we already went through.

Chairman Weisz: It would be appreciated if you could find that.

Representative Skroch: Do we want to say that they have to be an American citizen? Do we want to mention Mexico or Canada?

Chairman Weisz: When we say agent it also means the workers, so if someone lives in Moorhead they would not be able to work at a compassion center in North Dakota if we change this.

Tara Brandner: They would be under the way it is drafted. I think if we are going to put something in here, I would suggest that it should be added in Section 14 under 11 c, page 57. They will have to register with the Secretary of State.

Representative Porter: There is a process with the Secretary of State. It can be formed or incorporated in another state and be registered as a foreign corporation into the state of North Dakota. If this is the intent in c, that it's a registered North Dakota entity, then we should be clear and say that in here.

Chairman Weisz: That makes sense to me that they have to be a North Dakota entity.

Representative Porter: I have another question in Section 28, it doesn't list that the records could be maintained electronically. Sometimes if it doesn't say that it could be electronic they cannot use them.

Tara Brandner: I don't think the department has a position if that would help a compassion center at a reduced cost.

Representative Porter: We just need to be clear that the electronic records are permissible.

Chairman Weisz: We can add by electronic means. Everybody seems to be okay with it being an out of state resident. There is the issue if they have to be a United States citizen.

If we change the language on page 72 number 12, it would take care of that issue but it doesn't address a US citizen.

Representative McWilliams: Can we pass a law limiting foreigners from being an employee of a private business if they have a valid US work permit? If they have to have a background check and if they came from a foreign country, it may be legal to do it but they may not be qualified.

Chairman Weisz: If the problem crops up we can address it in two years. If people are going to divert it, they will find a way to divert it. I think the requirements are such that it will be difficult for them get a card. They would be taking a huge risk.

Tara Brandner: If an individual would produce documentation that would be false then they wouldn't be given an agent license. If the concern is that they would produce by documentation the process is developed to leave that out.

Chairman Weisz: We all agree we'll take out that language on page 72 that says "the department may issue an identification card to an otherwise qualified compassion center agent who is not a North Dakota resident."

Representative Schneider: On page 71 are we changing the renewal fee of $200 to $50?

Chairman Weisz: Yes. Section 29 is revocation. If they are not authorized it shall revoke and they would be disqualified from any further participation under this chapter. This would be a permanent disqualification. Section 30 is penalties. I have received lots of emails that we are too heavy on the penalties. Do these penalties follow the regular penalties outside of this?

Tara Brandner: Yes, it would be the same criminal punishment you would receive acting outside in the normal situation.

Representative Schneider: I have a problem with line 27 with the fee of $150 if they don't get their address changed in the time frame listed. When it's not a criminal penalty I would recommend after line 27 saying, "shall pay to the department a fee as set by department regulations." If I worked for the department I would set a continuum based on the seriousness of the notice that wasn't given, then put away.

Chairman Weisz: Is everyone ok with that?

Tara Brandner: The department thinks that's a great idea.

Chairman Weisz: Does anyone have a problem with a class B felony for the manufacturer? That means they are selling it other than to the people they should. There is a class C felony for a dispensary for the same thing. It would also disqualify anyone forever if they are convicted under this subsection. Number 5 is the agent that has a class C felony for submitting false records or documentation. Number 6 is where a compassion center could be fined up to $1000. Number 7 is a class B felony. That would be the same as distributing and that's the same penalty we have now.

Tara Brandner: Correct. This would be a qualifying patient who instead is using the product and giving it to someone who ineligible.

Chairman Weisz: Currently, if I purchase illegal marijuana and sell it then I could be charged with a class B felony, correct?

Tara Brandner: Correct. Technically under the statute you could be charged with that.

Representative P. Anderson: I don't think the penalty for medical marijuana should be more than the penalty for street marijuana.

Tara Brandner: I believe that's correct. The intent is to keep distribution from unqualified people. Whether or not it's the sale or just the gift of marijuana, we're intending to keep the product in the hands of the patient who was qualified. If the new bill is reducing it then the position would be to reduce it to that same level.

Representative Schneider: I would want the penalties to be consistent for non-distribution.

Chairman Weisz: Number 8 is the designated caregiver. That's a class B felony and that's considering them as distribution under the current statute. Number 9 is where the person gives false records or documentation.

Tara Brandner: They used the concealed carry penalty. If they give false paperwork, then it is a class C felony so they just did the same thing here.

Chairman Weisz: Number 10 is a class A misdemeanor which is in current statute. The word "physician" will have to be changed to "healthcare provider." We have these penalties. I don't think we want them to be higher.

Representative P. Anderson: The amount they can have in their possession is three ounces so that wouldn't be enough to be a seller of marijuana.

Representative McWilliams: Can we get a reminder on what the penalties are on a class C felony?

Chairman Weisz: Class C felony is up to five years in prison and $10,000 fine, a class B felony is up to ten years and a $20,000 fine, and class A is maximum of 20 years and $20,000 fine.

Representative McWilliams: Is that a mandatory jail sentence?

Chairman Weisz: No, it's up to the judge.

Tara Brandner: This language in number 11 is from the original measure as well. The point of this is to prevent a physician from getting rich twice; first seeing the patient and receiving benefits from that and then being an owner of the facility where they would be referred.

Representative McWilliams: I think this is too much of a penalty and I think they should be lower.

Tara Brandner: It's not uncommon in statute.

Representative McWilliams: I'd like to make it clear that I don't think it's right.

Representative Porter: I think we should leave the penalties where they are.

Chairman Weisz: Is everyone ok with this? It sounds like they will stay where they are.

Vice Chairman Rohr: Were these fines consistent with the measure?

Tara Brandner: The measure did not have penalties listed except for the physician, possibly number 7. The felonies are consistent with current state law. The department used what is being done in other states to fashion these.

Chairman Weisz: There was concern about paraphernalia.

Tara Brandner: In the amendments the department provided we added that language back. We would add a new sub point in there. The intent was not to intentionally omit that.

Chairman Weisz: Does there need to be something in b on page 76 in lines 3 and 4 or not?

Tara Brandner: A cardholder would encompass what the qualifying patient and the registered caregiver has. If the registered caregiver would purchase a pipe for a qualifying patient, they would not be subject to criminal punishment.

Chairman Weisz: I was looking at receiving compensation for the cost.

Representative Seibel: I think we need to leave them both in here because one deals with the patient and the other deals with the caregiver. You want to protect the caregiver as well.

Tara Brandner: Do you want to add that in 2a and 2b?

Chairman Weisz: Yes. I think we need to add in related supplies.

Vice Chairman Rohr: What is the difference between drug paraphernalia and related supplies?

Tara Brandner: Drug paraphernalia is a criminal offense if it's used for an illegal substance. Under this act marijuana would be legal. The possession of paraphernalia for this act would not be illegal, but because there was concern and because we wanted to be very clear we added that in. If we would prefer to use paraphernalia I don't think that's a problem instead of related supplies. The people testifying the other day were concerned with the possession of paraphernalia.

Chairman Weisz: We are just giving them a comfort level by saying it is related supplies. If it makes you feel better, we can add related supplies.

Tara Brandner: In the original it listed a whole bunch of things.

Representative Damschen: What is the difference between them if it is all paraphernalia?

Tara Brandner: It all falls down to what is the intent of the product.

Chairman Weisz: I think we should just put in related supplies so there are no questions.

Representative Porter: I want to be clear as to how it is proven inside of this act how you know if the product was actually purchased at a compassion care center.

Tara Brandner: All of the packaging will have well marked packages that says where it came from, similar to that from a pharmacy.

Representative Porter: If I got this package the first time and just keep filling it up from my neighborhood pot dealer it would be a lot cheaper that way.

Tara Brandner: One of the requirements for packaging and labeling would be an expiration date and you will get a new package each time. Some of these products would be harder to find on the black market than they would be from a compassion center.

Kenan Bullinger: Each label will also have a THC level on it and we could always test it to see if it has a different level of THC.

Representative Porter: I think the ability to let police do their job will be hampered greatly unless we can find a way to do some sort of control.

Kenan Bullinger: The intent of this law is to make medical marijuana available to qualifying patients. We know that diversion and illegal sales are going to happen, but that's not the intent of this law.

Chairman Weisz: Do you think we are ok with the protection section?

Representative Damschen: You can dye marijuana and then you would know which one is legal and which one is not.

Chairman Weisz: Tomorrow morning we are going to look at the fiscal note. I don't believe what is left in the bill will take us long at all.

Representative P. Anderson: The amendments I had pretty much cover what Tara has brought forth.

Chairman Weisz: Committee recessed until after session today.

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2344
3/29/2017
29809

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to implementation of the ND Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: Attach. #1,#2

Chairman Weisz: called the committee to order.
Attendance taken.

Chairman Weisz: We will take up 2344 again. We will start on Section 32 which is limitations.

Representative McWilliams: I don't think someone should be standing out in the yard smoking a joint, but what about using a patch or oil? I have an issue with that one and home day care. Daycare would be the whole house, so if they used marijuana they couldn't do it at their home.

Tara Brandner, Assistant Attorney General, Legal Counsel for Dept. of Health: The limitations were taken out of model law. They were the first one on any public or private school that would prevent a child from using while one school property. The daycare part of the home would be off limits for the use. These limitations are there to protect children from obtaining and using it on school property. One of the things that the university systems brought up is that they are concerned about people possessing on school property because of the likelihood of federal funding and whether that would cause a problem or not.

Representative McWilliams: I wonder if we can make some kind of exception for patches and oils if you are in your own home and there are no kids there. I fail to see the risk in that.

Kenen Bullinger, Department of Health: I think we need to talk to the DHC and see if they will even allow a child care provider to be using medical marijuana while they are caring for children. Most parents would not want you to be able to use marijuana if you are taking care of their children.

Representative McWilliams: Are you talking about the care giver or just someone in the house. It could be an adult child or spouse at home.

Kenan Bullinger: If it is an in home child care center if there is only one employee they are limited to the number of children they can care for and it would be that one person. Are you talking about the patient being the non-care provider?

Representative Porter: On Sub B, after grounds we need to insert or sanctioned events on line 25; section 32. The civic center could house other events for a school.

Chairman Weisz: Every one of our K-12 schools receive federal funding; not just higher ed.

Tara Brandner: I think they were thinking that the children that were suffering from these illnesses and using marijuana would not be at school anyway. I think the concern is should somebody under the influence of an illegal substance really be in charge of supervising children.

Representative P. Anderson: If the child had epilepsy; they could not use it?

Tara Brandner: They could not use it while at school. They could maybe take it before they go to school.

D. Bartz, Health Resources Section, DHS: We discussed this and the care giver could come and get the child and take them off site and administer the marijuana and then bring them back. There is no one that could assist the child with it at the school. That is an option. They would lose the federal funding.

Representative Schneider: I would want to know that they really would lose their federal funding or not?

Tara Brandner: I do not have anything. That is a concern that we have heard from the schools.

Rep. Schneider: I would like to know that for sure before we make those assumptions.

D. Bartz: I did check that out with CMS. If something is illegal and it is passed from one to another the full federal would come down on them. They would lose their certification.

Representative Schneider: I want to see this in writing.

Representative McWilliams: Is there a precedence in other states have they lost federal funding?

Tara Brandner: We have a new administration now and have said there is clearly a difference between municipal marijuana and recreational marijuana. We don't know what that means. I cannot speak to what other states have done. We have tried to follow the cole memo as closely as possible to prevent the possibility of a law suit.

Arvy Smith: When we apply for a federal grant we have to sign a certification that not only will be have a drug free workplace policy in place, but every subcontractor of ours must have a drug free work place policy in place. I find it hard to believe this would be an exception to that.

Representative McWilliams: If they are licensed daycare they cannot use this as a medicine in their own home, off hours and when kids aren't there.

Chairman Weisz: If they are not a licensed daycare then this doesn't apply to them. If they are licensed they receive federal funding.

Tara Brandner: I don't have trouble adding licensed to child care facility or day care if that would be easier.

Representative P. Anderson: I am reading from what Delaware says for limitations; in a school bus, on the grounds of any preschool, primary or secondary school, corrections facility, any healthcare or treatment facility operated by the department or funded contractually through the department. It doesn't say anything about in home daycare.

Arvy Smith: Maybe, part of this would be in how the daycare is defined in a home. Maybe it would be part of the home and not the whole home. We need to talk to human services to how they define a day care in a home.

Representative McWilliams: I would support putting in "licensed".

Chairman Weisz: We will have someone from DHS come down and explain this for us. We will leave this until then and go on to the next section.

Chairman Weisz: Section 33: Is everyone ok with this. The question comes up about an apartment. Do they have to allow someone that has a card and can smoke it to smoke in the apartment? It needs to be in there because if you are leasing property.

Chairman Weisz: Section 34: Facility restrictions where we get into nursing home facilities and adult foster homes. It Is not eliminating the ability to have it. 60% of the funding for a nursing home is Medicaid. If there was an issue with a facility would that jeopardize the funding for that facility or all of them?

D. Bartz: I believe it would just be for that facility.

Chairman Weisz: Section 35: Rules

Chairman Weisz: Section 36: Verification

Chairman Weisz: Section 37: Confidentiality

Tara Brandner: We did have an amendment on this just to be sure that people wouldn't know how to break in. it is just related to the security requirements.

Chairman Weisz: Section 38: Advisory board.

Chairman Weisz: Is this something the department wanted?

Tara Brandner: The original measure had an advisory board in it, but there was nothing in there of what it was or what it would do. This was something that the was wanted by the voters or drafters of the measure. The department just went in and defined what they would do. Their numbers were reduced to four.

Representative Seibel: Does the four include the department rep or is that in addition?

Tara Brandner: That is in addition. The original definition for an advisory board was a 9-member committee established and appointed by the governor. That has been revised to what you see before you.

Chairman Weisz: Section 39: Annual report

Chairman Weisz: Section 40: Compassionate care fund

Arvy Smith: It originally measure. There was a piece in the original measure that would allow the state to give money to individuals to purchase marijuana. That was removed to keep the state away from giving individuals money to purchase a federally illegal substance. Line 2, the language said the moneys were appropriated on a continuing basis, but didn't really indicate to who so we added in the language appropriated to the department on a continuing basis.

Chairman Weisz: This includes private donations. This was put in there so that the people that could not afford the marijuana could get money.

Avry Smith: The money would go to the department to offset expenses of implementing the program. I can't imagine anyone giving money to the department. It allowed us to get private donations to support the program. I don't know if that should be removed if we are not giving it to people?

Chairman Weisz: You still kept it in here? The intent of the measure was to set up a fund that we could pay the people because of the limitations. Take out 31 then.

Arvy Smith: We would be fine in removing #2. I can't think of an instance where this would be used.

Representative Skroch: What insulates the state treasury or the department from handling the money; this is an illegal substance. Proceeds from the licensing and processing of it is an illegal substance?

Avry Smith: This is not the actual transaction of selling a drug it was for an application for a license fee.

Representative Schneider: It was pretty clear in the measure that there would be funds for the people that could not afford this. I think they would be fine with setting up a 501 3C to take the private donations to be able to use them for this purpose.

Chairman Weisz: Removing private donations and then someone can start a 501 3 C.

Avry Smith: We have been running the numbers and we do not believe that we will be able to occur depending on where we land with the fees.

Representative Seibel: I would like to make a little change in terminology as I really don't think it will ever generate enough to cover all of the cost of the department.

Chairman Weisz: Good catch. It should be able to cover the cost of the compassionate care program for the department.

Tara Brandner: Turn to page 4 of my amendments. What the bill says is that the revocation of the license should go to Burleigh County. This is just cleaning up the language. This was asked for by the Supreme Court.

Representative Schneider: Is there a way that those that are ill could do skype or video access to do that?

Tara Brandner: We are hosting in Burleigh County but, I can't imagine that the department would have a problem with that. It would be costly for the department to travel to every county in the state to essentially defend these actions.

Chairman Weisz: Let's move back to childcare in Section 32. You can't possess or use marijuana in a child care or home daycare. How would that be interrupted from DHS's prospective?

Rebecca Eberhart: Right now we do have a rule that an individual cannot be under the influence of drugs or alcohol while providing child care. That is looking at child care hours and the premise is any part of the home that they are using for child care.

Chairman Weisz: The question came up that they could not be the upstairs bedroom? How would the department interpret that?

Rebecca Eberhart: An individual cannot be under the influence of during child care hours It would have to be on the license that a specific room would be off limits to the children if that was where they were using it.

Tara Brandner: The department of health doesn't have a problem if you put in there that this will reference the rules of the DHS.

Representative P. Anderson: Can't we just take out the whole d off then?

Chairman Weisz: No, then there would not be any restrictions at all. This would also include their kids not just the employees of the daycare. We have to be clear. We need to be sure

that licensed is in there. We don't even have to add by rule because I think it is already in rule by DHS what it means to be a licensed daycare.

Tara Brandner: I think the department would be ok with that.

Representative Schneider: I would be more comfortable with it being in there was a reference to the DFS standard.

Representative Seibel: Could we just say in accordance with DHS rules?

Chairman Weisz: On line D. we would just add that. Are you ok with that?

Representative Schneider: On the schools I would be more comfortable with primary and secondary and not to have university, it is dealing with adults in the university and a legal medicine.

Representative Porter: I would like to have someone from the university to weigh in on this.

Chairman Weisz: On page 80 there is language that says talks about a physician not complying with the rules; how would the board deals with that?

Courtney Koebele, ND Medical Association: How would the board of medicine deal with that. The board only looks at things that are reported to them.

Chairman Weisz: If someone reported this they take the position of violation of this chapter.

Courtney Koebele: I think it would depend on what the violation would be and if it harmed patients. Would it be unethical. It depends on how they would violate.

Chairman Weisz: This is kind of a gray area because it is not a prescription.

Courtney Koebele: I don't think there are very many physicians that would be interested in putting their name on this.

Representative Porter: I guess I didn't hear on 25, page 37, if we were going to include on the grounds and include school events?

Chairman Weisz: He is suggesting school events should be sanctioned as well no matter where they are. Now they are limited to school property.

Representative Porter: It would be a sanctioned school function.

Chairman Weisz: It would say on the grounds of any public or private school or at any sanctioned school event.

Representative Skroch: Administration and teachers are kind of in control at a school, but how do you take responsibility for all kinds of people that are there?

Chairman Weisz: If they are the cardholder it is their responsibility.

Tara Brandner: If they were under the influence it would not affect them. It would be that they can't use it or bring it with them.

Representative Schneider: Language on #4 on page 77 amendment, line 30 I had an addition to that end of that sentence to say a minor who is a qualifying patient. Like a 17-year-old who might taking that usable marijuana would not be prevented from that.

Chairman Weisz: When we made the changes to the pediatrics they would be able to vaporize it if it is less than 6% PHC. It is illegal to use it in front of a minor, because it could be a higher % for an adult.

Representative Schneider: It is intended to allow the minor to use the medicine that is for him. So #4 doesn't prevent the minor from taking his or her own medicine.

Chairman Weisz: Ok we are done with the basic bill.

Representative McWilliams: There is an amendment by Sen Larson amendment.

Chairman Weisz: There was an amendment regarding growing their own.

Representative Porter: I am not interested in doing anything.

Representative McWilliams: This was addressed in the measure and it is not in our bill on home cultivation and that was on the ballot I would personally feel like that part is not in the bill and this is the opportunity to do it right now, and it goes to the floor and we don't have a 2/3 vote it is going to revert back to the bill that was passed. If we don't deal with this, then it will not address that. This is a good bill. We need to identify everything that was actually on the ballot.

Chairman Weisz: I think this is very difficult, because it is discriminatory for the people that can't grow their own and for the manufacturers because they will not be able to make it money if anyone can do it.

Representative McWilliams: I think we could address this in some creative ways. I think they should still have to pay an extra fee to be able to grow it. This would be for people that are 40 miles away and don't have a way to get the medicine.

Representative Porter: I think what we have put together is a good compromise between the original measure and this bill. When the language was put together we came up with a good compromise. The system that will be put in place in the communities will fail if everyone can grow it. I don't think this is going to cause anyone to have trouble getting the product. We can look at this again in 2 years and see how this is doing.

Representative P. Anderson: If we can get 80% of the population able to get marijuana in the 40-mile radius I think that is ok. If we add home cultivation for the 20% it will take years to get this in place.

Chairman Weisz: Study home cultivation per measure 5.

Representative P. Anderson: I would like to move the amendment from Sen. O Larsen

Representative Seibel: Second

Discussion:

Representative Porter: I am going to oppose this. During the interim it won't even be implemented so there won't be anything to study. Next session we will have bills and etc.

Representative McWilliams: I disagree. I think there are a number of other states that are doing it that would give us something to study. I think our constituents are going to be upset.

Representative Schneider: I agree that if we study it now we will have a better idea of the consequences before we have to make decisions on this.

Representative Damschen: I think there is a line drawn somewhere between the people that organizers of this motion and the people that actually voted for it.

Representative McWilliams: I think if we at least put a study in there it has a better chance of passing. If we don't put it in there I don't think it will pass.

Representative Skroch: I think we have our own way of doing this in our state and I don't think studying other states is going to help us. We will have bills next session to deal with all of this. We won't have enough data to see how this plays out before the next session.

Voice vote: Not sure

Representative P. Anderson: I would like a roll call vote.

Roll call vote: Yes 4 No 10 Absent 0 Failed

Katie Fitsimmons University System, Director of Student Affairs, ND University Systems: Read US Federal Complaints Requirements set forth in the 1989 amendments. (1:19:17)

Chairman Weisz: The state has made it legal so then what?

Katie Fitsimmons: Marijuana is still illegal on the federal level and that is all that matters. They would look at federal laws only and therefore what states are implementing would be mute. In Washington it is illegal federally to use on college campuses and it has affected them.

Representative Schneider: Is that true in Delaware and Colorado?

Katie Fitsimmons: I am more familiar with Washington. The way it has been presented three times in the last six months regarding this issue. Until this becomes legal on the federal level; no college campus can allow this on their premise.

Representative Schneider: if there is something in law I would like to see that if you have that available.

Representative Skroch: Is there any effort to let the public know how this would affect the funding, etc.

Katie Fitsimmons: I don't know where people are getting their information. I know that this is a huge issue for the schools If a student has a need for this then we allow those students to not live on campus. There has been a lot of information out there that is true and untrue. It would take lots of money to let them know what this would do to our universities and effectively shut them down if this was allowed in our campuses.

Tara Brandner: One thing that I can address is that it is the Corrupt Practices Act prevents a state entity from lobbying for or against a legislative measure. The only information the DHS was able to put out was factual information and that was to try an avoid the potential for a law suit.

Representative McWilliams: What is the disciplinary action against a student now that would be taken against a student who under this measure would have appeal.

Katie Fitsimmons: When I was in California there were lots of students that brought me their bogus medical marijuana cards and they weren't enrolled usually within a couple weeks after that. You just take them on a case by case basis and see what those individual's intentions are.

Representative McWilliams: Would the system try to charge them with a felony or misdemeanor because they were on campus.

Katie Fitsimmons: That would be up to the professionals involved. If you have a student manufacturing it would be turned over to the law enforcement. It would be on a campus by campus basis. There are students that went through a university conduct system process and when there were elevated drugs from a university residence address those students are usually turned over to local law enforcement and the school will then press charges against them.
1:30

Ryan Rauschenberger, State Tax Department: How the medical marijuana will be taxed. Only prescriptions are not subject to the sales tax. The sales tax would be between the dispensary and the consumer. We did a fiscal note for both the ballot measure and for the bill. (1:31:13) Went through the fiscal note.

Chairman Weisz: Local tax would be collected too?

Ryan Rauschenberger: Yes, it would be treated the same way that any other business would be treated. They would be subject to those taxes as well.

Chairman Weisz: Could they be considered ag and get the deductions?

Ryan Rauschenberger: They could possibly be considered under ag under some circumstances. The county can take it under consideration.

Chairman Weisz: So we should spell it out.

Representative Seibel: It is illegal and the banks can't take the money and it needs to be a cash purchase, so can we tax a federally illegal transaction?

Ryan Rauschenberger: Yes, it would be subject to tax even if it is not legal.

Representative P. Anderson: Is there any way the sales tax from the dispensary could go to the fund the health department program for support of the marijuana program.

Ryan Rauschenberger: It could maybe be done on the back end. We would have to have a special marker that would be put on the sales tax. To earmark that would be possible? Under current law we probably do that. Right now they would just be subject to a general sales tax permit.

Representative P. Anderson: It could keep the costs lower if we could earmark that the tax went to the health department to support the program. Could we do that and add it to this bill.

Representative Kiefert: Is that practice used for anything else?

Ryan Rauschenberger: Under the general fund there have been carve outs that go to a different fund. Right now everything in the general fund goes back to the cities and counties. We would have to call it something other than sales tax.

Representative Skroch: I am not sure how all the expenses will be paid to implement this program, but is this tax going to have to pay for other expenses involved in this program too, like law enforcement. Those costs would have to come out of the sales tax generated too; would it not?

Ryan Rauschenberger: I guess it would have to be defined as to what it could be used for. That would be a consideration too.

Chairman Weisz: How did you arrive at the numbers you used?

Ryan Rauschenberger: We used health department numbers.

Chairman Weisz: No income tax?

Ryan Rauschenberger: No not now, but in the biennium we would have to address that. We are trying to keep it to sales tax which we can identify.

Representative McWilliams: Do you see a problem with a cash only business paying sales tax on line.

Ryan Rauschenberger: No that is not a problem. We have several other companies that are cash only. They can wire us the funds.

Representative McWilliams: If they can't have a bank account and cannot have a debit card, then what.

Ryan Rauschenberger: We accept cash.

Chairman Weisz: We are going to go through the revenue first and then the cost.

Arvy Smith: (1:46:26) We have new numbers that might change from the who fiscal note. We have a bottom line, but we still have a gap as it being able to self-fund.

Brenda Wise: **Department of Health**: With the fiscal note there is a combination of agencies in it. Do you want me to bring up just the Dept. of Health? I have a summary of what our department is predicting. I will go through the fiscal note first and then go over our summary. Went through the handout. (1:49:49) (Attach. #1)

Chairman Weisz: Why did you think that 4 times as many would apply than what we would allow?

Brenda Wise: We just went from the amount of interest we had received. Continued to go through the fiscal note.

The attorney general figured that the fee charges for background checks are required to pay for their background check. Estimated $50,000 for background checks which has to be deposited in the general fund.

Continued through the original fiscal note. The assumptions on the bottom of the pages summarize what I just went through.

Chairman Weisz: Before what you gave us now, where did the 4.52 million includes the 3.4 million of the sales tax.

Brenda Wise: The number of qualified patients decreased when the grow your own was permitted.

Chairman Weisz: Where are they coming up with 4.5 million? Is that strictly the revenue from the registration?

Brenda Wise: (Attachment 2) She went through the second handout.

Chairman Weisz: Do you have any questions?

Representative McWilliams: Why did the department feel that there would not be a change in the number of cards if we lowered the price of the card since now it would be more affordable?

Brenda Wise: We didn't look at the price and population; we looked at other states and how many they had rather than the price of a card.

Representative P. Anderson: We were only interested in dropping the cost of the card for the users, not the board members. They can stay at $200.

Chairman Weisz: We are not done yet. That could still be done.

Brenda Wise: The more you add to the number of compassion centers the more staff we will need to do the checking on them. The dispensaries will have to be checked too. There will be ten of them.

Representative P. Anderson: How often will they have to go out and check?

Kenen Bullinger: I think it is necessary that we have a present at those facilities so that we can be on top of what is going on. Probably at least twice a month and it could take about 2 days per facility.

Representative Seibel: How many qualified patients does the state of Minnesota have?

Kenan Bullinger: They have 2000, but they don't have all of the forms of use that we do.

Arvy Smith: We based our information on Delaware's information because they were closest to us.

Representative Seibel: So do you think 3500 might be too large, since Minnesota only has 2000?

Arvy Smith: We based it on Delaware because we were the most similar with conditions covered and forms of use allowed. This is our best guess.

Representative McWilliams: My question is for Kennon. You were talking about checking all of the facilities and such twice a month. Don't you think that is excessive?

Kenan Bollinger: You may be able to back off later, but in the beginning you need to have a very frequent presence. We do that with all new businesses and we are just learning with this kind of business. We need to be there often.

Avry Smith: That activity will come down since our fiscal note doesn't allow for that frequent of visits.

Chairman Weisz: Are there any questions?

Representative Seibel: I don't think that we will have double the number of patients that Minnesota has.

Representative McWilliams: I don't agree with the numbers that there saying we won't have more people getting cards if the price of the card drops to $50 instead of $200.

Representative D. Anderson: I don't think the price of the card is going to hold any one I think it will be the $300/ounce that will hold them back.

2:18:41

Recess for lunch

Chairman Weisz: we will have BCI go through the fiscal note checks.

Kathy Roll, Financial Administration, Office of Attorney General: Going over the fiscal note.

Chairman Weisz: How many can one FTE process?

Kathy Roll: 2,000.

Chairman Weisz: That additional FTE would be to handle the additional requests for this bill? Where does the $40 come from?

Kathy Roll: The background check here is in need of a few components. There is a $15 state fee; $15 fingerprint background check to FBI; then a $10 federal record check.

Representative Rohr: Is there an international background check?

Kathy Roll: I am not aware of any.

Representative Rohr: How long are the background checks good for?

Kathy Roll: They are done when you start employment. You can request a background check as often as you want to.

Representative Rohr: If we have someone who is a medical marijuana card holder and they were OK and it is good indefinitely; are we going to require again to do a background check every year when they renew their card?

Kathy Roll: I believe it is for every two years.

Brenda Wise: (2:24:27) Going through the FTE side. There are six FTE's. Those are the costs we are considering for the first biennium 2017-2019.

Representative Rohr: So we are talking 6 FTE individuals.

Brenda Wise: (2:29:04) Discussing 2020-2021 budget. We discussed two additional dispensers and two additional field inspectors to add to the one.

Chairman Weisz: You are talking about the manufacture and dispensary.

Brenda Wise: That is correct.

Representative P. Anderson: when you add the two additional inspectors I assume you would add them the beginning of the biennium.

Brenda Wise: We did from the numbers standpoint. This is appearing in a special line item in the budget so if we don't use it for this it goes back to the general fund. If it seems we are coming in a little high, we are trying to have some control and cannot use it elsewhere.

Chairman Weisz: Committee you have the sheets with the numbers and we have had some discussion. Going over the fiscal note for 2017-2019. They are the ones who are working for the dispenser or working for the manufactures.

Representative Rohr: If you have a high turnover of employees and someone has to pay $200 every time they hire an employee I could see that being a big problem.

Chairman Weisz: Ok I only hear one dissention so we will make that change in the amendments that will come down to us. Also we will increase the $80,000 to $100,000 and the $60,000 to $80,000. I forgot what it generated. We would pick up $40,000 for the growers; because that is a two-year license. If you add 8 dispensaries by 2 years, then you would pick up $160,000 so we would still be $120,000 less behind.

Representative P. Anderson: Maybe grow up will not be enough so they will need three grow up and that is another $100,000.

Representative Rohr: We had some discussion about sales tax revenue coming back into that program directly. Is that at all factored into these budgets?

Chairman Weisz: No because their budget is based on general fund dollars. You could make the case that it is not completely self-funded, but the extra economic activity is going to generate $3.4 million in sales tax revenue. We are close on the funding. If we go to 80 and 100 I don't mind pulling out the 1921 language that it has to be self-funded. Is the committee ok to go with the 80 and 100? Should we take out the language that it has to be self-funded by 1921.

Representative Seibold: Do you think that may hurt the chance of passage on the House floor?

Chairman Weisz: I think we would be fine with that. We will delete Section 41.

Representative Devlin: I don't believe we should take out that section. I think we should leave it in and fund it with sales tax.

Chairman Weisz: I did as Legislative Council to take a look at it. We will be meeting probably tomorrow or Friday and I don't expect anyone to vote on this without seeing the actual amendments.

Representative Westlind: Then it must be self-funded or equal ant economic impact into the state.

Chairman Weisz: If we are $100 thousand short they would want sales tax to cover it so you have to add provisions and they will look at addressing that. Appropriations might not light that.

Rep. Skroch: Would the committee be comfortable if we would change the date on line 2 to the beginning 2021-2023 biennium until that time however we wanted to fund that would be sales tax that we could have a sunset clause at that point and ask them to be self-sufficient by 2021-2023.

Chairman Weisz: We don't hold the future legislative session to anything. They will then have numbers and can look at it then. This wraps up 2344.

Tara Brandner: It is the same physician has a reasonable expectation that they will follow up care so they expect the patient isn't coming in for just this one opportunity to obtain the substance. They think this will be a continue relationship.

Chairman Weisz: Maybe we should have language in there for this.

Tara Brandner: The physician should have a thought that they will see this patient again. So if we change the language on page 6, line 23 to read the physician has a reasonable expectation that the physician will be able to provide follow up care. They will have to analyze whether or not the marijuana is actually benefiting them. The patients need to be monitored to see how they are doing on the product.

Chairman Weisz: The doctor needs to analyze the patient.

Representative Kiefert: Would the doctor be responsible to write an order of discontinuation then?

Tara Brandner: You are right. They are to notify the department whether they qualify or not.

Representative Schneider: I would like to take out line 20; we should look at taking out for primary medical care and leave it as the patient is under the patients continue care for the debilitating medical condition that qualifies.

Tara Brandner: I don't have a problem with that.

Chairman Weisz: I don't have a problem with that.

Tara Brandner: D insures that they are doing what they need to and are not taking advantage of an opportunity. We will strike primary from c; then add the language that Rep. Kiefert wanted.

Chairman Weisz: We want to do this bill as well as we can.

Closed.

2017 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB 2344
4/3/2017
29905

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Judy Kopp

Explanation or reason for introduction of bill/resolution:

Relating to the implementation of the ND Compassionate Care Act; relating to implementation of the ND Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative management; to provide a penalty; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

Minutes: Attachment 1, 2

Chairman Weisz: called the committee to order on SB 2344. Attendance taken. I assume that everyone did their homework over the weekend. I do have some changes from the Attorney General's office and we conferred with the ag department. The first thing is that we will walk through the bill and we can see how much we agree on we will take it up and I will see if the Attorney General's office had a suggestion for that part. (See Attachment #1). Page1. Does anyone have anything on this page? Seeing no objection.

Representative P. Anderson: We had trouble trying to figure out some of these changes so I will try to go back to the original we worked off of. Amendment 17.0630.03019 doesn't reflect the changes I had.

Chairman Weisz: As we go through this amendment .03019 point out what is not in here and then we will have the discussion to make sure we all agree on it.
Anything on Page 2. I thought the language was a little cumbersome but it does say what we want. Page 3 debilitating diseases, we added terminally on this, so that is in and there will be a definition on that later

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Representative McWilliams: On the terminal illness it says a chronic or debilitating disease does that mean any disease that has the characteristics of one of those chronic diseases under line n. on page 3?

Chairman Weisz: It can be any debilitating condition with those symptoms listed under n. Anything on Page 4?

Representative P. Anderson: On page 4 line 25. I think that it should say "pediatric medical marijuana product" means just the oil.

Chairman Weisz: The Attorney General's office wanted this changed to clarify. The wanted under pediatric marijuana means cannabinoid oil which is processed cannabis plant extract that contains no more than 6% THC or medical marijuana product that may not contain a maximum concentration or amount of THC of more than 6%. They want that added it into page 6 under 19-24.1-02.

Representative P. Anderson: Then we wouldn't need 25 at all? That wasn't in the original bill either.

Representative Porter: If it is under definitions that means that they use it somewhere else in the bill and we need to find that before we do any changing of definitions.

Chairman Weisz: Right. The other thing they wanted a clearer definition on number 1 on page 1 they want to make it clear that it is an Advanced Practice Registered nurse is licensed under section 43-12.1 to practice in the state of North Dakota. It doesn't say that they have to live in ND, but they have to be licensed to practice in ND. Add this to page 1 line 1 under definitions. We are good with that.

Representative P. Anderson: Often times when we do this we added Physician's Assistant as part of the health care provider and we have added that to other bills.

Chairman Weisz: Let's deal with this first then we can add that if we need to.
Page 4 We will put the medical marijuana aside for now.
Page 5 We define terminal illness. That is 6 months because that is the standard in North Dakota. On page 5 line 30 under pediatric marijuana they want the language to read "marijuana means cannabinoid oil which is processed cannabis plant extract that contains no more than 6% THC or medical marijuana product that may not contain a maximum concentration or amount of THC of more than 6%." They want to clarify that it cannot be smoked. Is everyone comfortable with that. Yes. Then we will make that change.
Page 6 On Qualifying patient. Anyone have anything?
Page 7 No issues on this page.
Page 8 I thought there was a problem with the age, but it was the compassion center agent and not the patient.
Page 9 No issues.
Page 10? One question came up bottom of page 10 line 11. The Burleigh Count for hearing. I don't know how to fix it. Someone from somewhere else could have to show up in Burleigh County Court. It is easier than the Health Department having to chase all over to every county in the state.

Representative P. Anderson: I would rather see the Department travel rather than a very ill patient. I can't believe that there will be that many.

Representative Skroch: I know that the court can make accommodations. Can't we put something in here that the court could make accommodations if someone is unable to travel.

Chairman Weisz: We could do that, but often it is up to the judge to decide what he will or won't do. I understand the concern; how many are going to be denied, and many are going

to appeal that are denied. I think the courts will try to accommodate a reasonable accommodation.

Representative Skroch: Do we need to add that into law?

Representative McWilliams: I think there is a brief language that would say that.

Representative Schneider: We could just add a phase on to the end of that, put a comma after sharing with accommodations made for appearances by video for out of county participants.
Representative Porter: Are we sure that the technology exists to do it? Number 1, and are we sure that it is legal and a binding hearing number 2?

Chairman Weisz: I know you can do it by phone but that depends on the judge.

Representative Porter: If we are going to change it, I think we need to be sure we are not creating a mess inside the court system and that it can be done.

Chairman Weisz: It doesn't really say that they have to appear in the beginning. People are concerned if they live further away that they will have to come a long way to appear.

Vice Chairman Rohr: Was this language in the original measure or did we add in?

Chairman Weisz: It was in the original measure. If it becomes an issue, we may have to address it. Page 11. Under 19-24.1-09 number 1. This should have come out too and that was what we approved when we took out going into the home. Because we will already go into the Compassion Center in a later section. This should be gone. Is that ok with everyone. Ok. Page 12 and page 13. Nothing there to change.

Representative P. Anderson: I think we could be a little clearer. The idea was that operating and manufacturing would start with two but they could add more. It is missing the manufacture.

Chairman Weisz: I have language from the Department where it says they would change to dispensaries to Compassion Centers because that would include both of them. That is what we agreed on. I had it marked it was missing manufacturer.

Representative P. Anderson: Page 14 on line 3 at the bottom, we talked about this and Arvy Smith said she rather leave it open and this wasn't in our original at all that they may not have common ownership. This was just simply added.

Chairman Weisz: What does the committee think. I know that there was a greater chance of diversion if you have them owning both.

Representative Seibel: I would like to keep it as it is to keep them separate for diversion reasons.

Chairman Weisz: Does anyone have a problem with that? None seen.

Representative Porter: Are we setting ourselves up to fail inside of the industry. We are talking about a lot of money and there might be some investors that are just wanting to be small investors. Because I am a 5% owner does my name have to be out there? You are going to shy the capital away. Can I be a small percent owner in both a manufacturing facility and a dispensary? We are going to run the risk of not being able to get enough capital to do both.

Chairman Weisz: I thought common ownership mean the same company. I don't think it says that an investor couldn't have a small share of ownership.

Representative Porter: I think there is two different things going on here. I don't want to have to have disclosure of my small investment. We can get away from the disclosure by saying it is a closed record. The Department can see who the owners are but not the public.

Chairman Weisz: I think we already do have that, but we will look at this again when we get to the confidentiality.

Representative McWilliams: I think we could add something in there to say the manufacturing facility and dispensary may not have common ownership greater than 50% in either one.

Representative D. Anderson: I was thinking over the weekend and it would have been smarter to have one manufacturer and multiple growers that have a share in the manufacturing because the equipment to manufacture it is very expensive. In Arizona the grower and the dispensary can have the same ownership.

Chairman Weisz: We will leave this and come back to it. We can't require them to be a North Dakota company. We need to strike North Dakota out through out. On page 15, line b. Line C would still apply though, but the company could come from some other place. Does anyone else have anything on page 15? Page 16? Any issues? Seeing none. Page 17. There was a suggestion from the Senate. They had an issue with the dropping of the card from $200 down to $50. They have some concerns that it won't be self- sustaining. They are talking about raising the initial fees for the dispensary and the manufacturer to offset that. It is supposed to be self-sustaining.

Representative D. Anderson: I know it is supposed to be self-sustaining but we are going to get $1.7 million in sales tax. I would like to leave it at $50.

Representative Schneider: Will we have any additional information by the time this in theory hits Conference committee that can add to that discussion. We could always change it later.

Chairman Weisz: I think we will have some information 2 years from now.

Representative Seibel: My problem is that in 2 years we would come in here and change the rules for the dispensaries that are up and running already. I don't like changing in the middle of the game. We should change it now. If someone is told that they have to pay

$80,000 or $100,000 and then we raise it later, that is hard. To me if we are going to change it change it now.

Representative Porter: I agree with Representative Seibel that they both should have to make up the difference now.

Chairman Weisz: If you do the math and you went to $90,000 and $110,000 it would balance pretty well.

Representative McWilliams: I would rather not increase the registration fee and I think the card could be increased to $75.

Representative Porter: I would agree with Chairman Weisz that we increase it to $90,000 and $110,000.

Chairman Weisz: Is that where the majority is at?

Representative McWilliams: What did the original measure say?

Chairman Weisz: Not more than $100,000 for the growers.

Representative Skroch: We are talking about page 17 letter a.

Chairman Weisz: Yes, it increases the fee from $80,000 to $90,000 and from a $100,000 to $110,000.

Representative Westlind: Arkansas charges $100,000 per year, I still feel this is not going to hold them back if they want to get into this.

Chairman Weisz: So that is the change then on page 14. Can you give us a definition of what common ownership means on line 3 of page 14?

Tara Brandner: North Dakota Assistant Attorney General: That language common ownership came from the Legislative Council. It wasn't part of ours. This language would not include investors that don't have ownership interest. There is a question about what is the difference between investors and common ownership investors is a broader term. Investors could simply be receiving a financial interest. It would depend on the structure of the corporation they are setting up. I am not sure what the Department was trying to do, but they were saying that if the manufacturer and the dispensary owners were common they might not allow a dispensary. The primary concern here is with this language is if the only facilities to enter the market are a Compassion Center or dispensary with the same ownership structure that we would essentially just not have a dispensary. That is why they were ok with leaving it open.

Representative Skroch: If the two businesses are separate LLCs did that create a separation in the ownership somehow or are they considered the same? Are they free to establish any structure they so choose?

Tara Brandner: As far as a business structure they have to be a LLC or a Corporation, whether that be for profit or non-profit is up to them. Common ownership is a term that came from the Legislative Council so I can't speak to it. I think the goal was to say the people that owned those entities, like LLC A. and LLC B. and if they are owned by the same person, it was to split that. The department's concern was that could potentially leave the option for no.

Chairman Weisz: We can leave the language the same, we can change it or modify it. You don't see either way that this would have any effect on the Cole Memo.

Representative Schneider: Can I ask Tara a question. In the original measure it said that it would be held in Burleigh County unless that they requested a change. We talked about having videos or something. Do you have any suggestions about putting that in language so that it protects the rights of the person but doesn't step on the toes of the court?

Tara Brandner: I am not sure how you would do that. As you stated, the concern is how do we protect the court's rights. I don't know if LC would have ideas about how to draft that or not. The concern is ultimately telling the court what they can and cannot do.

Representative Schneider: Do you know off the top of your head whether some of the courts have video capacity? I know they have telephonic, but that isn't really adequate.

Tara Brandner: No, I don't know.

Representative Westlind: I would like to see 3 taken out entirely.

Chairman Weisz: Ok is the committee ok with this? Ok we will take it out then.

Representative McWilliams: I think we should increase the card to $65. I don't see a big difference between paying $50 or $65.

Representative Schneider: When you are on SSI you are living on poverty level and I would really like to leave it at $50 for the sick people.

Chairman Weisz: Ok, committee we need to decide which it will be. Ok, it sounds like it should remain the same. No dissention.
Page 17

Representative Westlind: I am in favor of keeping it at $50,000 and $110,000. The people that pay the $50 for the card are not going to be aware that this fee is in the bill. I don't think the people that voted for this bill will even know that and I doubt they will look it up.

Chairman Weisz: Ok it sounds like the consensus is with leaving it the same. Ok, I am going to move quickly here, so if you have an objection speak up.

Page 18

Representative Schneider: We need to change the amount in there to match the other place with the $90,000 and $110,000.

Chairman Weisz: Yes, that is correct. Thank you.
Page 19

Page 20

Page 21 I do have some suggested changes in here for page 21. On the penalties.
There is a concern on number 1 on page 21 where it just gives the authority to the department. Some suggested that we can give them the authority up to a maximum so they don't get carried away.

Representative Devlin: I think it was originally $150 and I don't know why it was changed to being established by the department. Perhaps we could just say up to $150. Not to exceed $150.

Chairman Weisz: Is everyone ok with that? It seems like that is ok with everyone.
On page 22 there are 2 things. One, we can remove number 10 on page 22. We don't need it in this bill. It is already a Class A misdemeanor to make a false statement to law enforcement. It is the same language. I looked it up in century code.

Representative P. Anderson: on number 9 if you make a false statement to law enforcement it is a Class A misdemeanor and if you make a false statement to the department it is a Class C felony. I think that is a little high.

Chairman Weisz: I will explain why it is drafted that way. The department thought it was current penalty, but this applies if it is a department employee that makes a false statement. Then it could be a Class C felony. That is not really what we are looking at here. Does anyone have a problem with making this a class a misdemeanor? I didn't see any opposition to that, so we will make that change.

Representative P. Anderson: I think they are taking up SB 2149 next week and they reduced all of those penalties. I think it should be the intent of this bill that if someone possesses medical marijuana illegally it is not a higher charge than if they possess street marijuana. I don't know that is what happening here.

Chairman Weisz: I had that checked out and every felony and misdemeanor is at the same level now, but there is one other place where the language is where it talks about "in exchange for anything of value". If you are looking under the penalties. They said that all references to or use of the words, "in exchange for anything of value" should be removed per the conversations in the House Human Services committee hearing. Is everyone ok with that? In number 2 it is used, in number 3 it is used, in number 4 it is used and number 7, and number 8. That should be it. Is the committee ok with that?

Representative Schneider: I am ok with that, but when we were having the exchange with the level of these Tara said that they would review this to make sure it is consistent with whatever law is passed this time since we have got conference committees and such that

might change some of the that. I would like it to at least reflect as legislative intent that we did not want penalties in this section to be higher. They could be equal to or less than any changes in comparable penalties in criminal law.

Chairman Weisz: I don't know if it is doable, but we could have language that just says any changes this would reflect. So if conference committee would take it down to be a whatever that this would automatically make that adjustment. I am not sure how to do that language, but I am sure Jennifer could do it. There is not a conflict, because they could change a penalty in something else that wouldn't conflict with that. This is not criminal code and so if criminal code changes this doesn't change. If that is what the committee wants I can put in language that says that if the criminal code changes, these will change too.

Representative Schneider: When we were having the discussion we didn't want these penalties to be higher than the normal. I think that is important. I would like that legislative intent.

Chairman Weisz: I agree with that. I don't think the penalties should be different if you sell street marijuana or medical marijuana. Does anyone have an issue with that? Are we good?

Page 23. Anything?

Page 24

Page 25

Page 26

Page 27 Instead of 'or" they have "ore".

Page 28 They had a question for us. No it is on 29 actually on line 4. Does anyone have an issue with page 28?

Chairman Weisz: Page 29 line 4. It is confusing language. Under this chapter if I am smoking marijuana in front of a child who is not on it. What they are saying is that it is ok for me to smoke around a minor who has medical marijuana. The question is is that what we want it to say? So if you are not a qualifying patient as a minor you can't be around someone who is smoking marijuana, but we are still limiting it to 6% in other parts. To me it doesn't make a lot of sense.

Representative P. Anderson: I don't think we have a law about smoking cigarettes around kids and I think that is way worse.

Representative Porter: I would disagree. The byproduct of cigarette smoke doesn't contain hallucinogenic. I would have to argue that smoking of marijuana in front of kids is way worse than nicotine in front of kids.

Chairman Weisz: Ok, committee. We can either strike it or just say "you cannot smoke around a minor". It sounds like everyone is ok with, "not around a minor". We will add that.

The other issue they had. They had a question on 19-24.135 on the bottom of page 29 where it is talking about nursing homes. They had a chat with CMS. CMS had issues. They want to add some language under 2 they want to say, "as authorized under this chapter unless failing to do so would cause the facility to lose monetary or licensing related benefit under federal law or regulation".

Representative P. Anderson: I think this language comes from Delaware.

Chairman Weisz: I don't doubt that. I had a conversation with CMS and they said that if they showed up in a facility and saw marijuana there would be a problem with their license. They aren't saying they can't do it, but the facility could say no.

Representative Porter: We had the same argument about schools and colleges with federal funding and we can't put the entire nursing home at risk of losing all of their federal funding because of this act. If they can figure out a way around it, great, but if they can't and the person needs medical marijuana then the family is going to have to make arrangements to take them out in the car or something else. They are not going to be able to do it at that facility.

Representative P. Anderson: It does say right above it, "consumption is limited to a place specified by the facility,".

Chairman Weisz: Are we ok with that language? No one disagreed. Ok committee that is the last page.

Representative P. Anderson: I am wondering about the advisory board. Page 31. I know that 20 members is too many, but 4 is not enough. I have had several people wonder if we could go to 6 or something.

Representative Porter: I kind of agree with Representative P. Anderson, but I think it needs to be an odd number. Like maybe 5, so it is not even but not 7.

Representative Devlin: Remember that the health officer will be on there too, so that will make it odd. I am in favor of 6 with the health officer making it 7.

Chairman Weisz: Ok, Is everyone ok with 6 plus the health officer? Ok we will make that change. Ok committee you should have the amendments I handed out and that has to do with the questions that came up about should these facilities be exempt from property tax like an ag farm. This eliminates it, but if you look on the amendment it should say with the exception of medical marijuana grown under chapter 19-24. This is to insure that industrial marijuana is not an ag enterprise. So if you put up that building to grow it, you are paying property tax. Is the committee ok with that? Ok we will add those.

Chairman Weisz: The other amendment has to do with primary sector. The amendment would say no you do not qualify as a primary sector business. These would not be considered primary sector under this definition. Do you want to limit them to not be primary sector operations? It sounds like everyone is ok with this.

.**Representative P. Anderson:** Remember when Delaware let them have 4000 and we lowered it to 2000. Is there any interest in raising it?

Chairman Weisz: I am more comfortable leaving it the same at least for now. The maximum per month is still way under that.

Representative Schneider: I just have a request again on the bottom of page 10 to make it easier for people that live outside of Burleigh County. I would just add after hearing "except for telephonic and video participation approved by the court".

Chairman Weisz: Is the committee ok with that? Ok we will add that. I will entertain a motion on the amendments.

Representative Porter: I Move to adopt the amendments 17.0630.03019 and 17.0630.03023 to SB 2344.

Representative Skroch: I second it.

Chairman Weisz: Ok we will take a voice vote on the amendments.
Motion carried. Ok now I will entertain a motion on the amended bill.

Representative Porter: I move a do pass as amended on SB 2344 and rerefer to appropriation.

Representative P. Anderson: Seconded.

Chairman Weisz: Is there any further discussion? Seeing none, the clerk will call the roll for a Do Pass as Amended on SB 2344.

Roll call vote taken: Yes 13 No 1 Absent 0. Motion carried.

Chairman Weisz: I will carry the bill.

17.0630.03001
Title.

Prepared by the Legislative Council staff for
Senator O. Larsen
February 20, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 1, line 4, remove "and"

Page 1, line 4, after "19-24-41" insert ", and 19-24-42"

Page 54, line 21, after "e." insert "A designation as to whether a qualifying patient or designated caregiver under subdivision d is authorized to grow the plant of the genus cannabis as provided under section 19-24-42;

f."

Page 54, line 22, replace "f." with "g."

Page 54, line 24, replace "g." with "h."

Page 54, line 26, replace "h." with "i."

Page 54, line 27, replace "i." with "j."

Page 55, line 24, replace "A" with "Except as otherwise provided under section 19-24-42, a"

Page 75, line 27, after the underscored comma insert "cultivation,"

Page 75, line 30, after the first underscored comma insert "cultivation,"

Page 76, line 4, after the first underscored comma insert "cultivation,"

Page 76, line 8, after the second underscored comma insert "cultivation,"

Page 76, line 12, after the first underscored comma insert "cultivation,"

Page 82, after line 11, insert:

"**SECTION 42.** Section 19-24-42 of the North Dakota Century Code is created and enacted as follows:

19-24-42. Cultivation of marijuana by a registered qualifying patient or registered designated caregiver.

1. If the residence of a registered qualifying patient who is authorized to use the dried leaves or flowers of the plant of the genus cannabis is more than forty miles [64.37 kilometers] from the nearest dispensary, that qualifying patient or that qualifying patient's registered designated caregiver may grow the plant of the genus cannabis for the use of that registered qualifying patient.

2. A registered qualifying patient or registered qualifying caregiver authorized to grow under this section may grow no more than eight plants of the genus cannabis, but may not exceed the allowable amount of usable marijuana for medical use. A plant grown under this section must be grown in an enclosed, locked facility, which may not be located within one thousand feet [604.80 meters] of a property line of a pre-existing public or private school.

3. Before a registered qualifying patient or registered qualifying caregiver grows the plant of the genus cannabis under this section, the patient or caregiver shall give local law enforcement a notice of intent to grow. The department shall establish the notice requirements under this subsection.

4. A registered qualifying patient or registered caregiver may not grow the plant of the genus cannabis under this section, unless that individual's registry identification card designates that individual as authorized to grow under this section."

Renumber accordingly

17.0630.03024
Title.04000

Prepared by the Legislative Council staff for
House Human Services Committee
April 3, 2017

BNC 4/3/17 1of34

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 19-24.1 of the North Dakota Century Code, relating to medical marijuana; to amend and reenact section 54-60-03, paragraph 3 of subdivision a of subsection 15 of section 57-02-08, and paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to primary sector business certification and property tax exemptions for farm buildings and residences; to repeal chapter 19-24 of the North Dakota Century Code, relating to medical marijuana; to provide a statement of legislative intent; to provide for a report; to provide a penalty; to provide a continuing appropriation; and to declare an emergency..

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 19-24.1 of the North Dakota Century Code is created and enacted 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 as 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 tetrahhydrocannabinol 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.

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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 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. "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. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.

34. "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. "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.

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

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 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.

19-24.1-02. Medical marijuana program.

The department shall establish and implement a medical marijuana program under this chapter to allow for production and processing, the sale and dispensing of usable marijuana, and medical use of marijuana. A person may not produce or process or sell, possess, transport, dispense, or use marijuana or usable marijuana under the medical marijuana program unless the person is authorized to do so as a compassion center, a cardholder, or otherwise authorized by rule adopted under this chapter.

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.

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.

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 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.

19-24.1-04. Designated caregivers - Registration.

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

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

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

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

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

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

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

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

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

      (6) The applicant's social security number.

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

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

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

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

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

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

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

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

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

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

19-24.1-05. Qualifying patients and designated caregivers - Identification cards - Issuance and denial.

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

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

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

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

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

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

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

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

   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

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

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

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

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

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

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

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

a. Does not meet the requirements of this section or section 19-24.1-03;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked; or

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

8. The department shall deny an application for or renewal of a designated caregiver registry identification card if the designated caregiver applicant:

a. Does not meet the requirements of this section or section 19-24.1-04;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked; or

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

9. The department shall notify, in writing, the qualifying patient or designated caregiver applicant of the reason for denying an application or renewal.

10. The department shall notify the following in writing:

a. A registered qualifying patient if that patient's designated caregiver's application or renewal is denied; and

b. A registered designated caregiver if that caregiver's qualifying patient's application or renewal is denied.

11. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

19-24.1-06. Registry identification cards - Renewal.

To prevent interruption of possession of a valid registry identification card, a registered qualifying patient or registered designated caregiver shall apply for a registry identification card renewal by submitting a complete reapplication as provided under section 19-24.1-03 or 19-24.1-04 no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.1-07. Registry identification cards - Nontransferable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:

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

   b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the medical marijuana program;

   c. Knowledge of a change that results in the registered qualifying patient's health care provider no longer meeting the definition of the term "health care provider" as defined under section 19-24.1-01; or

   d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the medical marijuana program.

2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.

3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.

4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.

5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, the department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.

6. If the department receives notification of an item listed in this section and the nature of the item reported makes the cardholder ineligible, the

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

7. A registered qualifying patient's certifying health care provider shall 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. 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.

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 the dried leaves or flowers of the plant of the genus cannabis;
   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 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.

19-24.1-12. Compassion centers.

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

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

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

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

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

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

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

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

19-24.1-13. Compassion centers - Authority.

1. The activities of a manufacturing facility are limited to producing and processing and to related activities, including acquiring, possessing, storing, transferring, and transporting marijuana and usable marijuana, for the sole purpose of selling usable marijuana to a dispensary.

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

19-24.1-14. Compassion centers - Application.

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

   a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health, Medical Marijuana Program".

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

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

   d. The physical address of the proposed location of the proposed compassion center and:

      (1) Evidence of approval from local officials as to the proposed compassion center applicant's compliance with local zoning laws for the physical address to be used by the proposed compassion center; and

      (2) Evidence the physical address of the proposed compassion center is not located within one thousand feet [604.80 meters] of a property line of a pre-existing public or private school.

   e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of marijuana, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19-24.1-15. Compassion centers - Registration.

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

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

19-24.1-16. Compassion centers - Renewal.

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

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

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

b. The compassion center submits a complete renewal application;

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

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

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

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

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 may waive all or part of the required advance notice to address emergent or emergency situations.

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

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

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. The agent's signature and the date.

h. 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".

3. Each compassion center agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.

a. All applicable fees associated with the required criminal history record checks must be paid by the compassion center or the agent.

b. A criminal history record check must be performed upon initial application and biennially upon renewal. A compassion center agent shall consent to a criminal history record check at any time the department determines necessary.

c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being a compassion center agent.

4. The department shall notify the compassion center in writing of the purpose for denying a compassion center agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

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

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

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

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

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

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

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

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

19-24.1-19. Cardholders - Compassion centers - Revocation.

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

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

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

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

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

   b. A manufacturing facility may continue to produce and process and to possess marijuana and usable marijuana during a suspension, but may not transfer or sell usable marijuana.

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

d. The cardholder or the compassion center may appeal a denial or revocation of a registry identification card or registry certificate to the district court of Burleigh County for hearing. The court may authorize the cardholder or compassion center to appear by reliable electronic means.

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

1. A cardholder or compassion center that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.

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

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

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

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

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

7. In addition to any other penalty applicable in law, a registered qualifying patient who intentionally sells or otherwise transfers usable marijuana, to

another person, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.

8. In addition to any other penalty applicable in law, a registered designated caregiver who intentionally sells or otherwise transfers usable marijuana, to a person other than a registered qualifying patient to which the caregiver is associated with registration, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.

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

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

19-24.1-21. Compassion centers - Dispensing.

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

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

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

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 oil.

   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.

19-24.1-22. Compassion centers - Inspections.

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

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

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

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

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

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

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

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

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

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

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

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

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

   c. Any breach of security.

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

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

   a. A manufacturing facility shall:

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

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

   b. A dispensary shall:

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

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

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

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

compassion center shall document each inventory conducted by the compassion center.

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Each compassion center shall maintain:

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

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

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

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

19-24.1-31. Verification system.

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

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

   a. Whether an identification card is valid;

   b. The name of the cardholder;

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

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

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

19-24.1-32. Protections.

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

1. A registered qualifying patient 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 for the acquisition, use, or possession of usable marijuana or related supplies under this chapter.

2. A registered designated caregiver 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:

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

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

3. It is presumed a registered qualifying patient is engaged in, or a registered designated caregiver is assisting with, the acquisition, use, or possession of usable marijuana or related supplies in accordance with this chapter if the registered qualifying patient or registered designated caregiver is in possession of a valid registry identification card and is not in possession of usable marijuana in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence the conduct related to acquisition, use, or possession of usable marijuana or related supplies was not for the purpose of treating or alleviating the registered qualifying patient's debilitating medical condition under this chapter.

4. A person is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for being in the presence or vicinity of the medical use of marijuana authorized under this chapter.

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

a. Produce or process or to conduct related activities for the sole purpose of selling usable marijuana to a dispensary; or

b. Transfer, transport, or deliver marijuana or usable marijuana to and from a department designee or manufacturing facility in accordance with this chapter.

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

a. Purchase usable marijuana from a manufacturing facility and conducting related activities for the sole purpose of dispensing usable marijuana, selling related supplies, and and providing educational materials to registered qualifying patients and designated caregivers; or

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

7. A registered compassion center agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for a compassion center if the action

performed by the compassion center agent on behalf of the compassion center is authorized under this chapter.

8. The sale and possession of marijuana paraphernalia by a dispensary is lawful if in accordance with this chapter.

9. The medical use of marijuana by a registered cardholder or the producing and processing and the dispensing of usable marijuana by a compassion center is lawful if in accordance with this chapter.

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.

11. A cardholder or registered compassion center is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

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

13. A person in possession of marijuana or medical marijuana 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.

19-24.1-33. Limitations.

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

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

2. Possessing or consuming usable marijuana:

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

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

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

   d. On the grounds of a correctional facility; or

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

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

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

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

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

1. This chapter does not require:

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

   b. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume usable marijuana on or in that property;

   c. A landlord to allow production or processing on rental property; or

   d. A health care provider to provide a written certification or otherwise recommend marijuana to a patient.

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

19-24.1-35. Facility restrictions.

1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or adult foster care home licensed in the state may adopt reasonable restrictions on the medical use of marijuana by residents or individuals receiving inpatient services, including:

   a. The facility will not store or maintain the registered qualifying patient's supply of usable marijuana.

   b. The facility, caregivers, or hospice agencies serving the facility's residents are not responsible for providing the usable marijuana for registered qualifying patients or assisting with the medical use of marijuana.

   c. Usable marijuana can be consumed by a method other than vaporizing or combustion.

d. Consumption of usable marijuana is limited to a place specified by the facility.

2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying patient's medical use of marijuana as authorized under this chapter unless failing to do so would cause the facility to lose a monetary or licensing-related benefit under federal law or regulations.

19-24.1-36. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of marijuana and usable marijuana, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate record keeping.

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

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

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

19-24.1-37. Confidentiality.

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

2. Data kept or maintained by the department may be disclosed 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 submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.1-38. Advisory board.

1. The governor shall appoint six members to serve on an advisory board that:

   a. Shall advise the department in implementation of the medical marijuana program.

   b. May receive reports from the department on the status and activities of the medical marijuana program.

   c. May provide recommendations to the department and the legislative management on the medical marijuana program.

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

19-24.1-39. Report to legislative management.

Annually, the department shall submit to the legislative management a report that does not disclose any identifying information about registered cardholders, compassion centers, or health care providers, but contains the following information:

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

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

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

4. The number of registry identification cards revoked;

5. The number of health care providers providing written certifications for qualifying patients;

6. The number of compassionate care centers; and

7. Any expenses incurred and revenues generated by the department from the medical marijuana program.

19-24.1-40. Medical marijuana fund - Continuing appropriation.

The medical marijuana fund is established in the state treasury. The department shall deposit in the fund all fees collected under this chapter. The department shall administer the fund. Moneys in the fund are appropriated to the department on a continuing basis for use in administering this chapter.

SECTION 2. AMENDMENT. Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

54-60-03. Commissioner of commerce - Duties.

With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;

2. Shall serve as chairman of the cabinet;

3. Shall appoint personnel as may be determined necessary to carry out the duties of the department;

4. Shall manage the operations of the department and oversee each of the divisions;

5. Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;

6. Shall coordinate the department's services with commerce-related services of other state agencies;

7. Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;

8. May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;

9. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative management and shall report annually to the foundation:

    a. On the department's goals and objectives since the last report;

    b. On the department's goals and objectives for the period until the next report;

    c. On the department's long-term goals and objectives;

d. On the department's activities and measurable results occurring since the last report; and

e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;

10. May not certify as a primary sector business a compassion center registered under chapter 19-24.1;

11. Shall adopt rules necessary to implement this chapter; and

~~11.~~12. May take any actions necessary and proper to implement this chapter.

SECTION 3. AMENDMENT. Paragraph 3 of subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

SECTION 4. AMENDMENT. Paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry~~,~~; livestock~~,~~; or dairy farming in such products' unmanufactured state and has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. For purposes of this paragraph, "farmer" includes a:

(a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years.

(b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement

owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

(c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

SECTION 5. STATE DEPARTMENT OF HEALTH REPORT - MEDICAL MARIJUANA DEBILITATING MEDICAL CONDITIONS. During the 2017-18 interim, the state department of health shall conduct a study of the feasibility and desirability of adding identified medical conditions or providing for an administrative process to add identified medical conditions to the definitions of "debilitating medical condition" under the medical marijuana program. The department shall include the findings and recommendations of this study, together with any legislation required to implement the recommendations, in the annual reports made to the legislative management under section 19-24.1-39.

SECTION 6. REPEAL. Chapter 19-24 of the North Dakota Century Code is repealed.

SECTION 7. LEGISLATIVE INTENT - MEDICAL MARIJUANA PENALTIES. It is the intent of the sixty-fifth legislative assembly that if future legislative assemblies amend criminal penalties relating to marijuana, the corresponding medical marijuana penalties also be amended in order to retain consistency.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 3/29/17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2344

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: .03001

Recommendation: ☑ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Schneider Seconded By Rep. McWilliams

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz		✓	Rep. P. Anderson		✓
Vice Chairman Rohr		✓	Rep. Schneider	✓	
Rep. B. Anderson		✓			
Rep. D. Anderson		✓			
Rep. Damschen		✓			
Rep. Devlin		✓			
Rep. Kiefert		✓			
Rep. McWilliams	✓				
Rep. Porter		✓			
Rep. Seibel		✓			
Rep. Skroch		✓			
Rep. Westlind		✓			

Total (Yes) 12 No 2

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3/29/17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2344

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: Study home cultivation per measure 5.

Recommendation: ☑ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By P. Anderson Seconded By Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz		✓	Rep. P. Anderson	✓	
Vice Chairman Rohr		✓	Rep. Schneider	✓	
Rep. B. Anderson		✓			
Rep. D. Anderson		✓			
Rep. Damschen		✓			
Rep. Devlin		✓			
Rep. Kiefert		✓			
Rep. McWilliams	✓				
Rep. Porter		✓			
Rep. Seibel	✓				
Rep. Skroch		✓			
Rep. Westlind		✓			

Total (Yes) 4 No 10

Absent 0 Motion failed

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4/3/17
Roll Call Vote #: 1

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2344

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description: 17.0630.03019 & 17.0630.03023

Recommendation: ☑ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Porter Seconded By Rep. Skroch

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz			Rep. P. Anderson		
Vice Chairman Rohr			Rep. Schneider		
Rep. B. Anderson					
Rep. D. Anderson					
Rep. Damschen					
Rep. Devlin					
Rep. Kiefert					
Rep. McWilliams					
Rep. Porter					
Rep. Seibel					
Rep. Skroch					
Rep. Westlind					

Voice vote to adopt the amendments motion carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 4/3/17
Roll Call Vote #: 2

2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2344

House Human Services Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation: ☐ Adopt Amendment
☑ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☑ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Rep. Porter Seconded By Rep. P. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Weisz	✓		Rep. P. Anderson	✓	
Vice Chairman Rohr	✓		Rep. Schneider	✓	
Rep. B. Anderson	✓				
Rep. D. Anderson	✓				
Rep. Damschen	✓				
Rep. Devlin	✓				
Rep. Kiefert	✓				
Rep. McWilliams		✓			
Rep. Porter	✓				
Rep. Seibel	✓				
Rep. Skroch	✓				
Rep. Westlind	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Weisz

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2344, as engrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2344 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 19-24.1 of the North Dakota Century Code, relating to medical marijuana; to amend and reenact section 54-60-03, paragraph 3 of subdivision a of subsection 15 of section 57-02-08, and paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to primary sector business certification and property tax exemptions for farm buildings and residences; to repeal chapter 19-24 of the North Dakota Century Code, relating to medical marijuana; to provide a statement of legislative intent; to provide for a report; to provide a penalty; to provide a continuing appropriation; and to declare an emergency..

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 19-24.1 of the North Dakota Century Code is created and enacted 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 as 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 tetrahhydrocannabinol 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 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. "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. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.

34. "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. "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.

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

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 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.

19-24.1-02. Medical marijuana program.

The department shall establish and implement a medical marijuana program under this chapter to allow for production and processing, the sale and dispensing of usable marijuana, and medical use of marijuana. A person may not produce or process or sell, possess, transport, dispense, or use marijuana or usable marijuana under the medical marijuana program unless the person is authorized to do so as a

compassion center, a cardholder, or otherwise authorized by rule adopted under this chapter.

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.

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.

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 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.

19-24.1-04. Designated caregivers - Registration.

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

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

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

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

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

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

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

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

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

(6) The applicant's social security number.

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

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

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

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

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

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

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

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

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

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

19-24.1-05. Qualifying patients and designated caregivers - Identification cards - Issuance and denial.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Does not meet the requirements of this section or section 19-24.1-03;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked; or

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

8. The department shall deny an application for or renewal of a designated caregiver registry identification card if the designated caregiver applicant:

a. Does not meet the requirements of this section or section 19-24.1-04;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked; or

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

9. The department shall notify, in writing, the qualifying patient or designated caregiver applicant of the reason for denying an application or renewal.

10. The department shall notify the following in writing:

a. A registered qualifying patient if that patient's designated caregiver's application or renewal is denied; and

b. A registered designated caregiver if that caregiver's qualifying patient's application or renewal is denied.

11. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

19-24.1-06. Registry identification cards - Renewal.

To prevent interruption of possession of a valid registry identification card, a registered qualifying patient or registered designated caregiver shall apply for a registry identification card renewal by submitting a complete reapplication as provided under section 19-24.1-03 or 19-24.1-04 no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.1-07. Registry identification cards - Nontransferable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:

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

   b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the medical marijuana program;

   c. Knowledge of a change that results in the registered qualifying patient's health care provider no longer meeting the definition of the term "health care provider" as defined under section 19-24.1-01; or

   d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the medical marijuana program.

2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.

3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.

4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.

5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, the department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.

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

7. A registered qualifying patient's certifying health care provider shall 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. 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.

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 the dried leaves or flowers of the plant of the genus cannabis;

   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 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.

19-24.1-12. Compassion centers.

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

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

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

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

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

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

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

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

19-24.1-13. Compassion centers - Authority.

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

storing, transferring, and transporting marijuana and usable marijuana, for the sole purpose of selling usable marijuana to a dispensary.

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

19-24.1-14. Compassion centers - Application.

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

   a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health, Medical Marijuana Program".

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

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

   d. The physical address of the proposed location of the proposed compassion center and:

      (1) Evidence of approval from local officials as to the proposed compassion center applicant's compliance with local zoning laws for the physical address to be used by the proposed compassion center; and

      (2) Evidence the physical address of the proposed compassion center is not located within one thousand feet [604.80 meters] of a property line of a pre-existing public or private school.

   e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of marijuana, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.

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

   g. For each of the proposed compassion center applicant's principal officers and board members, or for each of the proposed compassion center applicant's member-managers, managers, or governors, a description of that individual's relevant experience, including training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, food science, food

safety, production, processing, and the individual's experience running a business entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19-24.1-15. Compassion centers - Registration.

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

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

19-24.1-16. Compassion centers - Renewal.

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

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

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

b. The compassion center submits a complete renewal application;

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

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

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

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

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 may waive all or part of the required advance notice to address emergent or emergency situations.

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

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

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. The agent's signature and the date.

h. 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".

3. Each compassion center agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.

a. All applicable fees associated with the required criminal history record checks must be paid by the compassion center or the agent.

b. A criminal history record check must be performed upon initial application and biennially upon renewal. A compassion center agent shall consent to a criminal history record check at any time the department determines necessary.

c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being a compassion center agent.

4. The department shall notify the compassion center in writing of the purpose for denying a compassion center agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing. The court may authorize the cardholder to appear by reliable electronic means.

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

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

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

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

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

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

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

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

19-24.1-19. Cardholders - Compassion centers - Revocation.

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

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

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

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

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

   b. A manufacturing facility may continue to produce and process and to possess marijuana and usable marijuana during a suspension, but may not transfer or sell usable marijuana.

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

   d. The cardholder or the compassion center may appeal a denial or revocation of a registry identification card or registry certificate to the district court of Burleigh County for hearing. The court may authorize the cardholder or compassion center to appear by reliable electronic means.

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

1. A cardholder or compassion center that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department, not to exceed one hundred fifty dollars.

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

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

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

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

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

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

8. In addition to any other penalty applicable in law, a registered designated caregiver who intentionally sells or otherwise transfers usable marijuana, to a person other than a registered qualifying patient to which the caregiver is associated with registration, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.

9. An individual who knowingly submits false records or documentation required by the department to receive a registry identification card under this chapter is guilty of a class A misdemeanor. An individual convicted

under this subsection may not continue to be affiliated with a compassion center and is disqualified from further participation under this chapter.

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

19-24.1-21. Compassion centers - Dispensing.

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

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

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

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 oil.

   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.

19-24.1-22. Compassion centers - Inspections.

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

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

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

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

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

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

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

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

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

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

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

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

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

   c. Any breach of security.

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

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

   a. A manufacturing facility shall:

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

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

   b. A dispensary shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Each compassion center shall maintain:

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

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

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

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

19-24.1-31. Verification system.

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

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

a. Whether an identification card is valid;

b. The name of the cardholder;

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

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

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

19-24.1-32. Protections.

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

1. A registered qualifying patient 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 for the acquisition, use, or possession of usable marijuana or related supplies under this chapter.

2. A registered designated caregiver 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:

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

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

3. It is presumed a registered qualifying patient is engaged in, or a registered designated caregiver is assisting with, the acquisition, use, or possession of usable marijuana or related supplies in accordance with this chapter if the registered qualifying patient or registered designated caregiver is in possession of a valid registry identification card and is not in possession of usable marijuana in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence the conduct related to acquisition, use, or possession of usable marijuana or related supplies was not for the purpose of treating or alleviating the registered qualifying patient's debilitating medical condition under this chapter.

4. A person is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for being in the presence or vicinity of the medical use of marijuana authorized under this chapter.

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

a. Produce or process or to conduct related activities for the sole purpose of selling usable marijuana to a dispensary; or

b. Transfer, transport, or deliver marijuana or usable marijuana to and from a department designee or manufacturing facility in accordance with this chapter.

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

a. Purchase usable marijuana from a manufacturing facility and conducting related activities for the sole purpose of dispensing usable marijuana, selling related supplies, and and providing educational materials to registered qualifying patients and designated caregivers; or

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

7. A registered compassion center agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for a compassion center if the action performed by the compassion center agent on behalf of the compassion center is authorized under this chapter.

8. The sale and possession of marijuana paraphernalia by a dispensary is lawful if in accordance with this chapter.

9. The medical use of marijuana by a registered cardholder or the producing and processing and the dispensing of usable marijuana by a compassion center is lawful if in accordance with this chapter.

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.

11. A cardholder or registered compassion center is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

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

13. A person in possession of marijuana or medical marijuana 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.

19-24.1-33. Limitations.

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

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

2. Possessing or consuming usable marijuana:

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

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

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

   d. On the grounds of a correctional facility; or

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

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

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

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

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

1. This chapter does not require:

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

   b. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume usable marijuana on or in that property;

   c. A landlord to allow production or processing on rental property; or

   d. A health care provider to provide a written certification or otherwise recommend marijuana to a patient.

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

19-24.1-35. Facility restrictions.

1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or adult foster care home licensed in the state may adopt reasonable restrictions on the medical use of marijuana by residents or individuals receiving inpatient services, including:

   a. The facility will not store or maintain the registered qualifying patient's supply of usable marijuana.

   b. The facility, caregivers, or hospice agencies serving the facility's residents are not responsible for providing the usable marijuana for registered qualifying patients or assisting with the medical use of marijuana.

   c. Usable marijuana can be consumed by a method other than vaporizing or combustion.

   d. Consumption of usable marijuana is limited to a place specified by the facility.

2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying patient's medical use of marijuana as authorized under this chapter unless failing to do so would cause the facility to lose a monetary or licensing-related benefit under federal law or regulations.

19-24.1-36. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of marijuana and usable marijuana, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate record keeping.

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

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

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

19-24.1-37. Confidentiality.

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

2. Data kept or maintained by the department may be disclosed 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 submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.1-38. Advisory board.

1. The governor shall appoint six members to serve on an advisory board that:

   a. Shall advise the department in implementation of the medical marijuana program.

   b. May receive reports from the department on the status and activities of the medical marijuana program.

   c. May provide recommendations to the department and the legislative management on the medical marijuana program.

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

19-24.1-39. Report to legislative management.

Annually, the department shall submit to the legislative management a report that does not disclose any identifying information about registered cardholders, compassion centers, or health care providers, but contains the following information:

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

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

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

4. The number of registry identification cards revoked;

5. The number of health care providers providing written certifications for qualifying patients;

6. The number of compassionate care centers; and

7. Any expenses incurred and revenues generated by the department from the medical marijuana program.

19-24.1-40. Medical marijuana fund - Continuing appropriation.

The medical marijuana fund is established in the state treasury. The department shall deposit in the fund all fees collected under this chapter. The department shall administer the fund. Moneys in the fund are appropriated to the department on a continuing basis for use in administering this chapter.

SECTION 2. AMENDMENT. Section 54-60-03 of the North Dakota Century Code is amended and reenacted as follows:

54-60-03. Commissioner of commerce - Duties.

With the advice and counsel of the North Dakota development foundation, the governor shall appoint a commissioner to supervise, control, and administer the department. The commissioner serves at the pleasure of the governor and receives a salary set by the governor within the limits of legislative appropriations. The commissioner:

1. Shall file an oath of office in the usual form before commencing to perform the duties of the commissioner;

2. Shall serve as chairman of the cabinet;

3. Shall appoint personnel as may be determined necessary to carry out the duties of the department;

4. Shall manage the operations of the department and oversee each of the divisions;

5. Shall assume central responsibilities to develop, implement, and coordinate a working network of commerce service providers;

6. Shall coordinate the department's services with commerce-related services of other state agencies;

7. Shall advise and cooperate with departments and agencies of the federal government and of other states; private businesses, agricultural organizations, and associations; research institutions; and with any individual or other private or public entity;

8. May enter contracts upon terms and conditions as determined by the commissioner to be reasonable and to effectuate the purposes of this chapter;

9. Shall report between the first and tenth legislative days of each regular legislative session to a standing committee of each house of the legislative assembly as determined by the legislative management and shall report annually to the foundation:

   a. On the department's goals and objectives since the last report;

   b. On the department's goals and objectives for the period until the next report;

c. On the department's long-term goals and objectives;

d. On the department's activities and measurable results occurring since the last report; and

e. On commerce benchmarks, including the average annual wage in the state, the gross state product exclusive of agriculture, and the number of primary sector jobs in the state;

10. May not certify as a primary sector business a compassion center registered under chapter 19-24.1;

11. Shall adopt rules necessary to implement this chapter; and

~~11.~~12. May take any actions necessary and proper to implement this chapter.

SECTION 3. AMENDMENT. Paragraph 3 of subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

SECTION 4. AMENDMENT. Paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry~~,~~; livestock~~,~~; or dairy farming in such products' unmanufactured state and has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. For purposes of this paragraph, "farmer" includes a:

(a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years.

(b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

(c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

SECTION 5. STATE DEPARTMENT OF HEALTH REPORT - MEDICAL MARIJUANA DEBILITATING MEDICAL CONDITIONS. During the 2017-18 interim, the state department of health shall conduct a study of the feasibility and desirability of adding identified medical conditions or providing for an administrative process to add identified medical conditions to the definitions of "debilitating medical condition" under the medical marijuana program. The department shall include the findings and recommendations of this study, together with any legislation required to implement the recommendations, in the annual reports made to the legislative management under section 19-24.1-39.

SECTION 6. REPEAL. Chapter 19-24 of the North Dakota Century Code is repealed.

SECTION 7. LEGISLATIVE INTENT - MEDICAL MARIJUANA PENALTIES. It is the intent of the sixty-fifth legislative assembly that if future legislative assemblies amend criminal penalties relating to marijuana, the corresponding medical marijuana penalties also be amended in order to retain consistency.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2017 TESTIMONY

SB 2344

SB 2344
Attach #1
2/3

SENATE HUMAN SERVICES COMMITTEE
SB 2344
SENATOR RICH WARDNER

Madam Chair Lee and members of the Senate Human Services Committee. My name is Rich Wardner and I am from Dickinson and serve District # 37 in the Senate. I will be giving some opening remarks on SB 2344 and then Jennifer Clark from Legislative Council will go through SB 2344 and explain the details of the **North Dakota Compassionate Care Act**.

The Department of Health and the Office of the Attorney General collaborated to make the necessary changes to the initiated measure. The four sponsors met with the Department of Health and went over the proposed legislation and were in agreement with the bill before final drafting. The main objective was to insure that the voters were going to get what they voted for; **medical marijuana**.

*We are committed to doing this right!

1. The Department of Health has to be able to administer, regulate and enforce the program.
2. The Department of Health needs a revenue stream to fund supervision of the program.
3. Patients who need medical marijuana will have access to it.
4. We need to ensure the product is developed and distributed safely and securely.
5. Sale and delivery methods of medical marijuana will be restricted to prevent its recreational use.

The U.S. Department of Justice has issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substance Act. Several states have enacted laws relating to the use of marijuana for medical purposes and the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government.

* Preventing the distribution of marijuana to minors.
* Preventing the revenue from the sale of marijuana from going to criminal enterprises.
* Preventing the state-authorized marijuana activity from being used as a cover or pretext for other illegal drugs.
* Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
* Preventing drugged driving and exacerbation of other adverse public health consequences associated with marijuana use.
* Preventing marijuana possession or use on federal property.

SB 2344
#1
2/8

The major changes to the proposed legislation:

1. Usable medical marijuana will only be available in the form of liquids and pills (to the exclusion of smoking, edibles, etc.) Children are restricted to the use of pediatric medical marijuana.
2. The State is limiting the number of "compassion centers" that can grow and distribute medical marijuana, these entities sharing no common ownership.
    - 4 manufacturing facilities (grow only)
    - 8 dispensaries

    This will allow for easier, more cost-efficient regulation without limiting access to those in need.
    * Designated caregivers can assist with buying and delivering medical marijuana to patients who need help accessing these compassion centers.
    * The Department of Health is allowed to add additional dispensaries if this amount is not sufficient for patients who need help accessing these compassion centers

3. The option for persons to cultivate their own marijuana plants in-house if they lived more than forty miles from a compassion center was removed.
    * This provision would have been costly and time-consuming for law enforcement to enforce.
    * This provision would have made it impossible to ensure consistent quality and potency.

Changes were made for three reasons:

1. Corrections/clarifications to language
    - The language on the ballot was piecemeal from the laws of different states and required revisions for clarification and to better align with the NDCC.
    - By leaving rules to the discretion of the DoH rather than putting them in statute, we can ensure greater cost-effectiveness and efficiency in government.
    - The bill adds important decriminalization language that the initiated measure left out: If a patient is using medical marijuana legally, we need to ensure that she will not be charged with a criminal violation.
2. Desire for increased safety
    - We want the medical marijuana available to be carefully regulated as to potency and quality so that patients are ingesting a safe product.
    - The bill includes special protections for children.
        - It limits the forms available to children to pediatric medical marijuana oil, which includes < 6% THC.
        - It takes into account the importance of coordination with pediatricians and parental involvement.
3. Efficiency and cost-effectiveness of regulation
    - Removes non-profit status requirement for compassion centers.
        - Adds up to $100,000 fee to gain a license for a compassion center.

- The restrictions to the number of compassion care centers will increase efficiency and cost-effectiveness.

The goal is to give the North Dakota Health Department the tools to administer, regulate and enforce the North Dakota Compassionate Care Act in a safe and effective manner and provide a safe quality product for those qualified patients that need medical marijuana.

SB 2344
Attach # 2
2/8

PRESCRIBING:

If a physician issued a prescription he or she would lose their DEA License to prescribe medicine because it is a Schedule I federally illegal drug. A physician can issue a "Written certification" for marijuana. The FDA has not approved marijuana as a safe and effective drug for any indication.

A very small portion of physicians said they would issue "written certifications" for medicinal marijuana.

MEASURE 5	SB 2344
"Written certification" means a document dated and signed by a physician, stating that in the physician's opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide physician-patient relationship where the qualifying patient is under the physician's care for the qualifying patient's primary care or for the qualifying patient's debilitating condition after the physician has completed an assessment of the qualifying patient's medical history and current medical condition. The bona fide physician-patient relationship may not be limited to authorization for the patient to use medical marijuana or consultation for that purpose. The written certification shall specify the qualifying patient's debilitating medical condition.	Written certification" means a form established by the department which is executed, dated, and signed by a physician within ninety calendar days of the date of application, stating that in the physician'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 debilitating medical condition. A written certification may not be made except in the course of a bona fide physician-patient relationship.
"Physician" means a properly licensed physician in the state of North Dakota. If the qualifying patient's debilitating medical condition is posttraumatic stress disorder, the physician must also be a licensed psychiatrist.	"Physician" means a physician licensed to practice medicine in the state of North Dakota who has the authority to prescribe drugs to humans. If the qualifying patient's debilitating medical condition is posttraumatic stress disorder, the physician must be a licensed psychiatrist. If the qualifying patient is younger than eighteen years of age, the physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist, or pediatric palliative care specialist

7. "Debilitating medical condition" means one or more of the following: a. Cancer and its treatments; b. Positive status for human immunodeficiency virus (HIV); c. Acquired immune deficiency syndrome (AIDS); d. Decompensated cirrhosis (hepatitis C); e. Amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease); f. Posttraumatic stress disorder (PTSD); g. Agitation of Alzheimer's disease, dementia, or the treatment of these conditions; h. Crohn's disease or fibromyalgia; i. 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; j. Glaucoma; k. Epilepsy; l. A chronic or debilitating disease medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe 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; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; m. Any other medical condition or its treatment added by the North Dakota department of health.	7. "Debilitating medical condition" means one or more 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 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; and n. Any other medical condition or treatment for such condition which is identified by the department.

Is it a cash only business?

It is not in the law or measure initiative that it needs to be a cash only business. The State of North Dakota is not able to regulate if it is a "cash only" business. The bill has taken away the nonprofit status, but the businesses are able to put their money wherever they choose, if they can find a bank that will accept their business.

"U.S. Department of Justice Deputy Attorney General James M. Cole issued a memorandum (the "Cole Memo") to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substance Act.

The decision to open, close, or refuse any particular account or relationship should be made by each financial institution based on a number of factors specific to that institution. These factors may include its particular business objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively. Thorough customer due diligence is a critical aspect of making this assessment.

In assessing the risk of providing services to a marijuana-related business, a financial institution should conduct customer due diligence that includes:

(i) verifying with the appropriate state authorities whether the business is duly licensed and registered;
(ii) reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business;
(iii) requesting from state licensing and enforcement authorities available information about the business and related parties;
(iv) developing an understanding of the normal and expected activity for the business, including the types of products to be sold and the type of customers to be served (e.g., medical versus recreational customers);
(v) ongoing monitoring of publicly available sources for adverse information about the business and related parties;
(vi) ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; and
(vii) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk. With respect to information regarding state licensure obtained in connection with such customer due diligence, a financial institution may reasonably rely on the accuracy of information provided by state licensing authorities, where states make such information available.

A financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the Cole Memo priorities or violate state law should file a "Marijuana Limited" SAR. The content of this SAR should be limited to the following information:

(i) identifying information of the subject and related parties;
(ii) addresses of the subject and related parties;
(iii) the fact that the filing institution is filing the SAR solely because the subject is engaged in a marijuana-related business; and
(iv) the fact that no additional suspicious activity has been identified. Financial institutions should use the term "MARIJUANA LIMITED" in the narrative section."

Excerpts from **FIN-2014-G001**

The health department will only collect registration fees in cash or personal check. They are able to put these fees in the Bank of North Dakota and it is not an illegal business activity.

Insurance:

Medicinal Marijuana is not covered by insurance for two reasons

1. *The FDA has not approved marijuana as a safe and effective drug for any indication.*
2. *Marijuana is classified as a Schedule I controlled substance under the Controlled Substances Act, which puts it in the same category as the most dangerous drugs out there*

The Deputy Insurance Commissioner does not believe there will be any effects on the insurance business with the implementation of this bill. There is no regulation of the insurance industry included in this bill because it is not covered by insurance.

What could the US Attorney General do?

The US Attorney General's Office has not enforced the federal law outlawing marijuana if the state complies with a set of standards. (The Cole Memo)

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

The ballot initiative didn't meet these standards, so therefore this bill is necessary because it must be passed in order to comply with these standards.

The US Attorney General still has the authority to outlaw dispensing marijuana at any time.

Direct Language of the ballot measure:

Initiated Statutory Measure No. 5
This initiated measure would add a new chapter to Title 19 of the North Dakota Century Code creating an Act which provides for the medical use of marijuana for defined medical conditions, such as cancer, AIDS, hepatitis C, ALS, glaucoma, and epilepsy. To participate in the program, the Act would provide for identification cards and certificates of registration which would be issued by the Department of Health for patients, caregivers, and qualified facilities, if all requirements are met. The Act would create provisions for monitoring, inventorying, dispensing, cultivating and growing marijuana to be regulated and enforced by the Department of Health. A qualified patient could be dispensed up to three ounces of usable marijuana, and could grow marijuana if his or her home is located more than forty miles from the nearest registered facility. For violations, the Act would authorize the Department of Health to provide for corrective action, suspension, revocation, appeal, hearings, and referral for criminal prosecution. The Act would require the Department of Health to submit an annual report to the legislature regarding program statistics.
YES – means you approve the measure summarized above.
NO – means you reject the measure summarized above

SB 2344
Attach #3
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MEDICAL MARIJUANA - COMPARISON OF INITIATED MEASURE AND 2017 SENATE BILL NO. 2344

Senate Bill No. 2344 (2017) amends North Dakota Century Code Chapter 19-24, which became effective December 8, 2016. To implement the proposed changes in a manner consistent with the Legislative Council's form and style, as well as to provide for ease of reading, the bill replaces the provisions of Chapter 19-24 with the proposed changes.

The following tables provide a section-by-section summary of Chapter 19-24 and a section-by-section summary of the proposed changes. Additionally, the tables include a column with a cross reference to the corresponding language.

Current Chapter 19-24	Cross Reference
19-24-01. Title.	19-24-01
• Title North Dakota Compassionate Care Act.	
19-24-02. Definitions.	19-24-02
19-24-03. Qualifying patient identification care application requirements.	19-24-03
• The State Department of Health shall issue registry identification card to qualified applicants.	
• Application requirements.	
• Requirements for written certification of physician.	
19-24-04. Designated caregiver registry identification card application requirements.	19-24-04
• The department shall issue registry identification card to qualified applicant.	
• Application requirements.	
19-24-05. Registry identification cards.	19-24-05
• Methods the department may use to verify application information.	19-24-06
• Upon verification, the department shall approve or deny within 45 days of receipt of application.	19-24-07
• The department shall issue registry identification card within 30 days of approval.	19-24-08
• Cardholders and physicians shall notify the department of changes.	19-24-30
• Terms under which the department shall deny a registry identification card application.	19-24-35
• Registry identification card renewal requirements.	
• Department denial of application is appealable.	
• Registry identification card is nontransferable.	
• Cardholder may voluntarily withdraw from program.	
19-24-06. Addition of debilitating medical conditions.	19-24-11
• Process to allow individuals to petition the department to add conditions or treatments to list of debilitating medical conditions.	
• The department may add conditions or treatments to list of debilitating medical conditions.	
• Department denial to add to list is appealable.	
19-24-07. Registration and operation of compassion centers.	19-24-12
• Requirements for operation of compassion centers.	19-24-13
• Prohibit operation of compassion center without a certificate of registration.	19-24-14
• Compassion center must be operated on a not-for-profit basis.	19-24-15
• Prohibit compassion center use of pesticides.	19-24-16
• Prohibit location of compassion center near school.	19-24-17
• Requirements for bylaws.	19-24-18
• Compassion centers shall maintain accurate books and records.	19-24-19
• The department may access books and records.	19-24-20
	19-24-21

Current Chapter 19-24	Cross Reference
• Compassion centers shall comply with specified security requirements, including exterior safety measures, alarm systems, alarm system testing, security system failure, video surveillance, inventory control, marijuana storage, inventory maximum (1,000 marijuana plants and 3,500 ounces of usable marijuana), random inspection, and dispending (maximum of 3 ounces over 14-day period).	19-24-22 19-24-23 19-24-23 19-24-25
• Compassion centers shall maintain operations manuals.	19-24-26
• Compassion centers shall comply with specified training of employees, agents, and volunteers.	19-24-27
• Compassion centers shall keep specified personnel records.	19-24-28
• The department shall issue registry identification cards to qualified compassion center officers, board members, agents, employees, and volunteers.	19-24-29
• Compassion center officers, board members, agents, volunteers, and employees shall consent to criminal history screening background checks.	19-24-30
• Qualification requirements for application for registry identification cards.	
• Compassion center requirements, including proof of tax exempt status, identification of each principal officer and board member, identification of all persons with direct or indirect authority over the management of policies of the compassion center, and identification of persons with ownership interests in the compassion center.	
• Compassion center review criteria.	
• The department shall issue registration certification to approved compassion center applicants.	
• Compassion center registration certificate expiration, termination, and renewal.	
• The department shall suspend compassion center registration certificate if law is broken.	
• Hearing process for compassion center with registration certificate terminated.	
• Compassion center registration certificate is nontransferable.	
• Compassion center shall notify the department of changes.	
19-24-08. Cultivation and growing of marijuana.	19-24-32
• Qualifying patient who lives more than 40 miles from the nearest compassion center may cultivate up to 8 marijuana plants.	
• Prohibits cultivation near schools.	
• Qualifying patient or designated caregiver shall notify local law enforcement of intent to grow marijuana.	
19-24-09. Onsite visits and interviews.	19-24-09
• Upon 24-hour advance notice, the department may perform onsite interviews of qualifying patients and primary caregivers to determine eligibility in the program.	19-24-32
• Qualifying patients and primary caregivers shall provide the department access to material and information necessary to determine eligibility.	
• Consequences for failure to adhere to rules during interview.	
• The department may take corrective actions if qualifying patient or primary caregiver violates requirements.	
• Appeal process for qualifying patient or primary caregiver.	
• Participation in medical marijuana program does not relieve a qualifying patient or primary caregiver from criminal prosecution or civil penalties for activities not authorized under this chapter; from liability or criminal prosecution arising out of operation of a vehicle while under the influence of marijuana; and for criminal prosecution or civil penalty for possession, distribution, or transfers of marijuana or use of marijuana in specified circumstances.	
• Violation of rules may result in corrective action relating to qualifying patients' or primary caregiver's registry identification card.	
• Qualifying patient or primary caregiver may appeal corrective action relating to registry identification card and establishes appeal process.	
19-24-10. Severability.	1-02-20

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Current Chapter 19-24	Cross Reference
19-24-11. Privacy of the Compassionate Care Act records and paperwork.	19-24-37
• Except for official department duties, without written consent, the department may not release records or details of any applicant, cardholder, compassionate care agent, or registered designated caregiver.	19-24-39
• The department shall submit an annual report to the Legislative Assembly.	
19-24-12. Facility restrictions.	19-24-34
• Nursing facilities and similar facilities may adopt reasonable restrictions of the use of marijuana by residents.	
• Facility may not unreasonably limit a resident's use of marijuana.	
19-24-13. Compassionate care fund - Private donation.	19-24-41
• Compassionate Care Fund for deposit of fees collected, civil penalties imposed, and private donations raised.	
• Continuing appropriation for use of money in fund.	
• State Health Officer may accept and spend private money to assist in carrying out this chapter.	
• Money in the fund does not revert to the general fund at the end of the fiscal year.	

Proposed Chapter 19-24	Cross Reference
19-24-01. Title - Compassionate Care Program.	19-24-01
• Title North Dakota Compassionate Care Act.	
• State Department of Health shall establish the Compassionate Care Program, to implement a medical marijuana program.	
19-24-02. Definitions.	19-24-02
19-24-03. Qualifying patient registry identification card - Application.	19-24-03
• Qualifying patient not eligible to participate in program without valid registry identification card.	
• Application requirements.	
• Written certification of physician.	
• Applicant's representative may make application in the case of age or medical condition.	
19-24-04. Designated caregiver registry identification card - Application requirements.	19-24-04
• Designated caregiver not eligible to participate in program without valid registry identification card.	
• Application requirements.	
• Limits designated caregiver to no more than five qualifying patients.	
19-24-05. Qualifying patient and designated caregiver registry identification cards - Issuance and denial.	19-24-05
• The department shall verify complete applications for qualifying patient or designated caregiver registry identification cards and upon verification shall approve or deny the application.	
• Verification methods may include telephone, mail, and face-to-face meetings. The department may contact the Board of Medicine to verify certifying physician and may contact a physician directly.	
• Upon approval, the department has 30 days to issue registry identification card.	
• Protocol for applicants who are minors (under age 21).	
• Denial of an application results in 1-year prohibition from registration.	
• Basis for denial of registration.	
• Department notification requirements in case of denial.	
• Denial is an appealable order.	

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Proposed Chapter 19-24	Cross Reference
19-24-06. Registry identification card - Renewal application.	19-24-05
• Registered qualifying patient or registered designated caregiver shall apply for renewal of a registry identification card at least 45 days before expiration of card.	
19-24-07. Registry identification card - Nontransferable.	19-24-05
• Registry identification cards are nontransferable.	
• Attempt to transfer in violation of section results in invalidation of card and prohibition of person from participating in Compassionate Care Program.	
19-24-08. Registry identification card - Voluntary withdrawal.	19-24-05
• Registered qualifying patient or registered designated caregiver may voluntarily withdraw from participating in Compassionate Care Program.	
• Provide the department 30-days' notice of intent to withdraw from program.	
19-24-09. Cardholders - Eligibility and compliance.	19-24-09
• Upon 24-hour notice, the department may conduct onsite interview of a cardholder or registry identification card applicant to determine application or renewal eligibility.	
• Without notice, the department may conduct onsite assessment of a cardholder based on reasonable suspicion cardholder is violating Compassionate Care Act.	
• Registered qualifying patient and registered designated caregiver shall provide the department access to premises, material, and information to determine eligibility or compliance.	
• Failure to provide access under this section may result in sanction.	
• The department shall report to law enforcement credible criminal complaints against a registered qualifying patient or registered designated caregiver.	
• If the department finds noncompliance under this section, the department shall provide the cardholder with written notice and 5 days to correct the violation.	
19-24-10. Change notifications - Responses.	19-24-05
• Registered qualifying patient or registered designate caregiver shall provide the department timely notice of changes.	
• Registered qualifying patient's certifying physician shall notify the department if patient's status changes.	
19-24-11. Debilitating medical condition - Petition.	19-24-06
• Process through which a resident of the state may petition to have the department add a medical condition or a treatment of a medical condition to the list of debilitating medical conditions.	
• The department has 180 days following petition to make determination, which is appealable.	
19-24-12. Cultivation, manufacturing, and dispensing - Compassion centers - Prohibition - Registration.	19-24-07
• Prohibits person from cultivating, manufacturing, or dispensing marijuana, unless registered as a dispensary or a manufacturing facility.	
• The department may register no more than four manufacturing facilities and no more than eight dispensaries. However, there may be additional dispensaries if the department determines additional dispensaries are necessary to increase access to usable marijuana.	
• The department shall establish an open application period for compassion center applications.	
19-24-13. Compassion centers - Dispensaries - Manufacturing facilities - Authority.	19-24-07
• Scope of activities for dispensaries and manufacturing facilities.	
• Compassion center may not be both a manufacturing facility and a dispensary.	
19-24-14. Compassion centers - Application.	19-24-07
• The department shall establish application forms for registration as a compassion center.	
• Requirements for complete application, including an application fee, not to exceed $5,000; proof of good standing with the Secretary of State; information regarding principal officers and board members; and the identity of all ownership interests.	

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Proposed Chapter 19-24	Cross Reference
19-24-15. Compassion centers - Registration certification.	19-24-07
• Upon determining an application is complete, the department shall review the application based on set criteria and select applicants eligible for registration.	
• Upon being selected as eligible for registration, the applicant shall submit additional items, including a certificate fee not to exceed $100,000.	
19-24-16. Compassion centers - Registration certificate - Renewal.	19-24-07
• Compassion center registration is valid for 2 years.	
• Registration renewal process, including a renewal fee not to exceed $100,000.	
• A finding by the department the compassion center is not eligible for renewal is appealable.	
19-24-17. Compassion centers - Registration Certificate - Nontransferable.	19-24-07
• Compassion center registration certificates are nontransferable.	
• Compassion centers shall report changes.	
19-24-18. Compassion center bylaws.	19-24-07
• Compassion center bylaw requirements.	
19-24-19. Compassion centers - Financial reports.	19-24-07
• Compassion centers shall keep detailed financial reports of proceeds and expenses, and shall retain records for at least 7 years.	
• The department may access at all times all books and records kept by compassion centers.	
19-24-20. Compassion centers - Dispensing.	19-24-07
• Manufacturing facilities may not dispense usable marijuana, except to dispensaries.	
• Dispensary may not dispense usable marijuana unless it uses the verification system to confirm the registered qualifying patient or registered designated caregiver identification card is valid.	
• Dispensing requirements for minors include the requirement that usable marijuana be dispensed to the minor's registered designated caregiver and that the form of usable marijuana is limited to pediatric medical marijuana oil.	
• Limits on amount that may be dispensed to an individual.	
19-24-21. Compassion centers - Inspections.	19-24-07
• Compassion centers are subject to random inspections by the department.	
• The department shall inspect compassion centers.	
• The department shall conduct random quality sampling testing.	
19-24-22. Compassion centers - Pesticide testing.	19-24-07
• Manufacturing centers shall test marijuana for the presence of pesticides.	
• Positive testing for pesticides results in destroying affected marijuana.	
19-24-23. Compassion Centers - Marijuana plants.	19-24-07
• Department rules may not allow manufacturing facilities to possess more than 1,000 plants or to possess more than 3,500 ounces of usable marijuana.	
19-24-24. Compassion centers - Security and safety measures.	19-24-07
• Compassion centers shall implement specified security and safety measures.	
19-24-25. Compassion centers - Inventory controls.	19-24-07
• Compassion centers shall comply with specified inventory control requirements.	
19-24-26. Compassion centers - Operation manual.	19-24-07
• Compassion centers shall maintain a current copy of the center's operating manual, which must meet specified requirements.	
19-24-27. Compassion centers - Training curriculum.	19-24-07
• Compassion centers shall maintain onsite training.	

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Proposed Chapter 19-24	Cross Reference
19-24-28. Compassion centers - Records - Agents.	19-24-07
• Compassion center shall maintain records of the center's agents.	
• Each compassion center agent shall hold a valid registry identification card.	
• Compassion center agent registry identification card qualifications.	
• Registered compassion center agents shall report changes.	
• Compassion centers shall report changes in agents.	
19-24-29. Cardholders - Compassion centers - Revocation.	19-24-07
• The department may suspend or revoke a cardholder's registry identification card or a compassion center's registration for material misstatements in an application or renewal, for violation of the Compassionate Care Act, or for violation of rules adopted under the Compassionate Care Act.	
• Revocation of a registry identification card results in disqualification from further participation under the Compassionate Care Act.	
• If the department makes a revocation under this section, it shall do so in writing and this act is appealable.	
19-24-30. Violations - Penalties.	19-24-05
• Cardholder or compassion center that fails to provide required notice shall pay a $150 fee.	19-24-07
• Class C felony for manufacturing facility or its agent to dispense anything but usable marijuana and to dispense to anyone other than a dispensary.	
• Class C felony for dispensary or its agent to dispense anything other than usable marijuana and to dispense usable marijuana to anyone other than a registered qualifying patient or a registered qualifying caregiver.	
• Class C felony for a dispensary or its agent to dispense anything other than pediatric medical marijuana oil to a minor's registered designated caregiver.	
• Class C felony for compassion center agent to submit false records or documentation as part of compassion center certification process.	
• Violation of Compassionate Care Act by compassion center is $1,000 fine if no other penalty is specified.	
• Class C felony for registered qualifying patient to sell or transfer usable marijuana to another person.	
• Class C felony for registered designated caregiver to sell or transfer usable marijuana to anyone other than that caregiver's registered qualifying patient.	
• Class C felony for applicant for registration identification card to submit false records or documentation in application.	
• Class B misdemeanor to make false statement to law enforcement relating to the medical use of marijuana.	
• Physician who holds a financial interest in a compassion center may not refer a patient to a compassion center or to a registered designated caregiver, advertise in a compassion center, or issue a written certification. Violation of this may result in a fine of up to $1,000.	
19-24-31. Protections.	19-24-09
• Registered qualifying patient is not subject to arrest or prosecution for the acquisition, use, or possession of usable marijuana under the Compassionate Care Act.	
• Registered designated caregiver is not subject to arrest or prosecution for assisting a specified registered qualifying patient with the acquisition, use, or possession of usable marijuana under the Compassionate Care Act. A registered designate caregiver may receive compensation for this service.	
• Presumption qualifying patient or designated caregiver who has a valid registry identification and who is in possession of usable marijuana in an allowed amount, is engaged in or is assisting as allowed under the Compassionate Care Act. Presumption may be rebutted upon proof the possession or use if not for the purpose of treating or alleviating the registered qualifying patient's debilitating medical condition.	

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Proposed Chapter 19-24	Cross Reference
• Person is not subject to arrest or prosecution for being in the presence or vicinity of the medical use of marijuana under the Compassionate Care Act.	
• Compassion center is not subject to prosecution, search or inspection, or seizure for acting under the Compassionate Care Act.	
• Compassion center agent is not subject to arrest or prosecution for working or volunteering for a compassion center under the Compassionate Care Act.	
• Cardholder use of medical marijuana under the Compassionate Care Act is lawful.	
• Possession of medical marijuana waste as authorized under Compassionate Care Act is lawful.	
• Possession of marijuana or medical marijuana by person conducting laboratory tests under the Compassionate Care Act is not subject to arrest of prosecution for that possession.	
19-24-32. Limitations.	19-24-08
• Compassionate Care Act does not authorize or prevent civil or criminal liability or penalties, including undertaking activities under the influence of marijuana if doing so constitutes negligence or professional malpractice; possession or use of usable marijuana on premises of schools, day care, or correctional facilities; violating the state's smoking laws; vaporizing usable marijuana if the vapor would be inhaled by a minor child; or driving under the influence of marijuana. However, the presence of metabolites or components of marijuana in and of itself does not mean an individual is under the influence of marijuana.	19-24-09
19-24-33. Acts not required - Acts not prohibited.	None
• Compassionate Care Act does not require Medicaid or private insurance to reimburse for medical marijuana; a person to allow a guest, client, customer, or other visitor to possess or consume medical marijuana on that property; or a landlord to allow cultivation of marijuana for medical use on rental property.	
• Compassionate Care Act does not prohibit an employer from disciplining an employee for possession or consumption of usable marijuana in the workplace or for working while under the influence of marijuana.	
19-24-34. Facility restrictions.	19-24-12
• Basic care facility, nursing facility, assisted living facility, adult day care facility, or adult foster care home licensed in the state may adopt reasonable restriction on the medical use of marijuana by residents.	
• These facilities may not unreasonably limit a registered qualifying patient's access to or use of medical marijuana.	
19-24-35. Registry identification cards.	19-24-05
• Registry identification card requirements.	
• Registry identification cards expiration is 1 year, or less as provided by the written certification of the physician.	
19-24-36. Verification system.	19-24-02
• The department shall maintain a confidential list of cardholders.	
• The department shall establish a secure verification system for use by law enforcement, physicians, pharmacists, compassion centers, and compassion center agents to verify registry identification cards.	
19-24-37. Confidentiality.	19-24-11
• Data in a registration application or renewal is confidential.	
• Data kept or maintained by the department may be disclosed for specified purposes.	
19-24-38. Advisory board.	19-24-02
• The Governor shall appoint four members to serve on an advisory board.	
• The State Health Officer shall serve as a voting member and chairman of the advisory board.	
19-24-39. Annual report - Report to the Legislative Management.	19-24-11
• The department shall provide an annual report to the Legislative Management on status of the Compassionate Care Act.	

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Proposed Chapter 19-24	Cross Reference
19-24-40. Rules.	None
• The Health Council shall adopt rules as necessary for the implementation and administration of the Compassionate Care Act.	
19-24-41. Compassionate care fund - Private donations - Continuing appropriation.	19-24-13
• Compassionate care fund established for deposit of all fees collected under Compassionate Care Act.	
• Continuing appropriation for use in administering the Compassionate Care Act.	
19-24-42. Funding.	None
• Beginning in the 2019-21 biennium, revenue generated by Department under the Compassionate Care Act must be sufficient to cover all costs of the department in administering the Act.	
Emergency Clause	None

SB 2344
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Testimony
Human Services Committee
Senate Bill 2344
Wednesday, February 8, 2017
North Dakota Department of Health

Good morning, Chairman Lee and members of the Human Services Committee. My name is Arvy Smith, and I am the co-acting director of the North Dakota Department of Health (DoH). I am here to support and provide information on Senate Bill 2344 regarding a medical marijuana program in North Dakota.

On November 8, 2016, the people of North Dakota voted to establish a medical marijuana program in the state. As we have stated, the new law posed some challenges for which we immediately started analyzing and seeking solutions to. SB 2344 provides those solutions. In addition the bill increases safety and efficiency factors, at levels selected by the sponsors of this bill, and addresses priorities identified in U.S. Deputy Attorney General, James M. Cole's August 29, 2013 letter regarding marijuana enforcement by the federal government. In the Cole Memo, the U.S. Department of Justice (DOJ) reiterated that marijuana remains illegal under the federal Controlled Substances Act but the DOJ would focus its efforts on certain enforcement priorities including: preventing the distribution of marijuana to minors, diversion of marijuana from a legal market to an illegal market, and preventing violence and the use of firearms in the cultivation and distribution of marijuana.

The legal marijuana industry is a relatively new industry and states are still learning how best to establish policy and regulate this industry. While we reviewed other states' practices, policies, laws, etc. and a model law developed by the National Conference of State Legislatures (NCSL), it is important to note that the early implementers are continuing to update their laws and regulations to make improvements. We are using this information in developing North Dakota's medical marijuana program.

Clarifications and Technical Changes

With regard to regulation of compassion centers, the North Dakota law was based on Delaware administrative rule and while this provided a good start, changes continue to be made to Delaware laws and rules. Also, administrative rule is essentially how an agency will implement a law passed by the legislature. Rules contain a higher level of detail than what is typically contained in state law. The high degree of technicalities incorporated in the original measure make it less

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flexible to adjust as needed for a new industry. In using Delaware rules to develop the language of the measure that passed, the authors failed to change references to "these rules" to "this law" and in a couple of instances specifically referred to Delaware law. In addition to fixing these references, one of our suggested changes includes moving certain aspects of the law to administrative rule to provide the ability to change more rapidly where necessary through rule rather than law.

The medical marijuana system includes several key components including growing and manufacturing facilities, dispensaries, laboratories, designated caregivers, and finally qualifying patients. The term compassion center is used when discussing both the manufacturing facilities and the dispensaries. One improvement to the law we are proposing is to clearly define each of these terms and use them consistently throughout the law.

The measure, as passed, contained fourteen pages of requirements for compassion centers. Language included requirements to operate a compassion center, application requirements to be a compassion center and requirements for things to be included in the operating manual. The language of these requirements was not always consistent, causing confusion as to which requirements to follow. It is critical that the requirements to are consistent with the application requirements so that the department receives quality applications that address the requirements to operate and so that the compassion centers are regulated in accordance with the same rules for operation. If we are abundantly clear as to the requirements up front, we will receive better applications and be able to have operational compassion centers earlier than if we are continually sending their applications back to meet a set of regulations they were unaware of when they applied.

Finally, a critical component we added to the law is the language to decriminalize the growing, manufacturing, dispensing, possession and use of marijuana for medical purposes. The language is necessary to prevent patients, caregivers, and agents of compassion centers, including lab testers and transporters, from arrest or prosecution, under state law, for their actions in compliance with medical marijuana laws. These protections from arrest and prosecution are included in Section 31 of this bill. It is important to note that this language does not change the fact that use of marijuana is still illegal under federal law, and, while the federal government is not currently enforcing this law, there is nothing preventing the federal government from changing that stance. A state agency cannot, and should not, have employees violating federal law in order to accomplish their job duties. Because of this, Risk Management has advised the DoH that we cannot require our employees to handle, be in possession of, or transport marijuana for regulatory

purposes. Consequently, the Department will have to find unique ways to conduct random, controlled lab testing and use law enforcement if we find that marijuana product needs to be confiscated.

Additional clarifications the DoH is supporting are as follows:

- Establish that jurisdiction for judicial review is Burleigh County district court
- Establish all fees in law, not to exceed a certain amount; fees for compassion centers were in the measure but not maximum fees for designated caregivers and qualifying patients
- Remove the petition/public hearing process and use existing ND rules
- Clarify that the continuing appropriation included in the original measure is to the DoH
- Add violations and penalties
- Require conducting of an annual comprehensive inventory rather than biennially
- Clarify registry identification card contents

Safety

With regard to safety and to address priorities of the U.S. Deputy Attorney General, the following changes are included in SB 2344:

- Allows patients to purchase the equivalent of 2.5 oz. per month instead of 3 oz. every fourteen days and limits the amount patients can possess 3 oz. at any given time (Section 2; page 5 line 30). This is to reduce diversion as a result of excessive purchasing and excessive use. Many sources indicated that 3 oz. every fourteen days was excessive.
- Limits forms of use for minors to oils, limits the THC contents for minors at less than 6%, and requires pediatrician sign off for individuals under age 18 (Section 2; page 8 line 21). This doesn't allow smoking of marijuana for any individuals. The original measure allowed all forms of use for all qualifying patients.
- Requires seed to sale bar coding of every plant by manufacturing facilities (Section 25; page 65 line 17).
- Prohibits the sale of usable marijuana in any form other than pill or liquid by a dispensary (Section 2; page 9 line 23). Patients would be able to purchase an oil form which they can use to create an edible form or use in a vaporizing system.
- Prohibits minors from purchasing or being in possession of marijuana.
- Strengthens various security requirements.

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Efficiency and Cost Effectiveness

With regard to efficiency and cost effectiveness, the following changes are included in SB 2344:

- Removes the non-profit status requirement; Since federal 501(c)(3) status is not available because marijuana is federally illegal, a clear standard is not available. Discussion with other states indicates that this requirement doesn't seem to add value to the process.
- Allows only 4 manufacturing facilities to grow, manufacture and sell marijuana to dispensaries; allows only 8 dispensaries to sell marijuana to qualifying patients and designated caregivers; the DoH may add dispensaries if product is not readily accessible to ND clients. (Section 12; page 55 line 1). Limitation of growing and dispensing significantly reduces the cost to state and local government and reduces the possibility for diversion.
- Requires fees to cover all DoH implementation costs by the 2019-21 biennium (Section 42; page 81 line 29). This requirement is included in other states and NCSL model law.
- Moves deadlines for processing qualifying patient, designated caregiver and compassion center applications from law to administrative rule. This will allow better managing of staff time and workload and flexibility to adjust deadlines.
- Allows the department to establish rules to add debilitating conditions petitioned by the public (Section 11; page 54 line 1)
- Requires local planning and zoning approval prior to reviewing the application. (Section 14, page 56, lines 23-25) This is consistent with model law and other states' laws to avoid unnecessary costs.
- Requires a bond to ensure adequate clean-up in the event a compassion center goes out of business. (Section 15, page 59, lines 1-3) This improves safety and potential cleanup costs to the DoH.
- Requires compassion centers to ensure access to qualifying patients and include a distribution plan in their application. (Section 26, page 67, lines 27-28)

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Fiscal Note

In summary the fiscal note for SB 2344 shows the following:

DoH	**2017-19**	**2019-21**
Expenses	2,643,684	3,190,350
Revenue	1,317,500	3,190,350
General Fund App Needed	1,326,184	0
Attorney General		
Expenses	162,085	346,516
Revenue	0	0
General Fund App Needed	162,085	346,516

In the 2017-19 biennium, there won't be two years of revenue and there will be some start-up costs so one-time general funding of $1,317,500 is needed. By the 2019-21 biennium, the revenue must be sufficient to cover all costs so the general fund need is $0 for the DoH. The cost for the Attorney General is to conduct the criminal background checks. While the designated caregivers and compassion centers or the agents must pay for the background checks, those fees are deposited directly to the general fund, not to the Attorney General's Office.

There are two reasons this fiscal note is significantly lower than the original fiscal note for the measure that passed. First, in looking at other states' programs we learned that we can obtain the management information system at a much lower cost than we first expected.

Second, SB 2344 eliminates the ability of qualifying patients and designated caregivers to grow their own marijuana for medical use. In estimating the number of potential qualifying patients and caregivers, we noted from other states' information that those that did not allow individuals to grow their own marijuana had lower numbers of patients and caregivers. So this fiscal note revises the numbers down to 3,800 qualifying patients and 1,900 designated caregivers each year, reducing the number of criminal background checks that need to be done. This also greatly reduces the amount of regulation by the DoH, the attorney General's Office and local law enforcement. It is important to note that if the ability of caregivers and patients to grow their own is reinstated, costs will increase significantly for all three entities.

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The fiscal note also shows that revenue to the general fund and the state aid distribution fund totals $1,700,000 in the 2017-19 biennium and $3,400,000 in the 2019-21 biennium (91.3% to the general fund and 8.7% to the state aid distribution fund). The Tax Department is unable to calculate the amount of income tax that will be generated as a result of this legislation.

Neither the DoH nor the Attorney General's appropriation bills contain an appropriation for this at this time. Governor Burgum's budget included $6,216,884 with $4,525,508 from fees and $1,691,376 from the general fund, and 13 FTE for the DoH.

The assumptions used to calculate the fiscal note for each biennium are included in the fiscal note. We were able to use registration amounts less than what is proposed in SB 2344 for qualifying patients, designated caregivers and compassion centers and their agents at this time. However, it is very difficult to estimate the numbers of qualified patients and designated caregivers that will pursue registration so these numbers could change. Looking at other states, some were as low as .6 per 1,000 population and one was as high as 15.7 per 1,000 population. It appeared that those that allowed patients and caregivers to grow their own had higher numbers of registrants. Registrations are lower where the number of conditions covered and the forms of use are significantly restricted. Based on this information, we assumed 5 qualifying patients per 1,000 population, and assumed that half of the qualifying patients would have a designated caregiver resulting in 3,800 qualifying patients and 1,900 designated caregivers each year. The fiscal note assumed a $200 per year registration fee for qualified patients, designated caregivers and compassion center agents, a $80,000 per two years registration fee for manufacturing facilities and a $60,000 per two years registration fee for dispensaries.

Timeline

Finally, while not ideal, we plan to begin developing administrative rules immediately and make adjustments once legislation is finalized so that we can move them through the approval process as soon as possible. Once the rules for compassion centers are finalized, we can begin accepting applications from compassion centers and awarding registrations. We have been told that from the time they are approved to operate it will take two months to set up business and three months until product can be harvested. Based on that, we expect product to be available for purchase approximately one year from now.

This concludes my testimony. I am happy to answer any questions you may have.

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February 6, 2017

Senator Judy Lee, Chairperson
Senate Human Services Committee
State of North Dakota

Re: Senate Bill No. 2344
North Dakota Compassionate Care Act

Dear Senator Lee:

By way of background, my name is Howard Sohn and I am an attorney and member of a group from both Florida and North Dakota (NoDak Medical Marijuana, Inc.) who had the opportunity to meet with Arvy Smith; an Assistant Attorney General; Rebecca Ternes, aide to the governor and other State officials in Bismarck on January 13th to offer our input as members of the medical marijuana industry in regard to the ballot initiative approved by the voters in November, 2016.

I am writing in regard to the status and content of Senate Bill 2344 (North Dakota Compassionate Care Act), which I understand was recently approved by the Delayed Bills Committee and which I have had chance to fully review.

Initially, let me say that we all agree that the ballot initiative needed significant revisions and we are impressed with the efforts made thus far by the North Dakota Department of Health and legislators to begin the process of implementing medical marijuana for the citizens of North Dakota.

With that said, some of the changes/revisions such as removing the home grow provisions, separating manufacturing/cultivation centers from dispensaries, reducing the monthly amount of marijuana per patient from 6 ounces to 2 ½ ounces per month and authorizing eight (8) statewide dispensaries and four (4) manufacturing/cultivation facilities/centers are good and will greatly assist in making medical marijuana available to as many qualified patients as possible.

Other changes/revisions do **not** accomplish this goal and in our opinion will not effectively allow this contemplated legislation to succeed and most importantly work for the patients in need of this medication, as well as the State of North Dakota and the industry professionals who will need to become actively and financially involved/invested to be able to provide medical marijuana to any and all qualified and registered patients.

The most important and critical change/provision is the removal of smoking from the definition of usable marijuana and only allowing medical marijuana to be made available in oil, liquid or pill form.

First and foremost is the recognition that we are dealing with medical **not** recreational marijuana and there are many patients who can only obtain the medical benefits by ingesting this medication via smoking.

In this regard, the Senate Bill and ballot initiative both reflect that the first and foremost listed illness and debilitating medical condition is cancer. As I am sure you are aware, cancer patients undergoing radiation and/or chemotherapy have extreme difficulty in eating and swallowing and accordingly cannot obtain the benefits of this medical marijuana in pill or liquid form. The only way they can obtain the required and life saving medical benefits is by smoking. To ban smoking denies these patients the ability to obtain this life-saving and physician-certified relief and forces them to illegally purchase marijuana on the black market and on the street and run the risk of arrest and prosecution simply to treat their individual and qualified medical conditions and attempt to extend, if not, save their lives.

Additionally, industry professionals who are contemplating applying for cultivation/manufacturing and/or dispensary licenses and paying the significantly increased fees of $100,000 for a two (2) year license and every renewal thereafter, will be required to invest additional millions of dollars to build and equip the facilities needed to supply medical marijuana to qualified and registered patients. With this smoking ban the dried leaves, buds and flowers of the plants are not needed for the manufacturing of the liquids, oils and pills and the growers will be forced to either grind up or dispose of the most valuable parts of the product at a considerable loss and unnecessary expense. This renders any business plan not financially sound and will prevent qualified growers and dispensaries from paying the exorbitant start-

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up and build-out costs, leaving the qualified patients without access to their promised medical marijuana.

This is not conjecture on our part but is exactly what is occurring in the adjoining state of Minnesota where medical marijuana was recently enacted and as in the pending North Dakota bill, usable marijuana was limited to oils and tinctures and bans smoking.

While the number of qualified patients in Minnesota is increasing, the prices for the oils and tinctures are exorbitant and unaffordable and the two (2) state sanctioned medical marijuana manufacturers who invested millions setting up their operations have lost millions of dollars, with one of the manufacturers reporting losses of $3,000,000 and the other reporting losses of $2,200,000 last year.

Further, as you are undoubtedly aware and as readily confirmed, the population of Minnesota is approximately 5.5 million while North Dakota is approximately 850,000. If Minnesota's medical marijuana program won't work under these circumstances with a population more than six (6) times that of North Dakota there is no chance for Senate Bill 2344 in its present form to have any likelihood of success.

North Dakota can and should learn from Minnesota and not set up a program to fail but set up one to succeed.

Another issue concerns the required background checks and exclusions of compassion center agents based on their prior criminal records. As you may or may not know, in order to properly operate a cultivation facility to supply medical marijuana the company/business must employ and utilize persons with exceptional and proprietary expertise in growing techniques so as to provide the best available product to patients and allow the manufacturing facility to operate at the highest level of efficiency.

As is universally recognized in the industry and which is beyond dispute, the persons that possess this highly sophisticated and proprietary expertise have unfortunately been involved in the criminal justice system in the past due to the criminal penalties associated with marijuana.

Rather than excluding one from being a compassion center agent if he or she has a felony conviction, we would suggest that this provision read:

> Individuals convicted of a felony offense within 10 years from the date of application or a drug-related misdemeanor offense within 5 years from the date of application are prohibited from being a compassion center agent.

This ten (10) year period for a felony offense is double the five (5) year time period passed overwhelmingly by the voters in the ballot initiative and it is our position/opinion that this will sufficiently protect the State of North Dakota while at the same time allowing qualified persons with the requisite degree of growing and/or dispensary expertise to work and participate in the North Dakota medical marijuana industry.

Additionally, in regard to compassion center agents, Senate Bill No. 2344 in its present state requires a compassion center agent to be a resident of North Dakota in order to obtain a valid registry identification card. (Section 28, 19-24-28(2) (b). Section 2, 19-24-02 (5) defines a compassion center agent as a principal officer, board member, employee, volunteer or agent of a compassion center.

This North Dakota residency requirement is completely unworkable as this is the first time any type of marijuana has been authorized in the State of North Dakota and as such, anyone with marijuana cultivation, dispensary and/or business experience must necessarily come from outside the State of North Dakota.

In addition, as I am certain you and your fellow legislators are aware and as I have been educated by our local North Dakota partners, North Dakota by virtue of its location and relationship with the adjoining state of Minnesota has a large number of out-of-state employees working in many local businesses and industries. If it is the intent of the legislature to have some local connection to the authorized and licensed compassion care centers, a workable solution may be to require that the President of the company applying for the required licenses be a North Dakota resident.

Finally, one additional change/revision that we would like to address concerns the requirement that the cultivation facility/manufacturer

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specifically identify the physical address and location of it's grow facility in its license application and subsequent renewals. For security purposes alone this is the last thing the State of North Dakota should require and can best be addressed by redacting and protecting the physical address from public access. Minnesota and all other states do this common sense redacting of names and addresses for obvious security reasons.

I hope you consider our suggestions, comments and input when reviewing and addressing the pending bill as it makes its way through the legislature.

As I stated above, the goal of all parties concerned should be to create and implement a simple, straightforward and manageable medical marijuana system in order to provide qualified patients with access to the most affordable and effective medication for their qualified medical conditions, while the same time providing the State of North Dakota with additional tax revenue.

In the event you and your fellow Senators and legislators believe it may be helpful or beneficial to your review of the pending Senate Bill, my associates/partners and I would be more than willing to present any additional documentation, information or evidence from the industry perspective and travel to Bismarck to testify before any committees or the full legislature when this bill is under discussion or review pending approval and submission to the Governor for his consideration and execution.

Thank you for taking the time to review these suggestions and should you have any questions or require any additional information and/or documentation, please feel free to contact me at the above address.

Sincerely yours,

HOWARD SOHN **RON MARTIN - FARGO**

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Copies furnished to:

Senator Oley Larsen
Senator Howard C. Anderson
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Rebecca Ternes

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DEA
INTELLIGENCE
REPORT

Residential Marijuana Grows in Colorado: The New Meth Houses?

DEA-DEN-DIR-041-16
JUNE 2016

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Residential Marijuana Grows in Colorado: The New Meth Houses?

Executive Summary

Colorado's state laws legalizing marijuana do not limit how much marijuana can be grown within a private residence. Further, there is no mechanism at the state-level to document or regulate home grows, even large ones. This has led to a proliferation of large-scale marijuana grow operations in hundreds of homes throughout the state. Much of the marijuana produced in large home grows is shipped out of Colorado and sold in markets where it commands a high price.

Although growing a large number of marijuana plants within private residences can fall within the parameters of state law, it presents potential risk to the occupants, homeowners, and neighbors of these residences, as well as to first responders who are called to them. Marijuana grows often cause extensive damage to the houses where they are maintained and are increasingly the causes of house fires, blown electrical transformers, and environmental damage. Much like the "meth houses" of the 1990s, many of these homes may ultimately be rendered uninhabitable.

Details

Colorado's legalization of medical marijuana and recreational marijuana by voter referendum set the stage for unfettered marijuana production in the state. Both Amendment 20 and Amendment 64 contain loopholes that allow for large marijuana grows within private residences. Although the State of Colorado created the Marijuana Enforcement Division (MED)—a regulatory body for licensed marijuana businesses—the MED does not have authority to regulate home grows.

According to the Colorado Department of Public Health and Environment, in January 2016 there were 8,210 medical marijuana patients in Colorado with physician recommendations to grow 50 to 99 plants. If each patient grew 50 plants, that equals 410,000 marijuana plants.

From each plant, they would likely harvest 1 pound of finished marijuana every 90 days. That is 1.64 million pounds of harvested marijuana per year.

Access to medical marijuana became every Coloradan's constitutional right in November 2000 when voters approved Amendment 20. Amendment 20 allows patients to possess six marijuana plants, unless a physician recommends more. As of 2016, physician recommendations for 75 to 99 plants are commonly used to justify large residential grows, many of which produce marijuana for sale outside the state. In January 2016, there were 107,798 medical marijuana registry patients. Of those, roughly 8 percent (8,210 patients) had physician recommendations for 50 to 99 plants.[1] Notably, in January 2014, when cultivation and possession of recreational marijuana became legal under state law, there were more overall medical marijuana patients (110,979), but fewer with elevated plant counts of 50 or more plants (5,308).[2]

As of March 2016, there is not a state-imposed limit on either the number of plants a physician may recommend for a medical marijuana patient or on the number of plants a patient may grow in a private residence. In May 2015, state legislation was passed that limited medical marijuana patients to growing 99 plants on private property—it will take effect January 2017.[3]

Amendment 64 allows any adult 21 years old or older in Colorado to cultivate up to six plants. It further allows for the possession of all marijuana produced by those plants, provided the marijuana remains in the enclosed residence and is not sold.[4] Amendment 64 also allows any adult in Colorado to "assist" any other adult in Colorado in "possessing, growing, processing, or transporting" his/her marijuana.[5] Consequently, large grows and/or quantities of processed marijuana within a residence are often justified through the claim

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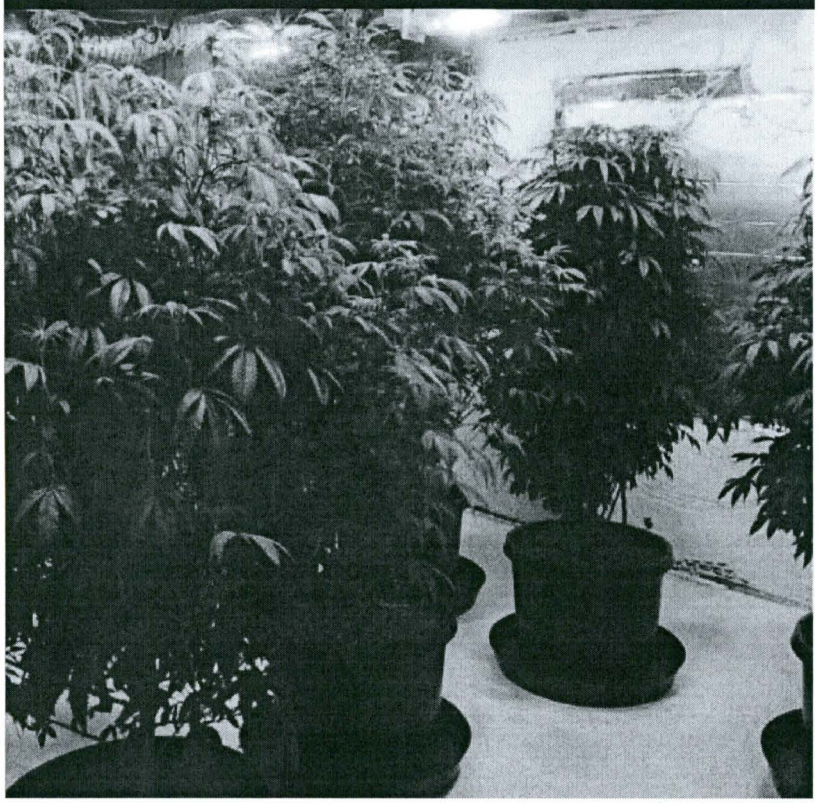
Residential Marijuana Grows in Colorado: The New Meth Houses?

that the resident is assisting others by growing or storing their marijuana. As there is no mechanism at the state or local level to document or regulate recreational marijuana home grows, there is no practical means for local police to verify whose plants are grown or whose marijuana is stored in any given residence.

Some local governments have begun to place limits on the number of plants that can be grown in private residences. However, such local ordinances are widely varied and rarely effectively enforced.

As a result of the permissiveness of Colorado's medical and recreational marijuana laws, the system is extensively exploited by traffickers who operate large marijuana grows that supply out-of-state markets. Since 2014, there has been a noticeable increase in organized networks of sophisticated residential grows in Colorado that are orchestrated and operated by drug trafficking organizations. These organizations operate hundreds of large-scale home grows throughout Colorado. Harvested marijuana is shipped or transported from Colorado to markets in the Midwest and along the East Coast.[6]

FIGURE 1. A BASEMENT GROW IN A COLORADO HOME.



Source: DEA

Indoor marijuana plants can grow as tall as 6 feet or more and yield more than a pound of harvested marijuana every 90 days. Growing them requires specific conditions that consume high levels of electrical power and water and results in the drainage of chemical-laden waste water. Grow rooms must be maintained at temperatures between 71 and 80 degrees Fahrenheit. At certain times during the growing cycle, plants must remain under high-power grow lights for 24 hours a day. Fertilizers and pesticides—sometimes harsh ones—are required to grow robust and healthy plants. At times in the growing cycle, each plant can require 3 or more gallons of water per day.

Local police departments often receive numerous calls from neighbors about marijuana grow houses. Common complaints include strong odors, excessive noise from industrial air-conditioning units, blown electrical transformers, and heavy vehicle traffic.

Colorado homes where marijuana is grown often sustain extensive structural damage. Moisture, condensation, and molds spread throughout the residence. Growers often cut holes in floors and exterior walls in order to install ventilation tubes. Growers often tamper with electrical systems in order to supply multiple high-power grow lights and industrial air-conditioning units. These alterations are often done by tenant growers with little regard for fire risk or the home's structural integrity. This is an increasing concern for first responders.

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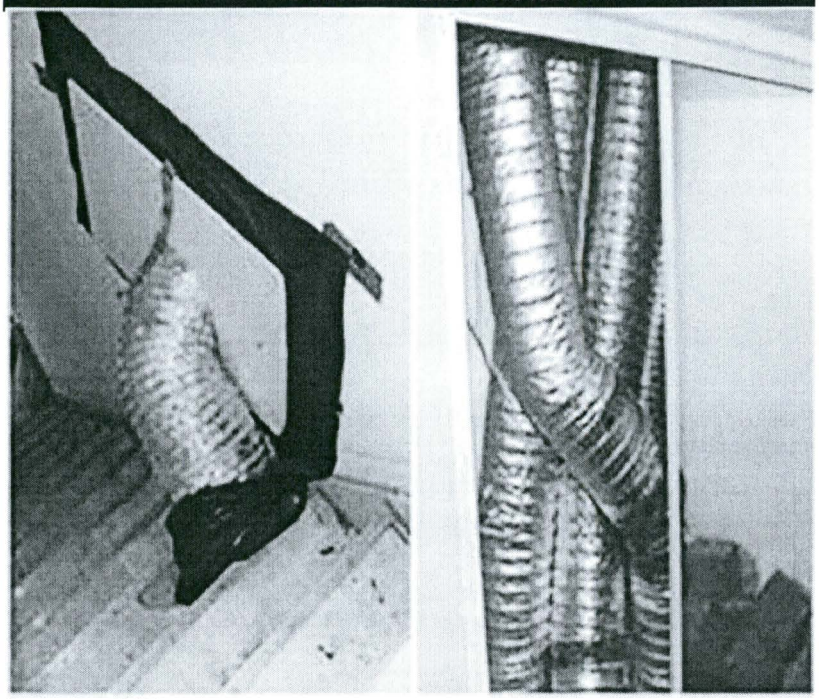
Residential Marijuana Grows in Colorado: The New Meth Houses?

FIGURE 2. DO-IT-YOURSELF VENTILATION IN A COLORADO GROW HOUSE



Source: DEA

Altered electrical systems with loose and entangled wires, flammable fertilizers and chemicals, explosive materials such as propane and butane, or holes cut into sub-floors for venting all pose clear hazards to firefighters or police officers responding to the residence in an emergency situation.

Outlook

Adding to the list of unintended consequences of marijuana legalization in Colorado, the proliferation of large residential grows is taxing local police and fire departments, consuming power and water resources, and potentially affecting home values in communities throughout the state. Further, the ability to establish large-scale marijuana grow operations within residential homes under the guise of state law will likely continue to attract drug traffickers and criminal organizations. Thus, Colorado will continue to be a source for much of the marijuana destined for markets in other states.

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[1] Colorado Department of Public Health and Environment, January 2016.

[2] Ibid.

[3] Colorado Senate Bill 15-014, passed May 2015.

[4] Colorado Constitution. Article 18, Section 16, Subsection 3(b).

[5] Colorado Constitution. Article 18, Section 16, Subsection 3(e).

[6] DEA Denver Division Investigative Reporting. 2016; extracted information is: (U); overall document classification is: (U).

This product was prepared by the DEA Denver Division. Comments and questions may be addressed to the Chief, Analysis and Production Section at dea.onsi@usdoj.gov.

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Feb. 9, 2017

SB2344 Testimony
Senate Human Services Committee

My name is Joan Lee, Casselton, ND. I represent myself. I am not an expert on Marijuana. However, I have some experience with the administration of medication and compassion for individuals who are sick or dying—my professional background is Nursing. I am also a parent and grandmother.

When it was reported that petitions were being circulated to put Medical Marijuana on the ballot in ND, I took note; and when petitions were being circulated to garner support to put recreational Marijuana on the ballot, I did so, as well.

While I was personally surprised when Measure 5 passed last November, I believe voters were persuaded that in certain intractable diseases patients should have access to the drug—in case it might help. I believe most voters made the decision based on peoples hopes or stories and rather than the content of the thirty some page measure and hadn't read the entire measure or understood the implications of some of its provisions.

I stand in support SB 2344 for several reasons:

1. As is sometimes the case with complicated initiated measures, the provisions of this law were the ideas put together by a few people who were well meaning, but the measure was inadequately vetted to be responsibly implemented as written. I think this bill is an improvement.

2. We already have substance abuse problems with legal and illegal drugs, The Legislature must do its best to protect our citizens from unintended access or the consequences of a drug that is still illegal under Federal Law. I'm thinking of our children: consequences of exposure for their development; and youth: consequences to their educational success; as a gateway drug; and highway safety. This includes the protection of the individuals who want to use marijuana for medical purposes.
3. Millions of dollars have been spent in the state to prevent and treat smoking related disease. If the purpose is medicinal use, I believe it unwise to legalize the smoking of marijuana for many of the same reasons tobacco smoking is unhealthy, including secondary exposure. I believe it is also more difficult to prevent recreational use if smoking marijuana is permitted. I also question the drug being sold in "gummy bears" and baked goods.
4. I also do not support the provision in the original version (Measure 5) that permits any patient living more than 40 miles from a dispensary to grow their own marijuana supply. For goodness sake, many people will drive further than that to go to work, a movie, or Cosco! I believe that would be a law enforcement nightmare! (Though Measure 5 was successful, I would like to remind the committee that voters did not support recreational use: promoters could not garner sufficient signatures to put it on the ballot.)

Additionally, I would prefer that the individuals who use medical marijuana would be part of a clinical research project to document whether or not there is true medicinal efficacy in the treatment of diseases; That it would be scrutinized as any other drug approved for the treatment of disease.

-Notes from: National Highway Traffic Safety Administration
-Drugs and Safety Performance Fact Sheet: on Marijuana/Cannabis (excerpts)

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Tracy Vearrier PA-C

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Been a Physician Assistant for 13 years and represent the best interests for Paige Vearrier my daughter who suffers from seizures and medications designed to prevent seizures. SB 2344 mentions using only cannabis oil for pediatrics. Why is this? Based on what? All forms should be acceptable as the doctor and the patient agrees upon. What if she does not tolerate the oil because of her reflux or her condition of gastroschisis? Under Measure 5 transdermal would be acceptable. Also vapor. Mayo clinic web site has pediatric doses released and medical cannabis will have the correct amount of CBD and THC and the various of strains of each in a precise recipe based on Paige's weight and uncontrolled epilepsy. It is not unusual for a healthcare provider to be promoting cannabis. CME is available for healthcare providers. 13 credits of CME can be done online through The Medical Cannabis Institute. These CME are backed by the AMA or American Medical Association. Cannabis is medicine and I am thankful North Dakota now has the compassion for the residents who live here. Measure 5 was passed by North Dakota by a landslide. It wasn't even close to being defeated. Keep the intentions of Measure 5 and do not accept less for ND.

Tracy Vearrier PA-C, MBA 2/8/17

SB 2344
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My name is Linda Kersten and I have traveled here today from Newburg, located way up north in District 6, to tell you how the changes you made to Measure 5 will affect my family and others. I will address two changes. The first has to do with the lack of choice in the way the marijuana is to be administered and the second the steep fees levied to purchase a card.

I would like to share my story with you. I grew up on a farm in rural ND and was taught by my alcoholic father that marijuana was a horrible drug that would destroy my life. He would preach to my sister and me about never taking a cigarette from one of those Air Force boys that frequented our local dances. Little did I know that as a 70-year-old retired teacher and grandmother, I would be hunting for this drug to help my daughter.

My daughter was diagnosed with stage 4 colon cancer 7 years ago. At that time Karla was 42 years old and along with her husband, Terry were the parents of a 7 and a 4-year-old. Over those seven years Karla's cancer has continued to reoccur and she has been through 4 major surgeries, multiple rounds of chemo, and been held up in prayer by family and friends far beyond the borders of ND.

In March of last year, I signed the petition to get Measure 5 on the ballot. By April Karla's cancer had returned and with it so did the chemo and another major surgery at Mayo. I would go stay with her and her family the week of her treatments. My Karla is the strongest woman I know, but after the first week of treatment she said, I don't know if I can keep doing this. She paused and then said, I have to for the kids. During her second week as she lay on the couch suffering with aches and pains, extreme nausea, vomiting, and being unable to eat we decided to try marijuana. She and I went into the bathroom and sat on floor and SMOKED, let me say that again, we SMOKED marijuana. I watched in disbelief as, in a matter of minutes she went from being in

wretched hell to sitting up in a chair saying, "if it wasn't dark, I'd go for a walk around the block." Do you believe in miracles? For us that night, medical marijuana was a miracle.

If I had not witnessed this with my own eyes I would have never believed it. I would have never put my family's reputation on the line and told our story openly and honestly to the people of North Dakota using social media, letters to the editor, and even on talk radio. Under SB2344 if Karla's cancer returns she and every other patient like her will not be given the choice of smoking it. You have decided for her and others that smoking will remain illegal. Let me ask you this, what does it matter which route is used it get the drug into the body? Why have you made that an issue? Marijuana is entering the body no matter which route we choose -whether it be oral, sublingual, inhalation, or transdermal. Do they not all do the same thing? Let me answer that. Yes, they do. They all are important routes to get marijuana into your system, not one is better or worse. It depends on the needs and conditions of the patient. In SB 2344 you are legalizing oral use only. So how do patients like my daughter experiencing extreme nausea and vomiting keep a pill down long enough for it to work.
Even the Mayo Clinic website states: "The extent and timing of its effects may be harder to control with the pill form than with smoking." Is it not the condition of the patient that should dictate the method of delivery? If this bill is not voted down or amended and Karla's cancer returns she will once again have to use it illegally.

The second way this bill effects Karla and others is through the exuberant fees charged for the card. I understand a fee is necessary, but most patients are unable to work or can only work limited hours. Even with good insurance we all know that the extra expenses are countless. Karla is self-employed and has lost

money and customers because of her treatments. You are setting up a system that is unattainable for lower income patients.

The Compassionate Care Act that the people of ND voted for overwhelmingly was just that, an Act that put the needs of the patients of ND first by giving them choices. I am wondering if in SB2344 you are hoping for failure by making it so very restrictive and so expensive. It's like you are punishing the patient for being sick.

The people of ND want the choice of being able to use medical marijuana for all its benefits without fear of reprisal and in SB2344 you have given them that protection. We thank you for that, but now make us proud that you are our legislators and amend this bill so that patients with all conditions can use it their benefit.

2344
#8
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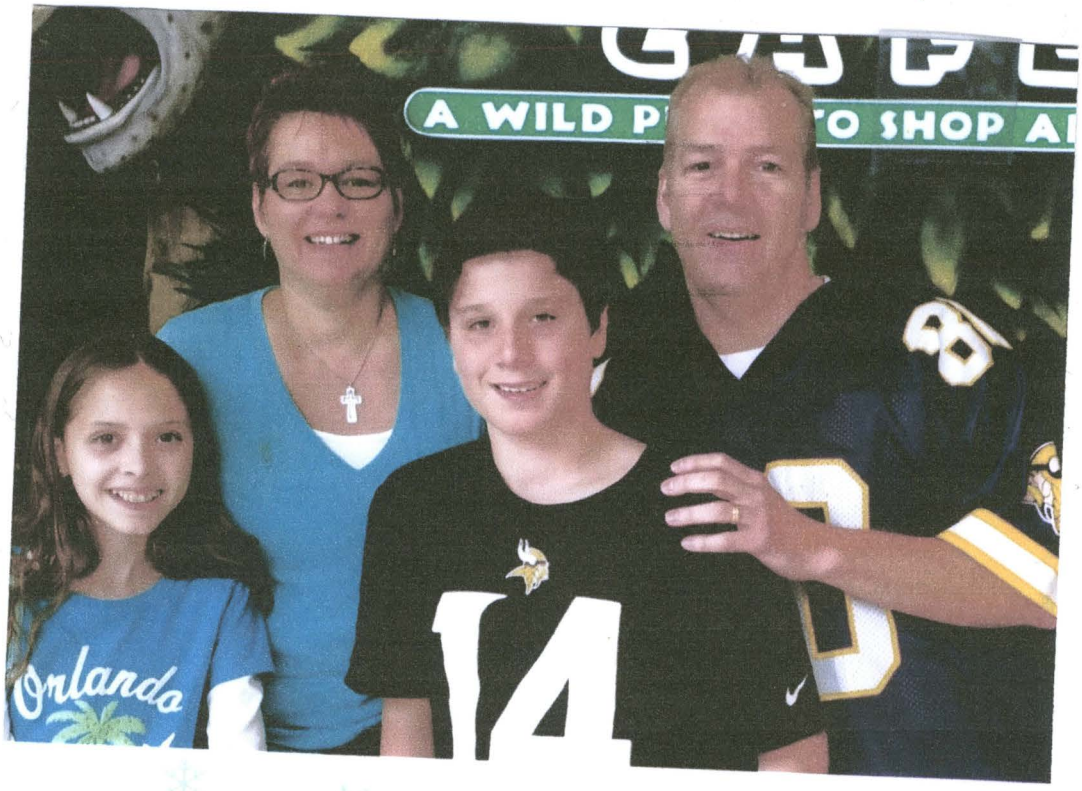

MERRY Christmas & HAPPY New Year

Believe
Jesus the reason
for the season

The Eissinger's
Terry, Karla, Luka
and Sienna

SB 2344
Attach #9
2/8

SB #2344 Speaking Points

Good Morning

905 4th St Se Minot ND 58701

My name is Eric Johnson, I am from District 3 in Minot

701-720-5812 ashyann21@hotmail.com

I will get right to it. The original Measure 5, as it was written, may not have been ready for immediate implementation. But it certainly did not need to be completely overhauled, which is what has happened. Comparing the two bills side by side almost the whole thing has changed. There are a few changes for clarification that I can support. Such as further clarification on procedures concerning minors. However, I believe the positive side to the changes SB #2344 provided end there. While the drawbacks of SB 2344 compared to Measure 5 are many.

I will limit myself to just a few of the difficulties that the Senate Bill provides. The first difficulty is the price of a Registry Identification Card, which "shall not exceed $300". The problem with this, is that many patients who suffer from some of the more debilitating qualifying conditions may have extreme difficulty affording such a high cost. Their conditions may prevent them from working for various amounts of time. Or in the worst cases they may not be able to work at all. This would also make North Dakota the highest cost for a Registry Identification Card of any State currently supporting Medical Cannabis. The next closest states (and there are only two of them at this rate) charge a full $100 LESS for their cards, and also contain stipulations that allow for either sliding price scales based on income; or offer vastly reduced rates for patients on Medicaid or comparable health care plans. While on the other hand, the current Senate Bill specifically exempts those same entities from providing such assistance.

A second area of concern is the Funding framework. While there are many issues just within this one area, I will stick to one. Expecting to need 32 full time employees to manage the Program in ND is a vast overestimation, especially with only 12 licensees allowed, along with no home growing and expected patient enrollment numbers around 4,000. Oregon was the only other state I could find that has one entity handle everything like the North Dakota Health Department will be doing. Oregon currently has only 28 full time employees working in the program and they have 68,000 patients, nearly 30,000 caregivers, and 160 medical dispensaries. The Oregon Program has been in existence for 19 years and they started with only 6 people to manage it. This is only one of the miscalculations made in this section. My collaborating partner Kevin Cross has emailed a full list of the issues in this section to each of you.

The final issues I will mention

Another problem with the current Senate Bill, aside from the complete removal of dried flower (which my fellow Measure 5 supporters have mentioned), is the inability for patients to grow their own medicine. This directly applies to yet another problem of SB 2344 which limits the number of dispensaries to 8. Even if you assume there will be one dispensary in each of the 8 largest cities in North Dakota, that still leaves large portions of the state up to 120 miles from the nearest dispensary. To me it is completely unreasonable that someone with so much as a head cold should have to drive 4 hours round trip to get their medicine. Let alone with some of the conditions that qualifying patients have.

There are other issues that SB 2344 has compared to the original Measure 5, but I have spoken long enough and have at least gotten my point across. I would like to close by saying that when I voted yes on Measure 5 I knew EXACTLY what I was voting for, and anyone who says otherwise insults the intelligence of their constituents. Please support the bill that was voted on by the people, not anything else.

SB 2344
Attach
#10
2/8

My name is Joshua Wehri. I have PTSD. I take 150mg of Zoloft every day. I use this to keep my anxiety and fear under some type of control. I do not spend time with people because I don't trust them. The only friends I have are the friends I had since we were kids. I used to take Zoloft with as much alcohol as I could. Over the years it caused me lots of trouble and kept everyone away. On May 31st I started drinking early in the morning on Crown Royal. I drank almost all of it all day long. Some how I got to convince someone I had ever barely known to drive me to a bar. (O'rielys) While I was there I got into an altercation. There was a small fight where I took to hits. Kept on going. In the end I was simply pushed and I fell backwards and impacted my head onto the concrete. I got a skull fracture and frontal lobe damage. When the police arrived they held my head and did some CPR to keep me functional. I was in a coma for two days. While in a coma I vomited into the breathing tube installed twice. They had to do a surgery every time to get the vomit out of my lungs. I spent 7 days in ICU and 8 days in function rehabilitation. I have been sober since then on my friend's request. I developed fear of coming home after work. I was terrified what to do with my time all by myself. When medical marijuana was voted legal in North Dakota I found an ability to be better. I started working on starting a dispensary to occupy my time. I turned out to love it. I have learned so much and met so many people. I started a non profit from the beginning. It's called NoDak State Relief. Since then I have a complete board ready, a crew, an investor from Colorado ready to support me. To today I have 1,253 people on the facebook page that I talk to and try to keep informed. I'm here today to speak on their behalf. One of the main topics to discuss is the usable marijuana change. Please return to medical marijuana that can be smoked or vaporized. Also add extract form that are not the same as oil or pills. We all suffer. Let them use the form of medical marijuana they are asking for so they can be better.

SB 2344
Attach
#11
2/8

From:
Gail Pederson, SPRN, HN-BC
Special Practice RN in Holistic Nursing, Holistic Nurse-Board Certified.
3608 117th Ave SE, Valley City, ND, 58072-9540
District 24.
Phone 701-490-2132

Good Morning Committee members and visitors,
My name is Gail Pederson (SPRN, HN-BC) I am a board certified Holistic Nurse and the only special practice registered nurse in holistic nursing, in North Dakota. I have a private practice in Valley City where I utilize complementary and alternative therapies to help with chronic pain, stress, sleep and general whole body health care. I focus on nonpharmacological ways to deal with health concerns using imagery, relaxation techniques, energy medicine, diet, herbs and nutritional supplements. I do not diagnose nor do I prescribe. I assist my clients to find methods to help them control the illnesses they are dealing with. I am in support of the compassionate care act for this reason, among the others I will briefly mention.

1. The first is a situation which happened over 20 years ago. Looking for solutions to pain and nausea for my mother, dying of Pancreatic cancer, I asked the Naturopathic Physician who had spoken at conference. He suggested Cannabis. She would have never used it since it was illegal. I was the major caregiver for my 94 year old father in law, who died 2 days ago of a slow cancer. In pain, with severe lack of appetite, He would have benefited from its use.
2. My sister in law who is in her late fifties, had a severe closed head injury as a young girl. She has suffering with recurrent seizures since then. She has been through practically every anti seizure medication that has ever been developed and there is currently only one more medication that she has not used. Her neurologist is watching this develop expectantly.

   I have 2 older siblings, both in their seventies. They are my #3 and #4 reasons to support the implementation of Medical Cannabis with the variety of forms in the original measure. They both live in states where medical marijuana is legal. My seventy two year old sister, a retired teacher, suffers from advancing Parkinson's disease, which I noted is not on the list. She uses an ointment, a vaporizer and tincture. Her Physician did not have to prescribe it, but he did suggest it.

   My 70 year old brother, who is a criminal Defense Attorney, has a congenital back malfor mation with chronic and acute pain. He has found great benefit and reduced pain with the use of cannabis. He is unable to take anti-inflammatory medication and does not wish to use narcotic prescription medication. He prefers an edible form and smoking or vaporizing the natural plant. The state of Montana, where he is a resident has had to fight their legislature twice to maintain the full law as the citizens voted in. He recently received a $90 rebate on his medical card and was informed that when he renewed next time, the charge will be $5.00. No background check needed.

I have clients who are illegally using marijuana for relief of the symptoms of cancer. Throat and lung cancer are not conducive to swallowing. First of all I am thankful they feel comfortable enough to tell me of their use. It impacts my plan of care.Their only supply and method of use is inhaling. With the change of the law, you are continuing to make criminals of them as they continue to buy on the illegal market.

2344
#1
2/8

There are many issues with the rewritten bill which do not put the people of North Dakota first.

- The restriction of the definition of forms of Medical Marijuana for use is major.
- The definition of a minor of the age of 21 for pediatric doses is unreasonable and the discrepancy between ages 18 and under 21 need to be corrected.
- There is no mechanism for an emancipated minor, or say a veteran seeking treatment, who is under the age of 21. to acquire a card
- The background check is expensive and unecessary. Along with the "up to $300" application fee, this is prohibitive.
- What happens if your physician who you have an established relationship does not wish to ~~prescribe~~? Is there a referral to a physician who would ~~prescribe~~ for a patient and an interim way to establish Bonafide Care? 19-24-40 sec. 3 certify
- Another concern of mine is under Rules, it mentions reporting to authorities the unlawful use of marijuana. I want my clients to honestly tell me if they are using anything illicite for their own treatment plan and responses to my recommendations. If my practice is considered a reportable one, it would certainly restrict my provider/patient trust and forces this law into criminality.
- I also have a problem with the placement of medical Marijuana's utilization within an illness process. To tell a person they must use a prescribed medication, such as an opioid or Nsaids like ibuprofen, or have injections into their spine, and even have surgery, before trying the use of Medical Marijuana is counterproductive. Wouldn't common sense dictate none surgical/non invasive solutions first?

This measure has streamlined the initial bill, but in many ways altered it unfavorably. It is cruel and unusual punishment to deny our residents all available methods of dealing with the outlined disease processes. The people have spoken and they know what they were voting for, with this bill passing in all of North Dakota's Districts. Please respect the people's wishes and follow through in good faith. Thank You.

Gail Pederson, SPRN, HN-BC

SB 2344
#12
2/8

Kevin Cross – Suggested Changes for SB 2344 - Contact Info in Footer

19-24-02 Definitions

The following are proposed as changes to 19-24-02;

~~4. "Compassion Center" means a manufacturing facility or dispensary~~

5. ~~"Compassion Center Agent"~~ *"ND MMP Agent" means a principal officer, board member, employee,* volunteer, or agent of a compassion center.

REASONING:

The definition of 'Compassion Center' is no longer necessary as we would have manufacturers and dispensaries which there are definitions listed for. With the separation of licenses for manufacturing and dispensaries it is no longer necessary to have a definition that encompasses both. It confuses people as to which one you are talking about and they should be referred to individually as they are licensed individually. A general term such as 'Licensee' could be used when addressing both manufacturers and dispensaries.

'Compassion Center Agent' would no longer be necessary if 'Compassion Centers' are stricken from the bill. I suggested 'North Dakota Medical Marijuana Program Agent' or 'ND MMP Agent' for short, merely a suggestion.

The following are proposed as additions to 19-24-02;

"Oil" means any species of the cannabis plant, including whole plant extracts, concentrates, resins, which can be yielded through;

(a) A chemical extraction process using a hydrocarbon-based solvent closed loop extractor, such as co2, butane, hexane, or propane;
(b) A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol, pure grain alcohol or ethanol;
(c) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure;
(d) A mechanical extraction process, such as screen sifting or centrifugal force; or
(e) Any other process identified by the North Dakota Department of Health
(f) All cannabis 'oils' must be tested to ensure there are no residual solvents when using a solvent based extraction method; and
(g) All cannabis 'oils' must be tested to ensure no molds or mildews are present when using a solventless extraction method.

"Liquids" means any liquid delivery method consisting wholly or in part of 'oil', yielded from the cannabis plant.

"Pills" means any pill consisting wholly or in part of 'oil', yielded from the cannabis plant.

2344
#12
2/8

19-24-05 Qualifying patient and designated caregiver registry identification cards – issuance and denial

The following changes are suggested to section 19-24-05;

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

~~a. Does not meet the requirements of this section or section 19-24-03;~~
~~b. Did not provide the required information and materials;~~
c. Previously had a registry identification card revoked; or
d. Provided false or falsified information or made a material misstatement

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

~~a. Does not meet the requirements of this section or section 19-24-03;~~
~~b. Did not provide the required information and materials;~~
c. Previously had a registry identification card revoked; or
d. Provided false or falsified information or made a material misstatement

REASONING: Recommendation for removal of 'a' and 'b' from paragraphs 7 and 8 is suggested to avoid potential problems for patients who have simply forgotten to add a piece of paper to their application or renewal. A one year suspension from reapplying for failing to provide the required information is counterproductive to the intent of the program, which is to get patients medicine they need, not penalize them for a simple oversight. I realize it says patients may reapply if authorized by the department but there is a vast difference in severity between a/b to c/d. At the very least these should be separated out with a much shorter reapplication time frame be set for a/b.

19-24-16 Compassion Centers – Registration certificate – Renewal

3. If a compassion center does not meet the requirements for renewal, the department may not issue a registration certificate and the department shall provide the compassion center with written notice of the determination. If a compassion center's certificate is not renewed, the compassion center shall dispose of all marijuana and dispose of or sell all usable marijuana within 15 days of denial in accordance with the rules adopted under this chapter.

REASONING: This suggestion is a simple addition that would allow a manufacturer or dispensary to sell all of the usable marijuana in their inventory within 15 days of notification of denial for renewal.

Kevin Cross –

19-24-21 Compassion Centers – Inspections

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

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

Will there be a license available for a lab to open up within the state? If not will the states certified laboratory be available for manufacturers to use on a regular basis for their products?

Suggestion: Allow a 3rd party lab to open up within the state, this would kill two birds with one stone. It would be independently funded and not be a conflict of interest for any manufacturer.

19-24-22 Compassion Centers – Pesticide testing

Clarification – Which pesticides are required to be tested for? How often do tests need to be conducted?

General Concerns

Cultivation and Dispensing

I keep hearing talks of NDSU or the Health Districts potentially cultivating or dispensing medical marijuana. I believe both of these entities receive at least some sort of federal funding. I do not believe that any federally funded program would be willing to risk their funding by breaking federal laws. The same way as FDIC insured banks will not do business with marijuana companies. I would also like to point out that these entities have ZERO experience in this industry and unless they paid for some real experience from outside the state, patients would be stuck with substandard medicine for years while the people in charge actually learned how to cultivate quality cannabis.

Another potential problem with one entity or very limited licenses is the end price to patients, look at Minnesota for example and how they only have two manufacturers, the prices there are astronomical and it is not covered by insurance. This is why a free market (unlimited or at least less limited licensing) is necessary to keep prices in check. For example a gram of oil in a vape cartridge in Minnesota currently costs around $118 and this is AFTER they just lowered the prices, it was $154 initially. In Oregon for instance where there is a free market, a gram of oil in a vape cartridge costs about $60. Keep in mind a patient using oil/concentrates will go through approximately 1.0-1.8 grams per week.

Funding

Why is no tax being developed for this program to be able to sustain itself? At the end of SB 2344 (19-24-42) it states that it is expected the program be self-sufficient by the next biennium. The program cannot be supported just off of patient, caregiver, manufacturer and dispensary licenses/renewals. A tax will end up being at least a partial pass through to patients, so it would really only work if there are less restrictions on number of licenses and the prices to patients stay in check. A tax could be created that manufacturers have to pay for each ounce or pound produced. There could be a separate tax for each ounce of oil yielded. You could create a tax that had to be paid by dispensaries for what they bring into their stores and you could create a small direct tax to patients. It sounds like a lot of taxes but in a free market with good accessibility to patients, the program will be self-funded. In addition, the patients will get the medicine they need at a price that would be much less than a state run monopoly or restrictive licensing scenario. For example; breweries are taxed along somewhat of the same lines, a tax is applied to the brewery based on barrels produced, and then the wholesalers pays a tax on draft and package products. There is a different rate for kegs and package respectively.

This quote is from the ND Department of Health regarding costs of implementation and operation of the North Dakota MMP.

"The agency said the cost to administer a medical marijuana program in the first two-year budget cycle would be $8.7 million, including $1.4 million in startup costs. Thereafter, the cost would be about $7.3 million every two years and would require 32 additional full-time employees."

Expecting to need 32 full time employees to manage the MMP in ND is far past reasonable, especially with the proposition of only 12 licensees, no home growing and expected patient numbers around 4,000. Oregon was the only other state I could find so far that has one entity handle everything/only medical marijuana like the North Dakota Health Department is going to be doing. They currently have 28 full time employees working in the program and they have 68,000 patients, 29,770 caregivers, and 160 medical dispensaries. The Oregon MMP has been in existence for 19 years and they started with 6 people to manage the program. They do not handle the compliance/regulation of manufacturers any longer, as that has fallen under another department now that it is adult use. Regardless I think anyone can deduct that those numbers are massive in comparison to what we will have in North Dakota.

The state of Washington combines the medical and adult use licensing/compliance/patient registry all together but they have 3 employees working full time in the Health Department and 78 full time employees working for the Washington State Liquor and Cannabis Board that work directly with marijuana. So that is a total of 81 employees for both medical and adult use in a state of 7 million people. Their budget for marijuana enforcement for FY17 is 3.5 million.

From being in the Air Force I am well aware of the 'if we don't spend it this year, we won't get it next year' mantra and I would hate to see taxpayers getting hosed for a medical marijuana program that could be self-sufficient with a free market, logical staffing and smart taxes.

Residency Requirement

In section 19-24-28 paragraph 2.b it states that a compassion center agent must possess a valid North Dakota identification to verify North Dakota residence is required. Is this to enforce a residency requirement for applicants seeking a manufacturing or dispensing license? I would like to suggest that a residency requirement be implemented to curb the influx of people from other states applying for licenses. Many states have a residency requirement ranging anywhere from 6 months up to 2 years. I would propose a residency requirement that requires at least 50% of the applicants on a license have to be 2 year North Dakota residents.

Reasoning: The purpose for a residency requirement is simple. Who is going to care more about the patients in ND? Someone that has been living here in our communities or someone flying in every so often from Colorado? Another reason would be to keep the money that is generated from medical marijuana in the state of North Dakota. We want that money to stay in our economy not in some other states. Requiring 50% still allows local entrepreneurs to seek investors or experience from other states if necessary and give up equity in their company for that investment or experience. The 50% is just a suggestion, the more important part is a residency requirement to ensure that the patients receive the best possible treatment and that the majority of the money generated from this program stays local.

Removal of Flower

I will only touch on this briefly as everyone else will be talking about it. I would suggest that the amount of flower available for a patient be reduced to 1 gram per day, rather than removed completely. This cuts the amount allowed down from 6 ounces per month in Measure 5 to about 1 ounce per month. The average patient will use approximately 1 gram per day and I think that this would be a great compromise and starting point for the program. There are other methods of delivery to supplement the flower for patients that need higher dosages.

Reasoning: Concentrates, pills and liquids are all highly concentrated forms of marijuana and the ability for a patient to take a tiny inhalation of flower which is a much lower THC level and see how they feel is very important as they are first starting to use the medicine. The flower has a rapid onset and lasts as little as one hour and only up to three hours. Concentrates, pills and liquids take up to two hours to take effect and last for up to 8 hours!

Thank you all very much for your time and thank you in advance for the hard work and long hours that will go into amending SB 2344 to make it more like what the people of North Dakota voted for.

Kevin Cross –

29 states med marijuana,
27 allow smoking
no state has overturned
mm
5 states mm passed
late 90's.

SB 2344
Attach #13
2/8

Testimony on Senate Bill 2344

February 8, 2017

Pamela Anderson, Representative District 41

Concerns I have on this bill versus the measure that overwhelming passed in November:

1. Bill limits to pills and oils- no seeds and plant, no flower- no smoking, best for certain conditions including cancer and PTSD
2. Change from 3 ounces every 14 days to 2.5 ounces in 30 days
3. The bill states a "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient- except if the medical condition is post traumatic stress disorder, the physician must be a licensed psychiatrist and if the patient is younger than eighteen years of age, the physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist or pediatric palliative care specialist. There are eight in the entire state, two in Bismarck all the rest in Fargo. The bill also limits TCB to less than 6% for children-dosage should be up to doctor, not Health Department. If a child's doctor can prescribe big pharm drugs they should be able to provide medical marijuana.
4. Minor under the bill is an individual under the age of twenty-one, should be 18.
5. The patient card fee is no more than $200. Highest fee in the country. Most states are under $100 and one state is $1.00, two charge nothing.
6. Measure says you can grow your own is more than 40 miles from a dispensary. If we don't limit the number of dispensaries, free market might take care of that.
7. Fee for growing company and dispensary company, no more than $100,000. Bill says $25,000. Growing might be fine, but dispensary should be less than the $10,000 and not limit to just 8. We need access and affordability through competition.
8. Question the fiscal note and number of FTE's needed by Health Department.
9. Venue for appeals is only Burleigh County District Court, should be District Court where patient/caregiver lives.

SB 2344
#14
3/8

Re: Testimony against SB 2344

Dear Chairwoman Lee and other Committee members,

On November 8, 64% of North Dakota voters stood united in compassion for the seriously ill by approving Measure 5. Voters chose to allow doctors and patients to decide if medical cannabis was a viable treatment option. Just one more tool in a healer's arsenal to improve quality of life and relieve pain.

Voters chose to allow them to decide what type of cannabis would be best.

Our friends and neighbors — and most of your constituents — approved a measure with ballot language that allowed patients to cultivate their own cannabis.

As suggested on January 16, we knew the legislature intended tweak Measure Five but SB 2344 is a far cry from modest revisions.

It guts the heart of Measure 5 — depriving patients from using cannabis in its natural form, driving up prices, prohibiting all home cultivation, and creating an artificial scarcity. For these reasons, I urge its defeat or dramatic amendments.

First, I would like to thank the authors for their clarifying of legal protections in Section 19-24–31, and the maintaining of a patient's privacy and confidentiality in Section 19-24–37.

After the January 16th hearing, I expected some policy, process and streamlining. Certainly state services and software currently exist that could make administrative functions faster and more efficient.

I looked forward to legislation or regulations addressing Senator Lee's concerns about edibles. Perhaps they would be required to be in plain packaging. Manufacturers would be required to create products that would be unattractive to children. Other states have these safeguards and require packaging to conform to child-resistant standards - with some exception for seniors and others with mobility issues.

Maybe North Dakota could bring back Mr. Yuck to remind adults and children that many products in our homes should be off limit to children - from dishwasher pods, to cleaning supplies to some beauty item.

However, instead of suggesting modest and sensible revisions, under the guise of **housekeeping**, SB 2344 ended **up as an estate sale** of Measure 5. The original intent of the measure and its' subsequent votes has not been honored.

2344
#14
2/8

If SB 2344 is not defeated, I recommend the following changes:
Bring the fees for patients, caregivers, and employees back down to an affordable range, which must not exceed $100 per year. Medical cannabis is not covered by insurance.

If SB 2344 goes into effect as it is and I acted as my elderly relative's caregiver, it could be up to $300 per year in fees for my relative and myself. This is an undue hardship on North Dakota *patients' pocketbooks, and another unnecessary hurdle in an already complicated life.*

Next, adults should be able to use medical cannabis without parental permission. SB 2344 defines a minor as anyone under the age of 21. If you're old enough to fight for our country overseas, and could possibly return with PTSD or a severe injury, that young veteran should be able to access this treatment option without asking for permission from mom and dad. This section needs to be sensibly addressed.

Next, patients need to be allowed to use the preparations that work best for them. In SB 2344, only oils and pills are available. This restriction must be eliminated. Any patient who has a feeding tube cannot use oils because they degrade the tubes and a pill would be impossible to use. Transdermal patches or salves would be better for these patients.

Whole plant cannabis when vaporized provides almost immediate relief from spasms, nausea, and pain.

Patches, lotions, and balms are inconspicuous, and would allow a person to work and access their medication without being an inconvenience to their coworkers.
Think of when you have the flu. First you try broth and can keep it down. Next you try a cracker – that stays down sometimes and sometimes not.
That's just the flu - put yourself in a cancer patient's shoes. A pill could be thrown up and oils can take too long to take effect.

Only three of the 28 medical cannabis states have prohibited flower cannabis, and only two of those laws have been implemented — Minnesota and New York. Manufacturing extracts are more expensive to produce than flower. Prices are exorbitant in both states and patients report cannabis is unaffordable. Some families pay $1,000 or more per month.

Patients need access to whole plant cannabis, edibles, salves, and other preparations — just as voters approved. The whole plant allows the many cannabinoids and terpenes to work together, creating a greater therapeutic effect than any single compound.

In addition, almost all medical cannabis research has been done on whole plant cannabis, not whatever extracts would be available, which would have some components in much greater concentrations. Many patients find these preparations simply don't work for them as natural cannabis does.

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Next, in a rural state like North Dakota there is a greater need to permit patients to cultivate their own medical cannabis. With miles between, weather to contend with along with serious illness, getting to a dispensary is it's just another hurdle for patients. The home cultivation provision in Measure 5 was already very limited — it includes inspections, and it only applies to patients 40 miles or more from a dispensary. However, in the proposed senate bill allows for eight dispensaries in the entire state, further forcing patients to travel long distances.

The removal of home cultivation proposed in SB 2344 is unacceptable. That option must be available to rural patients, as Measure 5 specified.

In SB 2344 only four cultivation facilities in the entire state are allowed — with no more than 1,000 plants able to be grown at each facility and only eight dispensaries statewide. This arbitrary cap on plants would be devastating to patients. What if a power outage or infestation destroys an entire crop? States that have imposed arbitrary caps, such as New Mexico, have had repeated shortages.

[redacted] let's allow the market to dictate locations and the number of plants.

Plus within SB 2344 – The licensing fee for compassion centers for growing and dispensing jumped from $25,000 to $100,000. Higher than any state we've researched. This is unworkable.

Please also remove the undue burden placed on pediatric patients and their families. If a physician has treated a child for years, why should he or she be mandated to refer said patient to another doctor?

SB 2344 states: If the qualifying patient is younger than eighteen years of age, the physician must be a pediatric neurologist, oncologist, gastroenterologist, or palliative care specialist. There are less than ten in the entire state. Will families be able to get an appointment in a timely manner? Then, there are the criteria of establishing a bona fide relationship with such this specialist before getting a certification. This unnecessary hurdle will only serve to deny patients access to what can be life-saving medication.

Finally, in the original Measure 5, there was a provision for accepting private donations, or contributions to help individuals who are financially distressed to purchase this medication. The compassionate care fund was not supposed to revert to the state's general fund at the end of the fiscal year. Please restore Measure 5's original language to SB 2344

All in all, Measure 5 passed with 216,000 votes — an overwhelming majority - without a big budget, grass-root, hometown volunteers, and no celebrity flash.

Measure 5 was clearly important to North Dakota patients and their families. They deserve to have their votes honored.

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PLEASE VOTE NO ON Senate bill #2344 unless proper and complete amendments have been made. Stand up for seriously ill patients and voters in our state. Please don't drive up costs, add hurdles denying patients access and the types of medicine that works best for them.

Perhaps this private Facebook message sums it up best:

The name SB 2344 didn't click with me in the news reports. I just thought the Measure 5 program would be progressing along and available to people soon.

Fortunately for our family, nobody needs it. We thank our lucky stars every day, and say a prayer for those who do. I am a professional, home-owning, taxpaying, mid-fifties, mom of three grown kids, wife, and Measure 5 voter. It just makes sense. I can honestly say I've never tried marijuana. But, if I got sick or my kids did...I would want that choice.

Anita B. Peterson Morgan

February 8, 2017

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Honorable Members of the North Dakota Legislature and Committees, my name is André Thom.

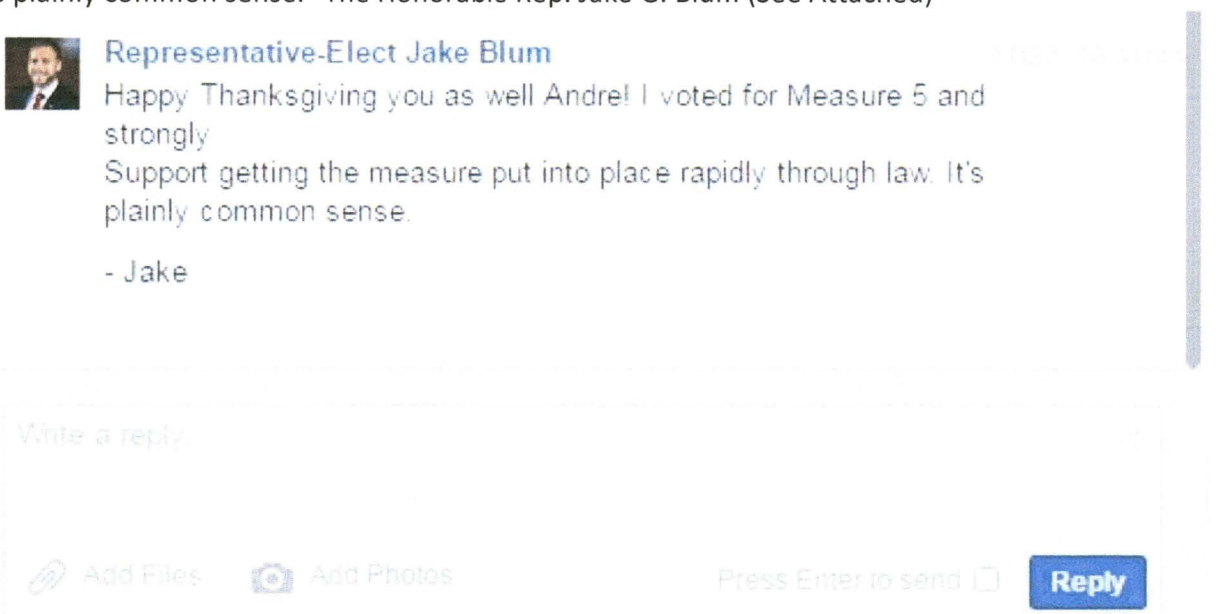
I love North Dakota very much and wish to return someday. I left for two reasons: 1) Medical use of my cannabis medication, as recommended by my certifying healthcare practitioner, would have labeled me a criminal; and 2) No professional career opportunities in the cannabis industry existed within North Dakota.

I was a resident of North Dakota for nearly 7 and a half years while working and studying aviation, business, and law at the University of North Dakota. After graduation, I attended Oaksterdam University and received the distinction of class Valedictorian. I am a medical cannabis patient refugee living in Minnesota.

The North Dakota Compassionate Care Act gives me hope that I will have the opportunity to legally utilize a proven medicine that works for my conditions. The Act also gives me the opportunity to offer North Dakota my knowledge and professional expertise in the cannabis industry. SB2344 clearly limits access to cannabis medication to individuals with a high disposable income and thoroughly rewrites the North Dakota Compassionate Care Act against the will of voters.

SB2344, as currently written, should fail overwhelmingly if the Legislature truly cares about patients and the will of their constituents. I humbly and sincerely request that the Legislature reject SB2344 in its entirety. Thank you.

"I voted for Measure 5 and strongly Support getting the measure put into place rapidly through law. It's plainly common sense." The Honorable Rep. Jake G. Blum (See Attached)



Every lawmaker involved with this Act must be aware of all reputable sources of information.

I humbly request that the Legislature draft and approve reasonable rules based on compassion, fairness, science, and safety.

Significant Topics:

1) Reciprocity/Interstate Commerce/Equal Protection
2) Fair Banking and Taxation
3) Criminal Justice Reform
4) When in doubt, refer to FDA Guidelines
5) Educate (Certifying Healthcare Practitioners: "Prescribe" vs. "Certify")
6) Anti-Discrimination and Parental Rights

"No death from [the] overdose of marijuana has been reported." -DEA

Please study at least the following: **Nearly 100 Conclusions on the Health Effects of Marijuana and Cannabis-Derived Products Presented in New Report; One of the Most Comprehensive Studies of Recent Research on Health Effects of Recreational and Therapeutic Use of Cannabis and Cannabis-Derived Products.**

I offer a humble suggestion:

1. A compromise may be to ban smoking of flower as an approved method of medication for those under the age 18. In terms of a nuisance, smoking ban ordinances may serve as a guidepost.

Again, thank you for your time.

Respectfully,
André Thom

Sources:
http://results.sos.nd.gov/resultsSW.aspx?text=BQ&type=SW&map=CTY
http://results.sos.nd.gov/Maps/nd/county/index.html?iframe&category=CTY&raceID=827&type=SW&osn=905&party=0&countyID=0&map=CTY
https://ballotpedia.org/North_Dakota_Medical_Marijuana_Legalization,_Initiated_Statutory_Measure_5_(2016)
http://www.legis.nd.gov/constit/a01.pdf
https://www.dea.gov/druginfo/drug_data_sheets/Marijuana.pdf
https://www.americanscientist.org/libraries/documents/200645104835_307.pdf
http://www8.nationalacademies.org/onpinews/newsitem.aspx?RecordID=24625

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To Whom It May Concern:

My name is Linda Falla. I was born and raised in Grand Forks, North Dakota. I am 35 years old and a disabled mother of two young children (a daughter that is 11 years old and a son that is 5 years old). My health journey is a long one, full of ups and downs - mostly downs. I would like to apologize and state that I can't be there in person to speak at this hearing because of my health - again. I am quite literally that ill. There are many stories like this, but this is mine.

I am suffering from a myriad of chronic illnesses, including Fibromyalgia, chronic insomnia, PTSD, Generalized Anxiety Disorder, severe and chronic depression, hypothyroidism, tachycardia, Chronic Kidney Disease (CKD) wherein I will need a kidney to survive in the future, Degenerative Disc Disease (DDD), and osteoarthritis in my back and knees. I have Metabolic Syndrome, a precursor to diabetes, so I am pre-diabetic/borderline diabetic. I have hypertension. If I simply miss any, it's because there are so many, that I forgot to mention others, and for that, I am sorry.

All of these medical illnesses make me suffer in one way or another, but the pain and fatigue are unbearable. I cannot work. Most of my help is through my husband who works outside of the home. I am normally 90% bedridden. I cannot and do not have a normal chance at life. Due to the opioid crisis in these United States and our state as well, the crackdown on seeing a pain management specialist who is willing to prescribe you medications on that front is also bleak. I have already gone that route. I need effective forms of pain, anxiety, and sleep, etc. relief that is all natural, which would be medicinal marijuana. I need hope. I was awarded disability by the government. At what point is it OK for North Dakotans to receive adequate pain relief? We are suffering, we are desperate and yes, some of us are dying.

ND voters decided on November 8, 2016, medicinal marijuana is the HUMANE approach to health treatment and I am one of those voters. In the past, not only have I contacted via phone the ND Department of Health, I've also contacted Corey Mock, Steve Vitter, Scott Meyer, and a host of others. Many have not responded back via e-mail nor phone. That is discouraging. We vote for people we believe have our best interests at heart and now, those wishes are being trampled upon.

People are suffering daily in small and large ways, and for myself, I know that I'm suffering greatly. I know that I could do more around my home and feel better with a natural medicine, an herb, rather than pharmaceuticals, which either have no benefits, or their side effects outweigh their usefulness. People with Fibromyalgia are crying out specifically. I want a fighting chance at a good life. My life will already be shortened to Chronic Kidney Disease. Please don't dash our hopes for a medicine that has helped millions in America. Colorado is shining example of this.

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Moreover, I will be a better and healthier person, mother, wife, friend, daughter, and granddaughter. I will be able to live again. Please allow me to live. My life is in your hands. How do you sleep at night?

Thank you for your time and attention to this matter. I want to add that my grandparents, nearing 80 years old, also voted YES on Measure 5. They have never needed medical cannabis/medicinal marijuana in their lifetime, but they see their granddaughter suffering tremendously. It was sensible and compassionate to vote people over big money, politics and fear-mongering amongst the sick, elderly, dying, one family member witnessing the destruction of another family member, and caregivers alike.

With kind regards,

Linda Falla

E.mailed: Feb 7, 2017

Pg. 8

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To whom it may concern:

I want to address before this committee today my displeasure in the changes in the Measure 5 Compassionate Care Act that 64% of North Dakota voted for. The language of the measure was very clear and concise. There was no deception or manipulation of the wording of the measure to warrant such a drastic change.

My husband has PTSD. He is a 14-year Air Force retiree-a war veteran. Along with PTSD, he has severe anxiety and depressive attacks. His symptoms were fairly controllable in active duty. In civilian life, with a wife and five children and an ailing 70-year-old mother-in-law, it has taken a toll on his mental health. Mental health that is barely touched by the VA services that he receives. Mental health that is not covered by most insurance companies offered through his employers. Yes. I said employers. Because of his PTSD he is accident-prone and has either been fired or forced into a reduced pay position causing a terrible financial crisis in our household.

The medications that the VA doctors or physicians assistance keep prescribing him are ineffective.

I myself have PMDD, fibromyalgia and treatment resistant depression. These are things I've been living with most of my life.

Now I have to hold up my husband when he crashes from his episodes in order to get this household through from one paycheck to another. It is a physically, emotionally and mentally straining job between my conditions and his. This toll almost caused me to take my life last March. The difference last March, I caved and started using cannabis edibles to cope with the physical pain I live with every day. A pain so severe it had me curled up on the couch for months wanting to die. And everything they tried to shove down my throats made me sick. Just adding to the desire for death to come quickly. But with the help of cannabis I have come completely out of my shell of despair. And now I'm livid at personal opinions blocking attempts for healthy progress.

When I saw the new outlined bill I cried for two days straight. Not because we failed. But because I now have to work harder then my body will allow to fight a group of people we the people employ.

Senate Bill number 2344 is not the measure that I voted on. It is not the measure that my husband voted on. It's not the measure that 100% of North Dakotans in this state voted on. Whether they voted yes or no this is not what was put before the constituents.
The more time wasted on debating what was in the bill instead of creating a plan to implement this, the more people continue to suffer.

You do not get to say we have to be guinea pigs to the medical industry or the pharmaceutical industry before we qualify for medical marijuana. We as a collective whole voted yes to measure five. And I am adamantly against Senate Bill number 2344. I am adamantly against you removing any of the language from measure five and adding language that has not been voted on by the constituents. I also want to remind this committee that the deadliest most addicting substance on this planet is alcohol. Yet it's legal all over this country. I can't even drink alcohol because it eats my stomach just like the prescription NSAIDS, Steroids and antidepressants that doctors keep trying to prescribe to

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me. Despite my refusal to take them and my explanations to said doctors as to why.
You are causing more harm than you are good by stalling up this process threatening to take away the vaccination program, making it too expensive for people on fixed incomes to have access to medical marijuana and making the decision for them how their delivery method is for their cannabis intake.

We are not going to allow you to treat us like ignorant children. We are not going to allow you to shut your eyes to the atrocities that you create when you impose Government that we didn't vote for.

Ladies and gentlemen you work for us. It is not the other way around.

So know that a war vet, and myself who was in the army, our five children and my 70 year old disabled mother will continue struggling to keep our spirits above water because nothing traditional works for myself and husband.

It does not matter what your personal stance is on this issue. The majority of North Dakota voted yes. 100% of North Dakota understood the bill including the State Attorney General who signed off on the petition that was worded identically to the Measure that was on the ballot.

So please put aside your apprehension and let us work together to get this implemented as it was worded originally with provisions that would help protect the people who need medical marijuana in this state.

Thank you for your time and consideration

Mrs. Danielle Goble

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Nikki Bushaw

Bismarck, ND 58504

February 7, 2017

North Dakota Human Services Committee
65th Legislative Assembly
600 E Boulevard Ave
Bismarck, ND 58505

Dear North Dakota Human Services Committee:

I am a native North Dakotan. I was born and raised in Bismarck. I am a law abiding, taxpaying, professional women. I operate my own business and raise young children. I have always had confidence in our democratic system and the elected officials representing the people. Unfortunately, that confidence has been greatly diminished with the proposal of Bill #2344. The voters have spoken. That was clearly illustrated on November 8th, 2016 when North Dakota Measure #5 passed with an overwhelming percentage. They voted for the Act the way it was originally written. The original document was comprehensive and logical. So why undermine the desires of the voters?

This is beyond the simple issue of medical marijuana for the state of North Dakota. It's bigger. It's an issue of ethics and morality. Please do not demoralize the democratic system of our great country. Please do not pass Bill #2344. Doing so will only create suspicion and cynicism among the citizens of North Dakota. It will generate resentment towards all elected officials and weaken the foundation of our political system.

Medical marijuana has been scientifically proven to provide numerous benefits for various debilitating diseases. I am fortunate for having good health but I have personally witnessed the astounding benefits that medical marijuana has given to those who do need it. There is absolutely no reason why we should limit the options available to those in dire pain and suffering.

Thank you for your time and service.

Sincerely,

Nikki Bushaw
Bismarck, ND
District 32

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To Whom It May Concern:

My story, in 1992 I was in a car accident this is where my chronic pain began. Who would think whiplash, headaches, bulged and herniated discs along with trigger points would open up this can of worms for me...I want my healthy life back. I was 26 when this started about (24 years ago) now at the age of 51 my health and pain has become worse. Since the accident I have been diagnosed with fibromyalgia, chronic fatigue syndrome, interstitial cystitis, osteoarthritis, bursitis, tendonitis, Raynaud's and more.
In 2002 after the birth of my daughter I had POP pelvic organ prolapse, my abdomen has been cut open twice doctors say my abdomen is full of scar tissue. The doctors removed my uterus, my cervix, endometriosis (endometriosis was removed the second time, the first time was in 2000 when they also removed a cyst the size of a pair), they tacked my diseased bladder into place, put a sling on my urethra (these two procedures failed in 2004), preformed a V-Valt birch and did my first posterior repair, I couldn't stand up straight for over four months. This is also when I was diagnosed with interstitial cystitis a very painful bladder disease.

I've had DMSO (treatment) cocktail's put into my bladder for my diseased bladder that is filled with pin-point-bleeding ulcers. I've had four-bladder hydros and a few bladder tests. The last test I had the doctor said my bladder has shrunk to one third the size of a normal bladder. I had an interstim implant put in around 2013 and then removed in 2015 because it started to shock me. When the doctor went to remove the implant the leads broke off inside me so now I'm stuck with the leads for forever. The interstim didn't help my diseased bladder feel better, it didn't stop the incontinence, and it didn't help me sleep through the night. I have to be close to a bathroom at all times do to this painful bladder disease.

I developed IBS-c hence the first posterior repair one in 2002 and I had a second posterior repair in 2009, the doctor told me it was a real mess and that I was full of scar tissue. The doctor said I cannot have another posterior repair because there isn't enough tissue left. He said I would end up with a colostomy bag if I messed up this second posterior repair; the doctor put me on a one-time lift of 8 to 10 pounds. I also have diverticulitis, I can't win. I have to take laxatives every other day.

In 2013 I had to have surgery on my hip for bone spurs, bursitis, cleaned up the cartilage and removed a three inch band of muscle so it doesn't rub on the Bursa Sac anymore. I had to white knuckle the recovery from this surgery and the interstim implant removal (now the hip pain is back). I have developed an allergic reaction to all opioid medication and to tramadol. I've run out of just about all medications doctors here in ND can come up with for my chronic pain. For about three years I was on a Savella and Lyrica combination with a generic Prozac, I became depressed and the medication stopped working on my pain. The doctor tried a few more things with no luck for relief. Right now I am treading water with Gabapentin. In order for Gabapentin to work for me I have to be on a high dose 3 times a day and it barely keeps me afloat. I take a medication called Elmiron for my painful bladder disease (with out Rx insurance the drug Elmiron costs 715.00 per month,) I don't have that kind of money, my SSDI after I pay for my Medicare and Humana is about 730.00 per month. I have some I.e. alimony and child support that keeps us afloat.

I have osteoarthritis in my knees, spine is deteriorated disc disease, and my hands are in chronic pain with the OA and tendonitis. I never thought I would exist like this, who prepares for something like this? Who in their right mind would want to live like this? I

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have pain from head to toe, on the inside of my body and the outside of my body. I don't get more than three hours of sleep at a time.

The medication Gabapentin makes me slow and foggy and I am now obese due to medications lack of being able to move and pain.

My pain started about 24 years ago and has gotten worse not better.
The Gabapentin is barely keeping me going, my quality of life is greatly diminished, being in pain 24-7 is torture and nobody deserves to live this way. This existence of chronic pain isn't living.

I believe medical marijuana can help people like me who need relief from chronic pain. I believe it will help to improve our quality of life. I believe it will also help our loved ones who see us in chronic pain every day. Chronic pain affects all the people around us. I believe that MM would help with my pain and in doing so it would also help me to have a better quality of life.

I believe I am not the minority here, chronic pain is isolating and isolation is not healthy. This is my story; I know there are people who are worse off than I am. Why deny us the chance at a more pain free life, a better quality of life.
Thank You, Christine Nesheim

Traill County
District 20

To Whom It May Concern:

I am upset with the fact that the people of ND have passed the medical cannabis at 64% and the people on the committee to promote this took long hours to come up with the rules and regulations for this program and now the state is changing everything to see this program fail.

My sister has been diagnosed with pancreatic cancer and she was hoping that she would be able to use medical cannabis to help her fight this nasty disease.

Her husband has been fighting a heart condition along with rheumatoid arthritis for the last 4 years and the medications that the doctors have given him keep fighting each other causing his kidney's not to perform as they should causing other issues. He also was hoping that he could use medical cannabis to help with the arthritis and keep taking the heart medications.

My sister is in her late 40's and my brother in-law is in his early 50's.

I lost my mother to Alzheimer's along with my mother in-law within a few years Would have been nice if this was available to them to maybe help them.

Now you are making this an impossible venture with my sister's family who are already struggling financial and now you want them to pay outrages amounts for the cannabis along with long trips to get this. Please I am asking you to go back to the original regulations.

Please help my sister's family.

Roxanne Ficek

Manning ND 58642

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From: **NDCCA 2016** com
Subject: Re: Senate bill
Date: February 7, 2017 at 11:30 AM
To:

Thank you sir - Will print it out and bring to Bismarck - Anita

On Feb 7, 2017, at 11:29 AM, jim berg wrote:

To Whom it may concern:

This senate bill should not be passed. It does even come close to resembling the original, voter approved Measure 5. This "amendment" does not reflect the will of the people. The increased costs are an insult and slap in the face of North Dakota residents and patients.

The proposed language changes alone for what constitutes treatment medicines are ineffective for many patients. The legislature should not be taking the role of being a doctor for the medical marijuana patients here in our great state. That should be left in the realm of patient-doctor relationships. The legislature is hardly qualified to make that determination. Leave Measure 5 as it was approved by the voters.

James A. Berg

Sent from my iPad

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From: **Jake Anderson**
Subject: Bring my letter to Bismarck
Date: February 6, 2017 at 2:56 PM
To:

See below i already sent this to Mr. Bullinger at the health dept.

Sent from my LG V20, an AT&T 4G LTE smartphone

------ Original message------
From: Jake Anderson
Date: Sat, Feb 4, 2017 8:30 AM
To: jov;
Cc:
Subject:SB2344

Dear sir, I am writing you in regards to the proposed bill in the Senate to amend the compassionate care act that I, along with close to 70 percent of the North Dakota citizens, voted for. This bill completely undermines what the people of our state voted to help. I have rheumatiod arthritis and the constant steriod shots and opioid pain killers are making my life hell. This bill will limit my access to the alternative medication that may improve my quality of life and that should be unacceptable to you as a Health and Human service worker. I ask you to not support this amendment and push to implement the bill the voters agreed to in November. Thank you for taking the time to read this.

Jason Anderson
Turtle Lake, ND

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To whom it may concern:

I am a resident of district 31 and due to health issues I am no longer able to work and I'm only 37 years old.

In 2006 doctors found 9 benign tumors on my liver. We monitored and then in June 2012 my liver and spleen shut down and I was sent to Mayo in middle of the night by ambulance. Doctors in Fargo went as far as to tell my family I was dying. I spent the summer in Rochester getting stable enough for surgery to try and remove the tumors. Fall of 2012 I was finally able to get 7 of the 9 tumors removed leaving the last 2 wrapped around the main artery of the liver. When the last 2 tumors get too big I will need a transplant.

This surgery has helped my health, but I was left with nerve damage on the right side of my abdomen that causes spasms that radiate all over my body causing uncontrolled movement of arms/legs, hard to breathe, and heart palpitations. They first put me on muscle relaxers, depression and anxiety medications (I now suffer from extreme depression and anxiety due to pain and not being able to work) and dilaudid (15ml every 3 hrs). I was on high dose of dilaudid for 9 months before I was switched to fentanyl patch. Detox for my addiction, correction... my dependency since it was doctor prescribed, was HELL and I wanted to die. I begged my husband to kill me.

I have been on the patch now for 4yr and I am extremely dependent on fentanyl even though it is causing problems to my common bile duct enlarging. Right now the doctors say the positives of the fentanyl drug outweighs the negative of the growth of my common bile duct and when I have common bile duct failure we will cross that bridge then.

Life is not easy for me and many other people that may benefit from medical marijuana. I have been unemployed for years and have medical doctors who told me I am no longer able to work, but I keep getting denied for disability through the government.

So on top of pain and illness I still worry about how to help support my family because I get nowhere with SS Disability. I am told I should get off the fentanyl due to it damaging my common bile duct, but it is not possible at this time because there is/was no alternative and the positives outweigh the negatives.

But maybe now it can change. Maybe now I can be one of many that could benefit from medical marijuana. It could not only help with nerve damage pain, but also with my extreme anxiety and depression that is a struggle to even get up each day.

Please. Stop thinking we all want it for recreational use. I am probably one of the only people who have never even tried marijuana.

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If I could be there in person to beg on my knees I would. Please do not draw this out, follow the other states that have programs in place. I never know when I will go into failure again and would rather enjoy my time instead opiates controlling my life. It kills me watching the news and seeing all the fentanyl deaths in our area right now and knowing I have been on the same drugs for years.

Sincerely,
Tamara Bartz
District 31

Flasher ND. 58535

Measure 5

Dear North Dakota Lawmakers,

I am writing this letter today to voice my displeasure with the way this legislature is handling the implementation of measure five.

I don't need to rehash all the statistics, you all know that the overwhelming majority of voters want this law implemented in its original form. SB2344 Is nothing more than the state trying to set up another way to revenue generate. Twenty-five states currently have medical cannabis laws, you people are not in uncharted waters. This has been done 25 times already, you don't need two, three or four years to implement this.

Measure 5 was written to help patients get the medicine they need, the easiest and cheapest way possible. No one should have to pay the state $300 to allow them to buy an oil and pills. If I would prefer to grow my eight plants at my house since I was 40 miles away from a Compassionate Care Center, it would not cost me $300 for a whole year worth of medicine.

All you did was copy and paste the worst medical Cannabis laws in the country, which is Minnesota. Measure five was written to help sick patients, not greedy politicians. Have you researched how this is working in MN? How about the two companies that are allowed to produce Cannabis in MN, last I heard they were already 5 million dollar in the red. MN law is not patient friendly.

People of not going to accept a reworked bill, you can kick the can down the road all you want, we are not going to go away. I am a cancer survivor, until you are in that situation yourself you will never be able to comprehend the gravity of this bill. You people were elected to serve the people, not your own interests and beliefs. Thank you for your time.

In Liberty,

Mark D.Krein

Fargo ND 58104

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Marijuana Policy Project
P.O. Box 77492
Washington, DC 20013
p: (202) 462-5747 • f: (202) 232-0442
info@mpp.org • www.mpp.org

"We change laws."

February 8, 2017

SB 2344 Testimony in Opposition
Senate Human Services
Committee

Dear Chairwoman Lee and Committee members:

The Marijuana Policy Project (MPP) is the nation's largest organization of its kind, dedicated to reforming our countries' marijuana laws. In this capacity, we have analyzed the medical marijuana programs of all 28 states, plus the District of Columbia. We have worked with patients, doctors, and experts throughout the country, and over time, we have seen what makes an effective medical cannabis program, and what polices fail patients. If SB 2344 passes as written, it will not benefit patients in North Dakota.

SB 2344 forbids whole plant cannabis and other important cannabis preparations
Most alarmingly, SB 2344 would eliminate whole plant cannabis. Many patients report that the extracts do not work as effectively as the whole plant for them, and they cost far more. There are over 480 different compounds in marijuana, and many researchers believe that using the compounds together creates the necessary treatment effect.

Further, almost all the research conducted on medical cannabis has been on vaporizing or smoking whole plant cannabis, not on oils or liquids — particularly not whatever oils or liquids would be available under a North Dakota program — and we should not force patients to choose the less tested option. Patients should have access to a product that has been proven to alleviate many medical conditions.

Whole plant cannabis vaporization also gives patients the opportunity to precisely control their dosage. When cannabis is consumed this way, its' impact is felt immediately, while pills must be metabolized first, and it can take several hours before the patient feels the effects. Thus, patients can be left unsure what dosage they should take, and they can end up far more intoxicated. Furthermore, they can be too slow acting for patients with a seizure aura, or to quell nausea.

It is also vital that other forms of cannabis be allowed, including salves, edibles, and suppositories. Different patients find relief from different preparations, and the Legislature should not substitute its wishes for what voters enacted.

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Note, doctors are not permitted to offer their recommendations as to form of dosage and amount, as to do so would be a violation of their DEA licenses to prescribe controlled substances. Physicians do have a First Amendment right to recommend cannabis, but these recommendations cannot closely resemble prescriptions. Thus, patients' dose titration becomes ever more important.

SB 2344 would result in prohibitively expensive cannabis

Whole plant is the most affordable option for patients. Seriously ill people are already facing tremendous medical costs, and neither government-issued nor private medical insurance cover medical cannabis. Products synthesized from whole plant cannabis are far more expensive. This is because manufacturing liquids and pills from the plant, as SB 2344 would do, is very costly, and that expense is passed along to patients. Two states have taken this approach with their medical marijuana programs, Minnesota and New York, and both states have very low enrollment in the program and exceptionally high costs of medicine.

The Legislature must not eliminate home cultivation

The voter-approved Measure 5 already had a very limited home cultivation program — patients had to live 40 miles or farther from a dispensary in order to take advantage of this provision. It also required home inspections.

Seriously ill patients often cannot transport themselves around the state to get to dispensaries, and in geographically large and rural states like North Dakota, having access to home cultivation is incredibly important. Some are homebound and have no caregiver or have loved ones who are already overtaxed. Please leave this Measure 5 provision alone.

SB 2344 would deny younger people relief

Under SB 2344, only a very small number of pediatric specialists would be permitted to recommend medical cannabis oil for minors, and minors would not be allowed to use the type of cannabis that works best for them. There are very few such specialists in the state, and securing regular appointments with this small pool of specialists may be difficult or impossible for the parents of many of North Dakota's ill minors.

SB 2344 would only allow minors to use oils, even if salves or other forms work best for them. It also would only allow them to use cannabis with 6% THC or less, though many patients weaning off of dangerous seizure medicines need greater amounts of THC.

Further, anyone under the age of 21 would need the permission of their parents to enroll in the program. That means service members who have fought overseas and may be suffering from PTSD would need to ask the consent of his or her parents before enrolling. This is a patronizing proposal and should not be implemented. In addition, at that age, adults are not wards of parents or other guardians — and their parents may be deceased or they may have aged out of foster care.

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#14
2/8

SB 2344 would drive up create artificial shortages
SB 2344 would only allow eight dispensaries statewide and would only allow each dispensary to cultivate 1,000 plants, regardless of patient need. This is virtually guaranteed to create shortages, drive up prices, and deny patients the medicine they need. Only a few states have attempted to cap the amount of plants that can be grown, and those have seen repeated shortages and high prices. Sensible security and oversight rules are the way to address concerns about diversion, not an arbitrary cap that will harm patients.

There is no statewide cap on the number of pharmacies. Patients should not be forced to drive long distances due to a very low cap in a state that is 70,762 square miles.

Protect the will of voters
Measure 5 was passed in November by 64%, which is a higher percentage than President Trump received from North Dakota voters. If SB 2344 passes, lawmakers will be sending a message to the state's voters that they do not respect their decisions. Medical marijuana has overwhelming support nationwide, and North Dakota is no exception. SB 2344 in its current form must fail, or the will of the people is ignored.

Conclusion
This testimony has listed only a few of the many concerns we have with SB 2344. Among other issues, it would also include excessive costs for patients — up to $300 for each a patient and a caregiver — and businesses that serve them (which would recoup costs in higher prices).

Please place patients first, and show compassion for the most vulnerable population in your state. Please reject SB 2344 so that patients may use the form of cannabis that works best for them, and so that they will not be denied access to medicine due to excessive costs.

Sincerely

Maggie Ellinger-Locke
Legislative Counsel
Marijuana Policy Project

2344
#14
2/8

From: **Christine Nesheim**
Subject: Bring to Bismark
Date: February 6, 2017 at 7:31 PM
To: NDCCA 2016

My story, in 1992 I was in a car accident this is where my chronic pain began. Who would think whiplash, headaches, bulged and herniated discs along with trigger points would open up this can of worms for me...I want my healthy life back. I was 26 when this started (24 years ago) now at the age of 51 my health and pain has become worse. Since the accident I have been diagnosed with fibromyalgia, chronic fatigue syndrome, interstitial cystitis, osteoarthritis, bursitis, tendonitis, Raynaud's and more.
In 2002 after the birth of my daughter I had POP pelvic organ prolapse, my abdomen has been cut open twice doctors say my abdomen is full of scar tissue. The doctors removed my uterus, my cervix, endometriosis (endometriosis for the second time, the first time was in 2000 when they also removed a cyst the size of a pair), they tacked my diseased bladder into place, put a sling on my urethra (these two procedures failed in 2004), preformed a V-Valt birch and did my first posterior repair, I couldn't stand up straight for over four months. This is also when I was diagnosed with Interstitial cystitis a very painful bladder disease.

I've had DMSO(treatment) cocktail's put into my bladder for my diseased bladder that is filled with pin-point-bleeding ulcers. I've had four bladder hydro's and a few bladder tests. The last test I had the doctor said my bladder has shrunk to one third the size of a normal bladder. I've had an interstim implant put in around 2013 and then removed in 2015 because it started to shock me. When the doctor went to remove the implant the leads broke off inside me so now I'm stuck with the leads for forever. The interstim didn't help my diseased bladder feel better, it didn't stop the incontinence, it didn't help me sleep through the night. I have to be close to a bathroom at all times do to this painful bladder disease.

I developed IBS-c hence the first posterior repair in 2002, I had a second posterior repair in 2009, the doctor told me it was a real mess and that I was full of scar tissue. The doctor said I can not have another posterior repair because there isn't enough tissue left. He said I would end up with a colostomy bag if I messed up this second posterior repair, the doctor put me on a one time lift of 8 to 10 pounds. I also have diverticulitis, I can't win. I have to take laxatives every other day.

In 2013 I had to have surgery on my hip for bone spurs, bursitis, cleaned up the cartlidge and removed a three inch banned muscle so it doesn't rub on the Bursa Sac anymore. I had to white knuckle the recovery from this surgery and the interstim implant removal (now the hip pain is back). I have developed an allergic reaction to all opioid medication and to tramadol. I've run out of just about all medications doctors here in ND can come up with for my chronic pain . For about three years I was on a Savella and Lyrica combination with a generic Prozac, I became depressed and the medication stopped working on my pain. The doctor tried a few more things, right now I am treading water with Gabapentin. In order for Gabapentin to work for me I have to be on a high dose 3 times a day and it barely keeps me afloat. I take a medication called Elmiron for my painful bladder disease (with out Rx insurance the drug costs 715.00 per month,) I don't have that kind of money, my SSDI after I pay for my Medicare and Humanna is about 730.00 per month. I have some I.e. alimony and child support that keeps us afloat.

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#14
2/8

I have osteoarthritis in my knees, spine is deteriorated disc disease, my hands are in chronic pain with the OA and tendonitis. I never thought I would be existing like this, who prepares for something like this? Who in their right mind would want to live like this ? I have pain from head to toe, on the inside of my body and the outside of my body. I don't get more than three hours of sleep at a time.

The medication makes me slow and foggy and I am now obese due to medications lack of being able to move and pain .

My pain started about 24 years ago and has gotten worse not better.
The Gabapentin is barely keeping me going , my quality of life is greatly diminished, being in pain 24-7 is torture and nobody deserves to live this way.This existence of chronic pain isn't living.

I believe medical marijuana can help people like me who need relief from chronic pain. I believe it will help to improve our quality of life. I believe it will also help our loved ones who see us in chronic pain every day. Chronic pain affects all the people around us. I believe that MM would help with my pain and in doing so it would also help me to have a better quality of life.

I believe I am not the minority here, chronic pain is isolating and isolation is not healthy.

This is my story, I know there are people who are worse off than I am. Why deny us the chance at a more pain free life, a better quality of life.

Thank You, Christine

Traill County

2344
#14
2/8

From: **Donna**
Subject: Bismarck Bound
Date: January 15, 2017 at 10:08 PM
To: ndmedcan@gmail.com

To North Dakota Joint House and Senate Committee
My name is Donna Wacker and I am from Turtle Lake, North Dakota, District 8.
My address is
Telephone number is

I am 53 years old and have practiced as a Family Nurse Practitioner for 13 years.
The health journey I want to share concerns my 78 year old mother and she is my reason to advocate for medical cannabis. I am unable to attend the hearing as I am caring for my mom in her home. She has Parkinson's Disease and a couple of months ago had a "stiffening" episode and fell and fractured her hip. She also battles with Neurogenic Orthostatic Hypotension (a significant drop in her blood pressure when she stands, to the point of syncope or loss of consciousness). She also has battled significant stomach issues with chronic nausea and diarrhea. My mom used to weigh approximately 200 pounds, in the last year alone she has lost about 50 pounds now weighing 104 pounds, giving her no reserve for any illness. She has very little appetite and when she does eat she has to use weighted silverware to help avoid spilling as the tremors from her Parkinson's makes it difficult to eat. In the summer of 2016 she ended up in a rehab facility due to frequent falls related to her Parkinson's and low blood pressure, while there I asked her treating physician is he would try Marinol, the prescription, man-made chemical form of cannabis. He was willing. The result was her tremors became almost nonexistent, she ate everything her stomach could tolerate, and became strong enough to climb 12 steps with only stand-by assistance. It was amazing to say the least. What was disturbing was the irritation the Marinol caused her digestive system, diarrhea, abdominal cramping, and more nausea. She does not tolerate the 'traditional ' medication for Parkinson's as the bad side effects outweigh any benefit.

As a medical provider I am well aware of morbidity statistics of an elderly person with poor health and hip fractures. My 78 year old mother understands the medicinal benefits of cannabis and voted yes on Measure 5, The Compassionate Care Act. In fact just today she asked me when it would be available as she also knows her life expectancy has been cut shorter by her hip fracture and necessary surgery to fix it. I had to tell her I feared it would never be available. Having cannabis available for her would allow her to live the remainder of her life with more quality and dignity. It would decrease the muscle spasms that make it difficult for her to walk and cry during the night, it would decrease her chronic nausea allowing her to improve her diet and nutritional state, it would allow her to go out in public (with assistance) without the embarrassment she feels due to her tremors. There is enough evidence to support this and working with states that already have regulations in place would significantly decrease the cost of implementing the measure. I have followed the measure as well as information coming out of the state about cost of implementation and people's fears of being involved in running the program. I actually called the State Health Department the day after Measure 5 passed and left a voicemail stating I would be interested in working with the development, implementation, and running the program. I realize now I did not receive a response because the people's voices in our government have no intention of listening to the voice of the people.

As a life long resident of North Dakota and a compassionate healthcare provider I am disturbed that our state would think it is more important to spend money on increasing the speed limit rather then implementing a measure that the majority of the state has clearly asked for by vote and would improve the quality of life for many people. What our voted-in officials are doing appears to be delaying implementation and trying to make Measure 5 go away. Where is the peoples representation in this?

I would be happy to have further conversation regarding my thoughts, observations, and the increased quality of life my mother would have if what the people of North Dakota voted for was actually implemented. I may be reached on my cellular phone at 701-315-0183 or by email at dpwack @westriv.com.

Regards
Donna Wacker MSN, APRN, FNP-BC

Asked to resubmit - Anita Morgan

2344
#14
3/8

February 8, 2017

Jared Poe

To Chairwomen Lee and other Committee Members,

My name is Jared Poe, I'm 28 and I am a certified patient in Minnesota's Medical Cannabis Program. I am a full-time student, and an active volunteer in my community. I am living with HIV with co-infections. Without access to cannabis, completing treatment for Hepatitis C would have been a struggle. Medical cannabis offers me relief from the side effects associated HIV treatment and medications as well as the virus itself. I use cannabis daily and maintain a 4.0 GPA in school; I'm a member of my school's honor society. My quality of life has greatly improved with cannabis use. Allowing me to function as a productive citizen. Studies confirm cannabis is an effective remedy for many illnesses, with minimal side effects. Cannabis as medicine is becoming normalized as people discover its medicinal potential.

However, Minnesota's program has caused me a great financial burden, I cannot afford the amount I require for daily relief, and because the program only provides access to limited extracts, this has weakened the efficacy of my treatment with cannabis overall. I am low-income, and I, and others like me, need to be able to explore all forms of cannabis to find what form(s) of cannabis is best for my medical treatment.

I write in regards to opposition to SB 2344, a bill that would severely restrict the voter-approved North Dakota Medical Cannabis Program. In Minnesota, patients only have access to oils and other extracts; this chosen delivery method is expensive to produce (patients pay out-of-pocket), and the extracts have higher potency levels than whole-flower medicine. Many of Minnesota's patients are searching for their medicine on the illicit-market due to high costs of the available cannabis medicine and the limited manufacturers and cannabis pharmacies available (Minnesota has two manufacturers with eight locations statewide).

Minnesota's Medical Cannabis Program is in dire shape, and many are working diligently to correct its limitations. I'm concerned that the best interests for patients in North Dakota are also going to be overlooked. I urge you to allow patients to grow their own medicine, allow whole-flower as a delivery method, and provide an open market licensing system for manufacturers – in hopes of avoiding a monopoly or duopoly (as we have here in Minnesota).

A medical cannabis program should not be accessible only to those with means. I hope you will listen to patients with experience in limited medical cannabis programs.

Thank you,

/s/ Jared Poe
Jared Poe

2344
#14
2/8

To Whom It May Concern:

My husband and I voted for Measure 5 in its entirety.
We need this measure to be respected for the intent it is meant to be.

Many of us are disheartened and yes, angry when we hear that this committee wants to rewrite this measure and effectively tie our hands.

He needs more than CBD oil offers for any number of chronic illnesses.

Traditional medicine has failed him many and the ensuing side effects are intolerable.

Bill has been suffering for the last 14 years and has lost his large intestine and a portion of his small intestine to Crohn's Disease and Charcot-Marie-Tooth Disease (CMTD). With over a dozen surgeries, many medications including one shot that cost $18,000 per injection, we can see, for people who don't have insurance or even good insurance, they're swimming in doctor bills.

It has been surgery after surgery - medication after medication.

We want and need the opportunity to make health decisions for ourselves and he be allowed to discuss and legally try medical cannabis for pain and appetite.

The people have made their message known by a majority vote.
We voters will be watching closely how our representatives vote on this...very closely.

Patricia J. and Bill Wilhelm

Beulah ND 58523

SB 2344
Attach #15
2/8

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General *Washington, D.C. 20530*

February 14, 2014

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Related Financial Crimes

On August 29, 2013, the Department issued guidance (August 29 guidance) to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). The August 29 guidance reiterated the Department's commitment to enforcing the CSA consistent with Congress' determination that marijuana is a dangerous drug that serves as a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. In furtherance of that commitment, the August 29 guidance instructed Department attorneys and law enforcement to focus on the following eight priorities in enforcing the CSA against marijuana-related conduct:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

Under the August 29 guidance, whether marijuana-related conduct implicates one or more of these enforcement priorities should be the primary question in considering prosecution

under the CSA. Although the August 29 guidance was issued in response to recent marijuana legalization initiatives in certain states, it applies to all Department marijuana enforcement nationwide. The guidance, however, did not specifically address what, if any, impact it would have on certain financial crimes for which marijuana-related conduct is a predicate.

The provisions of the money laundering statutes, the unlicensed money remitter statute, and the Bank Secrecy Act (BSA) remain in effect with respect to marijuana-related conduct. Financial transactions involving proceeds generated by marijuana-related conduct can form the basis for prosecution under the money laundering statutes (18 U.S.C. §§ 1956 and 1957), the unlicensed money transmitter statute (18 U.S.C. § 1960), and the BSA. Sections 1956 and 1957 of Title 18 make it a criminal offense to engage in certain financial and monetary transactions with the proceeds of a "specified unlawful activity," including proceeds from marijuana-related violations of the CSA. Transactions by or through a money transmitting business involving funds "derived from" marijuana-related conduct can also serve as a predicate for prosecution under 18 U.S.C. § 1960. Additionally, financial institutions that conduct transactions with money generated by marijuana-related conduct could face criminal liability under the BSA for, among other things, failing to identify or report financial transactions that involved the proceeds of marijuana-related violations of the CSA. *See, e.g.,* 31 U.S.C. § 5318(g). Notably for these purposes, prosecution under these offenses based on transactions involving marijuana proceeds does not require an underlying marijuana-related conviction under federal or state law.

As noted in the August 29 guidance, the Department is committed to using its limited investigative and prosecutorial resources to address the most significant marijuana-related cases in an effective and consistent way. Investigations and prosecutions of the offenses enumerated above based upon marijuana-related activity should be subject to the same consideration and prioritization. Therefore, in determining whether to charge individuals or institutions with any of these offenses based on marijuana-related violations of the CSA, prosecutors should apply the eight enforcement priorities described in the August 29 guidance and reiterated above.[1] For example, if a financial institution or individual provides banking services to a marijuana-related business knowing that the business is diverting marijuana from a state where marijuana sales are regulated to ones where such sales are illegal under state law, or is being used by a criminal organization to conduct financial transactions for its criminal goals, such as the concealment of funds derived from other illegal activity or the use of marijuana proceeds to support other illegal activity, prosecution for violations of 18 U.S.C. §§ 1956, 1957, 1960 or the BSA might be appropriate. Similarly, if the financial institution or individual is willfully blind to such activity by, for example, failing to conduct appropriate due diligence of the customers' activities, such prosecution might be appropriate. Conversely, if a financial institution or individual offers

[1] The Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) is issuing concurrent guidance to clarify BSA expectations for financial institutions seeking to provide services to marijuana-related businesses. The FinCEN guidance addresses the filing of Suspicious Activity Reports (SAR) with respect to marijuana-related businesses, and in particular the importance of considering the eight federal enforcement priorities mentioned above, as well as state law. As discussed in FinCEN's guidance, a financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the federal enforcement priorities or violate state law, would file a "Marijuana Limited" SAR, which would include streamlined information. Conversely, a financial institution filing a SAR on a marijuana-related business it reasonably believes, based on its customer due diligence, implicates one of the federal priorities or violates state law, would be label the SAR "Marijuana Priority," and the content of the SAR would include comprehensive details in accordance with existing regulations and guidance.

services to a marijuana-related business whose activities do not implicate any of the eight priority factors, prosecution for these offenses may not be appropriate.

The August 29 guidance rested on the expectation that states that have enacted laws authorizing marijuana-related conduct will implement clear, strong and effective regulatory and enforcement systems in order to minimize the threat posed to federal enforcement priorities. Consequently, financial institutions and individuals choosing to service marijuana-related businesses that are not compliant with such state regulatory and enforcement systems, or that operate in states lacking a clear and robust regulatory scheme, are more likely to risk entanglement with conduct that implicates the eight federal enforcement priorities.[2] In addition, because financial institutions are in a position to facilitate transactions by marijuana-related businesses that could implicate one or more of the priority factors, financial institutions must continue to apply appropriate risk-based anti-money laundering policies, procedures, and controls sufficient to address the risks posed by these customers, including by conducting customer due diligence designed to identify conduct that relates to any of the eight priority factors. Moreover, as the Department's and FinCEN's guidance are designed to complement each other, it is essential that financial institutions adhere to FinCEN's guidance.[3] Prosecutors should continue to review marijuana-related prosecutions on a case-by-case basis and weigh all available information and evidence in determining whether particular conduct falls within the identified priorities.

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA, the money laundering and unlicensed money transmitter statutes, or the BSA, including the obligation of financial institutions to conduct customer due diligence. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct of a person or entity threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

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[2] For example, financial institutions should recognize that a marijuana-related business operating in a state that has not legalized marijuana would likely result in the proceeds going to a criminal organization.

[3] Under FinCEN's guidance, for instance, a marijuana-related business that is not appropriately licensed or is operating in violation of state law presents red flags that would justify the filing of a Marijuana Priority SAR.

Attach #1
2/13

Common Complaints	Justification
No Smoking for Any Consumers	Suggestion from Legislative Leadership. North Dakota has prioritized smoking cessation. Allowing marijuana consumption in combustible form is inconsistent with this priority.
Vaping	Measure • Allowed SB 2344 • Allowed
Background Checks	Measure required: 19-24-04, 19-24-07. • Designated Caregivers – no felony offense • Compassion Center Agent – no felony offense or drug related misdemeanor conviction five years prior to application. SB 2344: Designated Caregivers and Compassion Center Agents. • No felony offense • No drug related misdemeanor conviction five years prior to application
Fees for Compassion Centers	Measure: 19-24-07: • Application fee:$5,000 • License fee $25,000/two years SB 2344: 19-24-14, 19-24-15: • Application fee: $5,000 • Certification/renewal fee every two years.: ***Manufacturing Facility*** $80,000/***Dispensary*** $60,000
Fees for Cardholders	Measure: • Qualified Patient and Caregiver not specified. SB 2344: 19-24-04 • Caregivers: $200. • Qualified patient: $200.
Age of minor: 21	Measure: • No restrictions regardless of age SB 2344: • Restricts minor possession and use, including restriction to oil with less than 6% THC. Minor defined as anyone under 19 years of age.
Business Model: Non-profit	Measure: • Required not-for-profit model but required the Department to determine status. SB 2344: • Allows not-for-profit, limited liability company, or corporation.
ND Residence for CC Agents	Measure: • Required SB 2344: • Required

SB 2344
Attach #1
2/13

17.0630.02005
Title.

Prepared by the Legislative Council staff for
Senator Wardner
February 13, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 6, line 25, after the second underscored comma insert "member, manager, governor,"

Page 8, line 17, replace "twenty-one" with "nineteen"

Page 10, line 29, after "nonrefundable" insert "annual"

Page 10, line 29, after "fee" insert "of two hundred dollars"

Page 11, remove lines 1 and 2

Page 12, after line 10, insert:

"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."

Page 13, line 22, after "nonrefundable" insert "annual"

Page 13, line 22, after "fee" insert "of two hundred dollars"

Page 13, line 24, remove "The department shall establish an application fee in an amount not to"

Page 13, remove line 25

Page 15, line 1, replace "caretaker" with "caregiver"

Page 50, line 23, replace the first "cardholder" with "compassion center"

Page 50, line 23, replace the second "cardholder" with "compassion center"

Page 50, line 24, replace "cardholder" with "compassion center"

Page 50, line 26, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 29, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 31, replace "section" with "chapter"

Page 51, line 1, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 56, line 14, after "fee" insert "of five thousand dollars"

Page 56, line 15, remove ", in the amount set by the"

Page 56, line 16, remove "department, not to exceed five thousand dollars"

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#1
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Page 56, line 17, after "incorporation" insert "or articles of organization"

Page 56, line 17, after "bylaws" insert "or operating agreement"

Page 57, line 3, after "member" insert ", or of each member-manager, manager, or governor,"

Page 57, line 5, after "member" insert ", or each member-manager, manager, or governor,"

Page 57, line 8, after the first underscored comma insert "or for each of the proposed compassion center applicant's member-managers, managers, or governors,"

Page 58, line 6, after the underscored comma insert "or of the member-managers, managers, or governors,"

Page 58, line 28, remove "established by the"

Page 59, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 59, line 4, after "incorporation" insert "or articles of organization"

Page 59, line 4, after "bylaws" insert "or operating agreement,"

Page 59, line 29, remove "in an amount established by the"

Page 59, line 30, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 60, line 28, after "**Bylaws**" insert "**or operating agreement**"

Page 60, line 30, after "bylaws" insert "or operating agreement"

Page 60, line 31, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "ownership" insert "or management"

Page 61, line 2, after the second underscored comma insert "board of governors, member-managers, or managers,"

Page 63, line 20, after the second "be" insert "well"

Page 63, line 20, remove "as provided by"

Page 63, line 21, remove "rules adopted under this chapter and"

Page 69, line 11, after "member" insert ", member-manager, manager, or governor,"

Page 70, line 4, remove "established by the department in an"

Page 70, line 5, replace "amount not to exceed three" with "of two"

Page 71, line 16, replace "registration" with "registry identification"

Page 72, line 25, replace "C" with "B"

Page 73, line 2, replace "C" with "B"

Page 73, line 9, replace "C" with "B"

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#1
2/13

Page 73, line 20, remove "A compassion center must be fined up to one thousand dollars for a violation of this"

Page 73, replace lines 21 and 22 with "In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation."

Page 73, line 25, replace "C" with "B"

Page 74, line 4, replace "registration" with "registry identification"

Page 74, line 9, replace "B" with "A"

Renumber accordingly

SB 2344

Attach #2

2/13

NDLA, Intern 02 - Arendt, Ian

From: Lee, Judy E.
Sent: Monday, February 13, 2017 10:08 AM
To: Larsen, Oley L.; Anderson, Jr., Howard C.; Kreun, Curt E.; Clemens, David; Heckaman, Joan M.; Piepkorn, Merrill; NDLA, S HMS - Johnson, Marne; NDLA, Intern 02 - Arendt, Ian
Subject: Fwd: Proposal for taxing Medical Marijuana

Ian -
Would you please print this for the committee members?

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Phone: 701-282-6512
e-mail: jlee@nd.gov

Begin forwarded message:

From: Kevin Cross <
Date: February 13, 2017 at 10:00:51 AM CST
To: Judy Lee <jlee@nd.gov>, Oley Larsen <olarsen@nd.gov>, hcanderson@nd.gov, dclemens@nd.gov, jheckaman@nd.gov, ckreun@nd.gov, mpiepkorn@nd.gov
Subject: Proposal for taxing Medical Marijuana

Good Morning!

I am e-mailing today to throw out a suggestion for taxing the medical marijuana program.

I think some taxes imposed on manufacturers and or dispensaries could help the program fund itself.

For example (this would be if flower was allowed):

$10.00 per dry-weight ounce of marijuana flowers
$3.00 per dry-weight ounce of marijuana leaves/trim

If all four manufacturers were growing their full 1,000 plants and producing about 1,500lbs per year the taxes would break down like this:

4 x 1,500lbs = 6,000lbs annually

6,000lbs x 16oz = 96,000oz annually

96,000 x $10.00 = $960,000
96,000 x $3.00 = $288,000 (about 1oz of leaves/trim are created per each ounce of flower)

Total = **$1,248,000**

In addition an excise tax could be charged at the dispensary. If you added a 10% excise tax based on the numbers above:

96,000oz x 28.35 = 2,721,600 grams

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2,721,600 x $14.00 = $38,102,400.00

$38,102,400 x 10% = **$3,810,240.00**

This is based just on 96,000oz of flower as the 96,000oz of leaves/trim would be extracted to become oils/concentrates so there would be additional revenue here, but with so many different extraction methods it is much more difficult to quantify how much additional revenue would come from the leaves/trim. If I had to guess I would say roughly one third of the flower taxes.

Total Tax Revenue Annually = $1,248,000 + $3,810,240 = **$5,058,240**

You can scale accordingly for different levels of production from the manufacturers, this scenario is based on maximum production with 1,000 plants per manufacturer.

If there is any way that I can help with amendments or answer any questions please don't hesitate to contact me. Have a great week!

Cheers!

Kevin Cross
Retail Account Manager

SB 2344
Attach #3
2/13

NDLA, Intern 02 - Arendt, Ian

From: Lee, Judy E.
Sent: Monday, February 13, 2017 2:49 PM
To: NDLA, Intern 02 - Arendt, Ian
Subject: Fwd: SB 2344 a bigger issue From Joan Lee

Please print for the committee

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Phone: 701-282-6512
e-mail: jlee@nd.gov

Begin forwarded message:

From: Joan and Gary Lee <[redacted]>
Date: February 12, 2017 at 8:49:25 PM CST
To: "Lee, Judy E." <jlee@nd.gov>
Subject: SB 2344 a bigger issue From Joan Lee

Senator Judy Lee,

Thank you for your response. A bigger issue:

I was very disappointed to hear Senator Wardner say he thinks he has come to a resolution with Measure 5 supporters: to allow smoking of Med Marijuana with approval from their physician.

Some people are only interested in marijuana for medicinal purposes. However, behind them are people who want to advance approval for recreational use as well. The Legislature should be wary of their motives. I think MN is much wiser—in that their marijuana law doesn't permit smoking.

Drawbacks to smoking:

1) What is to prevent a physician from signing a permit as easiy as they pass out handicap parking permits? Many patients will likely be chronic users over a long period of time: for example young to middle age PTSD patients. I've read that smoking M. has 5X the tar exposure compared to cigarettes.

2) Our state is grappling with behavioral health issues. If cigarette smoking is viewed as a gateway drug—what about Marijuana? What protections are there that children/others won't be secondarily exposed to med. marijuana smoke?

3) Smoking marijuana may be more easily abused than other forms: Available on the black market; The woman at the hearing who bought Marijuana for her daughter suffering from post-chemo nausea sat down and smoked it with her!

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4) The same woman at the hearing was quoted in the newspaper: "what difference does it make what way it gets into the body?" My question exactly! MN's MED Marji. Law does not include smoking. They do approve patches for transdermal admin. which could be an option for her daughter. I questioned her after she spoke at the hearing. She said her daughter had not tried any other method of administration.

5) Would black market purchase of marijuana be protected by the medical marj. user if they had registration card? Seems like it could be a "get out of jail free" card. (Could it be used to protect one's friends from possession?)

6) Measure 5 supporters say vets will only want smoking for PTSD treatment. I understand therapy dogs and helping other vets are other ways some are finding therapeutic. If someone truly needs it for medical reasons, why shouldn't other methods of administration be acceptable (if given a chance to work) that are more protective of the public?

* * 2344 offers the presumption of innocence to the card bearer in possession of marijuana. That is a pretty good reason for the supporters to want the amendment to be passed. Please don't give up the bargaining power too easy.

Thank you for your consideration.

Joan Lee

On Feb 8, 2017, at 9:20 PM, Lee, Judy E. <jlee@nd.gov> wrote:

Joan –
Here is the answer to the question that you brought up. I think it takes care of it.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

From: Kramer, Samantha E.
Sent: Wednesday, February 8, 2017 4:44 PM
To: Lee, Judy E. <jlee@nd.gov>
Subject: SB 2344

Hi Senator Lee,

I just spoke with Jenn regarding your question about a possible conflict in the language in subsection 1 at the bottom of page 54. She provided me with the following information:

1. Subsection 2 at the top of page 55 provides that eight compassion centers will have the sole purpose of operating as a dispensary and eight will have the sole purpose of operating as a manufacturing facility.
2. A dispensary and manufacturing facility are specifically defined to either cultivate or dispense in the definitions section on pages 8 and 9.
3. On page 61, section 20 of the bill, subsection 3 provides that a manufacturing facility may not dispense marijuana, except to a dispensary. That section goes on to clarify who a dispensary may dispense to.

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Jenn also said the state department of health will implement rules to support that interpretation.

I trust that answers the question, please let me know if I can be of further assistance.

Samantha

Samantha E. Kramer
Counsel
Legislative Council
600 East Boulevard Ave
Bismarck, ND 58505
(701)328-2916
sekramer@nd.gov

SB 2344
Attach
#1
2/15

17.0630.02006
Title.

Prepared by the Legislative Council staff for
Senate Human Services Committee
February 14, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 6, line 25, after the second underscored comma insert "member, manager, governor,"

Page 7, line 11, after the underscored semicolon insert "and"

Page 7, line 21, remove "; and"

Page 7, remove line 22

Page 7, line 23, remove "the department"

Page 8, line 17, replace "twenty-one" with "nineteen"

Page 8, line 29, remove "pediatric neurologist, pediatric gastroenterologist, pediatric"

Page 8, line 30, replace "oncologist, or pediatric palliative care specialist" with "pediatrician"

Page 10, line 29, after "nonrefundable" insert "annual"

Page 10, line 29, after "fee" insert "of two hundred dollars"

Page 11, remove lines 1 and 2

Page 12, after line 10, insert:

"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."

Page 13, line 22, after "nonrefundable" insert "annual"

Page 13, line 22, after "fee" insert "of two hundred dollars"

Page 13, line 24, remove "The department shall establish an application fee in an amount not to"

Page 13, remove line 25

Page 15, line 1, replace "caretaker" with "caregiver"

Page 50, line 23, replace the first "cardholder" with "compassion center"

Page 50, line 23, replace the second "cardholder" with "compassion center"

Page 50, line 24, replace "cardholder" with "compassion center"

Page 50, line 26, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 29, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

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Page 50, line 31, replace "section" with "chapter"

Page 51, line 1, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 53, line 15, remove "**Debilitating**"

Page 53, line 16, replace "**medical condition - Petition**" with "**Registry identification cards**"

Page 54, replace lines 1 through 7 with:

"1. Registry identification cards must contain:

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. The date of issuance and expiration date;

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

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

g. A photograph of the cardholder; and

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

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

3. If a physician states in 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."

Page 56, line 14, after "fee" insert "of five thousand dollars"

Page 56, line 15, remove ", in the amount set by the"

Page 56, line 16, remove "department, not to exceed five thousand dollars"

Page 56, line 17, after "incorporation" insert "or articles of organization"

Page 56, line 17, after "bylaws" insert "or operating agreement"

Page 57, line 3, after "member" insert ", or of each member-manager, manager, or governor,"

Page 57, line 5, after "member" insert ", or each member-manager, manager, or governor,"

Page 57, line 8, after the first underscored comma insert "or for each of the proposed compassion center applicant's member-managers, managers, or governors,"

Page 58, line 6, after the underscored comma insert "or of the member-managers, managers, or governors,"

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2/15

Page 58, line 28, remove "established by the"

Page 58, line 29, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 59, line 4, after "incorporation" insert "or articles of organization"

Page 59, line 4, after "bylaws" insert "or operating agreement,"

Page 59, line 29, remove "in an amount established by the"

Page 59, line 30, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 60, line 28, after "**Bylaws**" insert "**or operating agreement**"

Page 60, line 30, after "bylaws" insert "or operating agreement"

Page 60, line 31, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "ownership" insert "or management"

Page 61, line 2, after the second underscored comma insert "board of governors, member-managers, or managers,"

Page 63, line 20, after the second "be" insert "well"

Page 63, line 20, remove "as provided by"

Page 63, line 21, remove "rules adopted under this chapter and"

Page 69, line 11, after "member" insert ", member-manager, manager, or governor,"

Page 70, line 4, remove "established by the department in an"

Page 70, line 5, replace "amount not to exceed three" with "of two"

Page 71, line 16, replace "registration" with "registry identification"

Page 71, after line 25, insert:

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

Page 72, line 25, replace "C" with "B"

Page 73, line 2, replace "C" with "B"

Page 73, line 9, replace "C" with "B"

Page 73, line 20, remove "A compassion center must be fined up to one thousand dollars for a violation of this"

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#1
2/15

Page 73, replace lines 21 and 22 with "In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation."

Page 73, line 25, replace "C" with "B"

Page 73, line 30, replace "C" with "B"

Page 74, line 4, replace "registration" with "registry identification"

Page 74, line 9, replace "B" with "A"

Page 76, line 27, remove "child"

Page 78, replace lines 5 through 22 with:

"**19-24-35. Rules.**

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter.

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

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

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

Page 81, remove lines 1 through 16

Page 81, line 17, replace "**19-24-41**" with "**19-24-40**"

Page 81, replace lines 26 through 30 with:

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

19-24-41. Funding.

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

Renumber accordingly

SB2344
Attach
#2
2/15

17.0630.02007
Title.

Prepared by the Legislative Council staff for
Senator O. Larsen
February 14, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 9, line 12, after "oil" insert ", a hash oil"

Renumber accordingly

SB 2344
Attach
#3
2/15

NDLA, S HMS - Johnson, Marne

[redacted]
Sent: Lee, Judy E.
Wednesday, February 15, 2017 12:34 PM
To: -Grp-NDLA Senate Human Services; NDLA, S HMS - Johnson, Marne; NDLA, Intern 02 - Arendt, Ian
Subject: FW: SB2344

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
home phone: 701-282-6512
e-mail: jlee@nd.gov

-----Original Message-----
From: [redacted]
Sent: Wednesday, February 15, 2017 9:05 AM
To: Lee, Judy E. <jlee@nd.gov>
Subject: SB2344

***** CAUTION: This email originated from an outside source. Do not click links or open attachments unless you know they are safe. *****

[redacted] Senator Lee,
I listened to some of the testimony to SB 2344 last week and know that there is going to be significant pressure to allow "smoking". I have included a short piece of information below from the American Lung Association for your reference.

Smoking marijuana clearly damages the human lung, and regular use leads to chronic bronchitis and can cause an immune-compromised person to be more susceptible to lung infections. No one should be exposed to secondhand marijuana smoke. Due to the risks it poses to lung health, the American Lung Association strongly cautions the public against smoking marijuana as well as tobacco products. More research is needed into the effects of marijuana on health, especially lung health. Patients considering using marijuana for medicinal purposes should make this decision in consultation with their doctor, and consider means of administration other than smoking. American Lung Association

Medical marijuana reminds me of what happened with tobacco. This is clearly a product that if used "properly" (smoked) causes harm. It is clear when the FDA will not approve its use that inadequate research exists to show a benefit vs. risk. I would ask that you support SB2344 amendments to not include smoking as an alternative. (I really don't think people should be allowed to vape it either).
A big part of tobacco prevention activities focused on "de-normalizing" smoking. This is one way we prevented kids from starting. Let's not normalize marijuana use by allowing our youth to see it being smoked.
Across the nation, as we have legalized medical marijuana, we have seen our youth use increase. Let's work to prevent that as much as we can. I despise walking through cigarette smoke, and I would really be unhappy to have to hold my breath as I walk into a building so I don't breathe in marijuana.
[redacted] do not allow smoking of marijuana, and consider not allowing vaping as well.
Thank you,
Wanda Kratochvil, RN

SB2344
#1
2/16

17.0630.02008
Title.

Prepared by the Legislative Council staff for
Senator Heckaman
February 16, 2017

PROPOSED AMENDMENTS TO SENATE BILL NO. 2344

Page 6, line 25, after the second underscored comma insert "member, manager, governor,"

Page 7, line 11, after the underscored semicolon insert "and"

Page 7, line 21, remove "; and"

Page 7, remove line 22

Page 7, line 23, remove "the department"

Page 8, line 17, replace "twenty-one" with "nineteen"

Page 8, line 30, after "specialist" insert "or must be a pediatrician working in consultation with one of these pediatric specialists"

Page 9, line 12, after the second "marijuana" insert "or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form"

Page 9, line 13, replace "the dried leaves or flowers of the plant" with "marijuana infused food"

Page 9, line 21, after "of" insert "useable"

Page 9, line 22, after the underscored period insert "If the physician authorizes the use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, the written certification must include an attestation in the physician's professional opinion no other form of usable marijuana would be effective in providing the patient therapeutic or palliative benefits."

Page 10, line 29, after "nonrefundable" insert "annual"

Page 10, line 29, after "fee" insert "of two hundred dollars"

Page 11, remove lines 1 and 2

Page 11, line 15, remove "and"

Page 11, line 16, after "(7)" insert "If the physician authorizes the patient to use the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, attestation in the physician's professional opinion no other form of usable marijuana will be effective in providing the patient therapeutic or palliative benefits; and

(8)"

Page 12, after line 10, insert:

"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."

Page 13, line 22, after "nonrefundable" insert "annual"

Page 13, line 22, after "fee" insert "of two hundred dollars"

Page 13, line 24, remove "The department shall establish an application fee in an amount not to"

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Page 50, line 24, replace "cardholder" with "compassion center"

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Page 50, line 29, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 50, line 31, replace "section" with "chapter"

Page 51, line 1, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 53, line 15, remove "**Debilitating**"

Page 53, line 16, replace "**medical condition - Petition**" with "**Registry identification cards**"

Page 54, replace lines 1 through 7 with:

"1. Registry identification cards must contain:

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 the dried leaves or flowers of the plant of the genus cannabis;

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, a registry identification card expiration date must be one year after the date of issuance.

3. If a physician states in 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."

Page 56, line 14, after "fee" insert "of five thousand dollars"

Page 56, line 15, remove ", in the amount set by the"

Page 56, line 16, remove "department, not to exceed five thousand dollars"

Page 56, line 17, after "incorporation" insert "or articles of organization"

Page 56, line 17, after "bylaws" insert "or operating agreement"

Page 57, line 3, after "member" insert ", or of each member-manager, manager, or governor,"

Page 57, line 5, after "member" insert ", or each member-manager, manager, or governor,"

Page 57, line 8, after the first underscored comma insert "or for each of the proposed compassion center applicant's member-managers, managers, or governors,"

Page 58, line 6, after the underscored comma insert "or of the member-managers, managers, or governors,"

Page 58, line 28, remove "established by the"

Page 58, line 29, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 59, line 4, after "incorporation" insert "or articles of organization"

Page 59, line 4, after "bylaws" insert "or operating agreement,"

Page 59, line 29, remove "in an amount established by the"

Page 59, line 30, replace "department, not to exceed one hundred thousand dollars" with "of sixty thousand dollars for a dispensary and eighty thousand dollars for a manufacturing facility"

Page 60, line 28, after "**Bylaws**" insert "**or operating agreement**"

Page 60, line 30, after "bylaws" insert "or operating agreement"

Page 60, line 31, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "bylaws" insert "or operating agreement"

Page 61, line 1, after "ownership" insert "or management"

Page 61, line 2, after the second underscored comma insert "board of governors, member-managers, or managers,"

Page 62, after line 6, insert:

"c. May not dispense to a registered qualifying patient or registered 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 useable marijuana."

Page 63, line 20, after the second "be" insert "well"

Page 63, line 20, remove "as provided by"

Page 63, line 21, remove "rules adopted under this chapter and"

Page 69, line 11, after "member" insert ", member-manager, manager, or governor,"

Page 70, line 4, remove "established by the department in an"

Page 70, line 5, replace "amount not to exceed three" with "of two"

Page 71, line 16, replace "registration" with "registry identification"

Page 71, after line 25, insert:

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

Page 72, line 25, replace "C" with "B"

Page 73, line 2, replace "C" with "B"

Page 73, line 9, replace "C" with "B"

Page 73, line 20, remove "A compassion center must be fined up to one thousand dollars for a violation of this"

Page 73, replace lines 21 and 22 with "In addition to any other penalty applicable in law, if a compassion center violates this chapter the department may fine the compassion center up to one thousand dollars for each violation."

Page 73, line 25, replace "C" with "B"

Page 73, line 30, replace "C" with "B"

Page 74, line 4, replace "registration" with "registry identification"

Page 74, line 9, replace "B" with "A"

Page 76, line 26, replace "Vaporizing" with "Using a combustible delivery form of usable marijuana or vaporizing"

Page 76, line 26, after "the" insert "smoke or"

Page 76, line 27, remove "nonpatient"

Page 76, line 27, remove "child"

Page 78, replace lines 5 through 22 with:

"**19-24-35. Rules.**

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter.

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

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

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

Page 81, remove lines 1 through 16

Page 81, line 17, replace "**19-24-41**" with "**19-24-40**"

Page 81, replace lines 26 through 30 with:

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

19-24-41. Funding.

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

Renumber accordingly

SB 2344
#2
2/16

"Allowable amount of usable marijuana for medical use" means the amount usable marijuana an individual may purchase for medical use in a thirty day period or have in the individual's possession at any time. A registered qualifying patient may not purchase or have purchased by a registered caregiver more than two and one-half ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in a thirty-day period and may not possess more than three ounces [85.05 grams] of dried leaves or flowers of the plant of genus cannabis at any time. A registered qualifying patient may not purchase or have purchased by a registered caregiver more than ten grams of liquid, including oil, or pill with a maximum delta-9-tetrahydrocannabinoil concentration of thirty percent in a thirty-day period and may not possess more than fifteen grams of liquid, including oil, or a pill with a maximum delta-9-tetrahydrocannabinoil concentration of thirty percent at any time.

SB 2344
2-21-17
#1

Testimony
Appropriations Committee
Senate Bill 2344
Tuesday, February 21, 2017
North Dakota Department of Health

Good morning, Chairman Holmberg and members of the Appropriations Committee. My name is Arvy Smith, and I am the Deputy State Health Officer of the North Dakota Department of Health (DoH). I am here to provide information regarding the fiscal note for Senate Bill 2344 regarding a medical marijuana program in North Dakota.

In summary the fiscal note for SB 2344 shows the following:

DoH	**2017-19**	**2019-21**
Expenses	2,390,165	2,940,081
Revenue	1,307,500	2,940,081
General Fund App Needed	1,082,665	0
Attorney General		
Expenses	162,085	346,516
Revenue	0	0
General Fund App Needed	162,085	346,516

In the 2017-19 biennium, there won't be two years of revenue and there will be some start-up costs so one-time general funding of $1,082,665 is needed. This is based on 12 FTE and associated operating costs. By the 2019-21 biennium, the revenue must be sufficient to cover all costs so the general fund need is $0 for the DoH. When fully operational we estimate the need for 15 FTE.

The cost for the Attorney General is to conduct the criminal background checks. While the designated caregivers and compassion centers or the agents must pay for the background checks, those fees are deposited directly to the general fund, not to the Attorney General's Office.

The fiscal note also shows that revenue to the general fund and the state aid distribution fund is estimated at $1,700,000 in the 2017-19 biennium and $3,400,000 in the 2019-21 biennium (91.3% to the general fund and 8.7% to the state aid distribution fund). The Tax Department is unable to calculate the amount of income tax that will be generated as a result of this legislation.

The DoH appropriation bill, SB 2004 contains an appropriation of $1,691,376 from the general fund and $4,525,508 for a total of $6,216,884 and 13 FTE. I am not sure of the status of an appropriation for the Attorney General's Office.

The fiscal note is significantly lower than the original fiscal note for the measure that passed and lower than what was included in the executive budget for two reasons. First, in looking at other states' programs we learned that we can obtain the management information system at a much lower cost than we first expected. Second, SB 2344 eliminates the ability of qualifying patients and designated caregivers to grow their own marijuana for medical use. In estimating the number of potential qualifying patients and caregivers, we noted from other states' information that those that did not allow individuals to grow their own marijuana had lower numbers of patients and caregivers. This fiscal note revises the numbers down to 3,800 qualifying patients and 1,900 designated caregivers each year, reducing the number of criminal background checks that need to be done. This also greatly reduces the amount of regulation by the DoH, the attorney General's Office and local law enforcement. It is important to note that if the ability of caregivers and patients to grow their own is reinstated, costs will increase significantly for all three entities.

The assumptions used to calculate the fiscal note for each biennium are included in the fiscal note. It is very difficult to estimate the numbers of qualified patients and designated caregivers that will pursue. Looking at other states, some were as low as .6 per 1,000 population and one was as high as 15.7 per 1,000 population. It appeared that those that allowed patients and caregivers to grow their own had higher numbers of registrants. Registrations are lower where the number of conditions covered and the forms of use are significantly restricted. Based on this information, we assumed 5 qualifying patients per 1,000 population, and assumed that half of the qualifying patients would have a designated caregiver resulting in 3,800 qualifying patients and 1,900 designated caregivers each year. The fiscal note assumed a $200 per year registration fee for qualifying patients, designated caregivers and compassion center agents, $80,000 per two years registration fee for manufacturing facilities and $60,000 per two years registration fee for dispensaries.

This concludes my testimony. I am happy to answer any questions you may have.

Att. 1 3/21/17
SB2344

HOUSE HUMAN SERVICES COMMITTEE
SB 2344
SENATOR RICH WARDNER

Chair Weisz and members of the House Human Services Committee. My name is Rich Wardner and I am from Dickinson and serve District # 37 in the Senate. I will be giving some opening remarks on SB 2344 and then Jennifer Clark from Legislative Council will go through SB 2344 and explain the details of the **North Dakota Compassionate Care Act**.

The Department of Health and the Office of the Attorney General collaborated to make the necessary changes to the initiated measure. The four sponsors met with the Department of Health and went over the proposed legislation and were in agreement with the bill before final drafting. The main objective was to insure that the voters were going to get what they voted for; **medical marijuana**.

*We are committed to doing this right!

1. The Department of Health has to be able to administer, regulate and enforce the program.
2. The Department of Health needs a revenue stream to fund supervision of the program.
3. Patients who need medical marijuana will have access to it.
4. We need to ensure the product is developed and distributed safely and securely.
5. Sale and delivery methods of medical marijuana will be restricted to prevent its recreational use.

The U.S. Department of Justice has issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substance Act. Several states have enacted laws relating to the use of marijuana for medical purposes and the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government.

* Preventing the distribution of marijuana to minors.
* Preventing the revenue from the sale of marijuana from going to criminal enterprises.
* Preventing the state-authorized marijuana activity from being used as a cover or pretext for other illegal drugs.
* Preventing violence and the use of firearms in the cultivation and distribution of marijuana.
* Preventing drugged driving and exacerbation of other adverse public health consequences associated with marijuana use.
* Preventing marijuana possession or use on federal property.

The major changes to the proposed legislation:

1. Usable medical marijuana has been opened up to more ways to use. Smoking is allowed with a Doctors ok. Children are restricted to the use of pediatric medical marijuana.
2. The State is limiting the number of "compassion centers" that can grow and distribute medical marijuana, these entities sharing no common ownership.
    - 4 manufacturing facilities (grow only)
    - 8 dispensaries

    This will allow for easier, more cost-efficient regulation without limiting access to those in need.
    * Designated caregivers can assist with buying and delivering medical marijuana to patients who need help accessing these compassion centers.
    * The Department of Health is allowed to add additional dispensaries if this amount is not sufficient for patients who need help accessing these compassion centers

3. The option for persons to cultivate their own marijuana plants in-house if they lived more than forty miles from a compassion center was removed.
    * This provision would have been costly and time-consuming for law enforcement to enforce.
    * This provision would have made it impossible to ensure consistent quality and potency.

Changes were made for three reasons:

1. Corrections/clarifications to language
    - The language on the ballot was piecemeal from the laws of different states and required revisions for clarification and to better align with the NDCC.
    - By leaving rules to the discretion of the DoH rather than putting them in statute, we can ensure greater cost-effectiveness and efficiency in government.
    - The bill adds important decriminalization language that the initiated measure left out: If a patient is using medical marijuana legally, we need to ensure that she will not be charged with a criminal violation.
2. Desire for increased safety
    - We want the medical marijuana available to be carefully regulated as to potency and quality so that patients are ingesting a safe product.
    - The bill includes special protections for children.
        - It limits the forms available to children to pediatric medical marijuana oil, which includes < 6% THC.
        - It takes into account the importance of coordination with pediatricians and parental involvement.

3. Efficiency and cost-effectiveness of regulation
    - Removes non-profit status requirement for compassion centers.
    - Sets certification/renewal fee every two years: **Manufacturing Facility at $80,000** and **Dispensary at $60,000**.
    - **Qualified patient: $200** and **Caregivers: $200** annual fee
    - The restrictions to the number of compassion care centers will increase efficiency and cost-effectiveness.

    The goal is to give the North Dakota Health Department the tools to administer, regulate and enforce the North Dakota Compassionate Care Act in a safe and effective manner and provide a safe quality product for those qualified patients that need medical marijuana.

SB 2344
3-21-17
Att. 2

PRESCRIBING:

If a physician issued a prescription he or she would lose their DEA License to prescribe medicine because it is a Schedule I federally illegal drug. A physician can issue a "Written certification" for marijuana. The FDA has not approved marijuana as a safe and effective drug for any indication.

A very small portion of physicians have stated that they would issue "written certifications" for medicinal marijuana.

MEASURE 5	**SB 2344**
"Written certification" means a document dated and signed by a physician, stating that in the physician's opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall be made only in the course of a bona fide physician-patient relationship where the qualifying patient is under the physician's care for the qualifying patient's primary care or for the qualifying patient's debilitating condition after the physician has completed an assessment of the qualifying patient's medical history and current medical condition. The bona fide physician-patient relationship may not be limited to authorization for the patient to use medical marijuana or consultation for that purpose. The written certification shall specify the qualifying patient's debilitating medical condition.	Written certification" means a form established by the department which is executed, dated, and signed by a physician within ninety calendar days of the date of application, stating that in the physician'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 debilitating medical condition. A written certification may not be made except in the course of a bona fide physician-patient relationship.
"Physician" means a properly licensed physician in the state of North Dakota. If the qualifying patient's debilitating medical condition is posttraumatic stress disorder, the physician must also be a licensed psychiatrist.	"Physician" means a physician licensed to practice medicine in the state of North Dakota who has the authority to prescribe drugs to humans. If the qualifying patient's debilitating medical condition is posttraumatic stress disorder, the physician must be a licensed psychiatrist. If the qualifying patient is younger than eighteen years of age, the physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist, or pediatric palliative care specialist

7. "Debilitating medical condition" means one or more of the following: a. Cancer and its treatments; b. Positive status for human immunodeficiency virus (HIV); c. Acquired immune deficiency syndrome (AIDS); d. Decompensated cirrhosis (hepatitis C); e. Amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease); f. Posttraumatic stress disorder (PTSD); g. Agitation of Alzheimer's disease, dementia, or the treatment of these conditions; h. Crohn's disease or fibromyalgia; i. 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; j. Glaucoma; k. Epilepsy; I. A chronic or debilitating disease medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe 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; intractable nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; m. Any other medical condition or its treatment added by the North Dakota department of health.	7. "Debilitating medical condition" means one or more 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 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; and n. Any other medical condition or treatment for such condition which is identified by the department.

Is it a cash only business?

It is not in the law or measure initiative that it needs to be a cash only business. The State of North Dakota is not able to regulate if it is a "cash only" business. The bill has taken away the nonprofit status, but the businesses are able to put their money wherever they choose, if they can find a bank that will accept their business.

"U.S. Department of Justice Deputy Attorney General James M. Cole issued a memorandum (the "Cole Memo") to all United States Attorneys providing updated guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substance Act.

The decision to open, close, or refuse any particular account or relationship should be made by each financial institution based on a number of factors specific to that institution. These factors may include its particular business objectives, an evaluation of the risks associated with offering a particular product or service, and its capacity to manage those risks effectively. Thorough customer due diligence is a critical aspect of making this assessment.

In assessing the risk of providing services to a marijuana-related business, a financial institution should conduct customer due diligence that includes:

(i) verifying with the appropriate state authorities whether the business is duly licensed and registered;
(ii) reviewing the license application (and related documentation) submitted by the business for obtaining a state license to operate its marijuana-related business;
(iii) requesting from state licensing and enforcement authorities available information about the business and related parties;
(iv) developing an understanding of the normal and expected activity for the business, including the types of products to be sold and the type of customers to be served (e.g., medical versus recreational customers);
(v) ongoing monitoring of publicly available sources for adverse information about the business and related parties;
(vi) ongoing monitoring for suspicious activity, including for any of the red flags described in this guidance; and
(vii) refreshing information obtained as part of customer due diligence on a periodic basis and commensurate with the risk. With respect to information regarding state licensure obtained in connection with such customer due diligence, a financial institution may reasonably rely on the accuracy of information provided by state licensing authorities, where states make such information available.

A financial institution providing financial services to a marijuana-related business that it reasonably believes, based on its customer due diligence, does not implicate one of the Cole Memo priorities or violate state law should file a "Marijuana Limited" SAR. The content of this SAR should be limited to the following information:

(i) identifying information of the subject and related parties;
(ii) addresses of the subject and related parties;
(iii) the fact that the filing institution is filing the SAR solely because the subject is engaged in a marijuana-related business; and
(iv) the fact that no additional suspicious activity has been identified. Financial institutions should use the term "MARIJUANA LIMITED" in the narrative section."

Excerpts from **FIN-2014-G001**

The health department will only collect registration fees in cash or personal check. They are able to put these fees in the Bank of North Dakota and it is not an illegal business activity.

Insurance:

Medicinal Marijuana is not covered by insurance for two reasons

1. *The FDA has not approved marijuana as a safe and effective drug for any indication.*

2. *Marijuana is classified as a Schedule I controlled substance under the Controlled Substances Act, which puts it in the same category as the most dangerous drugs out there*

The Deputy Insurance Commissioner does not believe there will be any effects on the insurance business with the implementation of this bill. There is no regulation of the insurance industry included in this bill because it is not covered by insurance.

What could the US Attorney General do?

The US Attorney General's Office has not enforced the federal law outlawing marijuana if the state complies with a set of standards. (The Cole Memo)

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

The ballot initiative didn't meet these standards, so therefore this bill is necessary because it must be passed in order to comply with these standards.

The US Attorney General still has the authority to outlaw dispensing marijuana at any time.

Direct Language of the ballot measure:

Initiated Statutory Measure No. 5
This initiated measure would add a new chapter to Title 19 of the North Dakota Century Code creating an Act which provides for the medical use of marijuana for defined medical conditions, such as cancer, AIDS, hepatitis C, ALS, glaucoma, and epilepsy. To participate in the program, the Act would provide for identification cards and certificates of registration which would be issued by the Department of Health for patients, caregivers, and qualified facilities, if all requirements are met. The Act would create provisions for monitoring, inventorying, dispensing, cultivating and growing marijuana to be regulated and enforced by the Department of Health. A qualified patient could be dispensed up to three ounces of usable marijuana, and could grow marijuana if his or her home is located more than forty miles from the nearest registered facility. For violations, the Act would authorize the Department of Health to provide for corrective action, suspension, revocation, appeal, hearings, and referral for criminal prosecution. The Act would require the Department of Health to submit an annual report to the legislature regarding program statistics.
YES – means you approve the measure summarized above.
NO – means you reject the measure summarized above

House Human Services
SB 2344
Senator Judy Lee

att. 3
3-21-17

Scratch Pad for: SB 2344

SB 2344 is the bill which will establish a program for the growing, manufacturing, and distribution of medical marijuana as supported by the majority of voters in an initiated measure in November 2016. The overstruck language is from the initiated measure.

There are, beginning on page 5, definitions and requirements for the amount of each deliverable form of marijuana,. A patient or caregiver may not purchase more than 2 1/2 ounces of dried leaves or flowers of the plant in a combustible delivery form in a 30-day period and may not possess more than 3 ounces at any time. A registered patient may not purchase or have a caregiver purchase more than 10 grams of liquid, including oil, or pills with a maximum delta-9-tetrahydrocannabinoil or THC concentration of 30% in a 30 day period or more than 15 grams of liquid, including oil or pill, with a maximum THC concentration of 30% at any time. The manufacturing agent must test and verify dosage.

There must be a bona-fide physician/patient relationship with a face-to-face assessment and with continued contact for primary medical care for the debilitating medical condition that qualifies the patient for medical marijuana use.

Definitions follow, including "compassion center" as the term for a facility which either grows and manufactures the product or one which dispenses. The same entity cannot do both.

On page 7 are listed the medical conditions which will be considered as causing symptoms for which medical marijuana may provide relief.

On page 8 there are further definitions, including the "enclosed, locked facility" in which the product is to be stored.

Minor means anyone under the age of 19, to exclude exposure to high school students.

Different dosages are specified for pediatric use. The products can only be used by children, if recommended by a pediatric neurologist, pediatric gastroenterologist, pediatric oncologist, or pediatric palliative care specialist, or by a pediatrician in consultation with one of those specialists.

Registry identification card is the document issued by the Dept. of Health which identifies an individual as a registered qdualifying patient, designated caregiver, or compassion center agent.

Usable marijuana includes dried leaves or flowers in a combustible delivery form. The physician must attest that a combustible form is the only delivery system that can deliver relief to the patient.

Marijuana-infused food is banned.

The registry identification card is issued after a $200 application fee is paid and the application is approved. The annual renewal is also $200. If the physician says that the patient needs the product for less than one year, the registry ID card will expire at the time the MD stipulates. Details of the card are listed.
IF the patient is a minor, the application fee can be waived by the Dept. of Health so that one fee is paid for the patient and caregiver with whom the patient lives.

Section 4 has nearly identical requirements for the issuing of a registry ID card to a caregiver as for a patient. Also required is a criminal background check and no drug related misdemeanor offenses within the preceding 5 years. Someone with a felony offense cannot be a designated caregiver. A caregiver can only care for 5 patients.

Conditions for verification and renewal are spelled out in Section 5 & 6. Section 7 on page 42 says that it is not transferable.

Section 8 on page 42 states that a patient or caregiver may voluntarily withdraw from the program and how to do it.

Section 9, titled on page 42 and discussed on pages 51 and following, provides details for eligibility and compliance. The Dept. of Health can conduct interviews and may enter the premises of a card holder for

purposes of interviewing with 24 hours' notice.
Onsite assessments of a compassion center can be done without notice. Violators can be referred to state or local law enforcement. Failure to comply can lead to sanctions including suspension, revocation, nonrenewal, or denial of registration.

Details of referral to law enforcement are shown on page 52.

Section 10 provides requirements for notification of changes. Sections 11 lists requirements for information on registry ID cards.

Section 12 beginning on page 55 deals with compassion centers and has details about cultivation, manufacturing, and dispensing marijuana products. Four cultivation and manufacturing centers and 8 dispensaries are permitted in 2344, although the Dept. of Health can permit additional dispensaries, if needed. On Page 57 the differences between the 2 types of compassion centers are listed, showing the limits of each.

Section 14 lists requirements for applications for registration as compassion centers. A $5000 application fee must accompany the application. Information must include the proposed location, a description of the enclosed, locked facility that would be used in the cultivation, the personal information of each principal officer and board member or of each member-manager, manager, or governor. Background checks are required, as is information about the applicant's relevant experience. Description of plans must be available, along with other business disclosures. The Dept. of Health will review complete applications to determine eligibility.
An $80,000 certification fee is due from a manufacturing facility and $60,000 from a dispensary. The same amount is charged for each 2-year renewal.

Business structures can include for profit and not-for-profit corporations and LLCs. Registration certificates are not transferable.

Section 18 on page 62 requires bylaws or operating agreements to be provided.

Section 19 requires detailed financial records being kept and be available for audit.

Section 20 gives requirements for dispensaries, including details about leaves and flowers in 4 (C).

Section 21 permits random inspections for a variety of reasons listed.

Section 22 requires testing for pesticides.

Section 23 says that the maximum number of plants that a manufacturing entity can have is 1000 and a dispensary may not possess more than 3500 ounces of useable marijuana, regardless of form.

Section 24 describes required security and safety measures.

Section 25 calls for inventory controls.

Section 26 requires operations manuals for compassion centers.

Section 27 requires that a training program be developed and maintained for those working in compassion centers.

Section 28 requires records to be kept on all personnel for at least 3 years after termination of employment. All must have background checks and not have been convicted of a misdemeanor in past 5 years or a felony ever.

On page 73, it is stated that an employee or volunteer need not be a ND resident.

Section 29 describes revocation of registry ID cards of compassion centers.

Section 30 lists penalties for violations.

Page 75 # 6 says that the department may impose a fine of up to $1000 for each violation in addition to

whatever the criminal code might apply.

Section 31 states that a registered and qualifying card holder is not subject to arrest or prosecution for possessing marijuana in compliance with this chapter, along with compassion centers and their employees and owners.

Section 32 states limitations, including use near schools and child care facilities and operating a motor vehicle while under the influence of marijuana.

Section 33 states that neither public nor private insurers are required to pay for medical marijuana. It also forbids people to permit others to have or use marijuana and for landlords to allow cultivation on rental property. Employers can prohibit employees from consuming under their business drug policies.

Section 34 lists facility restrictions which are not permitted to allow marijuana.

Section 35 states that the Health Council will establish rules as necessary to implement this chapter.

Section 36 requires that the Health Dept. maintain a confidential list of card holders, including some personal information. It also lists what can be disclosed.

Section 37 calls for confidentiality of data and states when it can be disclosed.

Section 38 sets up an advisory board to advise the Health Dept. on implementation.

Section 39 requires an annual report to Legislative Management.

Section 40 establishes a Compassionate care fund for collecting private donations.

Section 41 states that the program must be self-sufficient beginning in the 2019-21 biennium.

Section 42 is an emergency clause so that the Health Dept. can proceed immediately with establishing the program and developing rules.

This is complicated bill to address a complex situation. There are many diverse opinions about medical marijuana from it being banned entirely to being freely available.

The challenges of the initiated measure included the fact that there was no limit on minors possessing, so a young person could get a registry ID card and go to a dispensary without parents being involved.

Another was that anyone 40 miles or more from a dispensary could grow their own with no limitations.

The largest error in the measure was that it did not decriminalize marijuana, so one could grow it, cultivate it, process it, and use it, but if caught, that person would be arrested for possessing it. 2344 has addressed that very large oversight.

We know that there are many different perspectives on this issue. The biggest issue probably is whether or not to allow leaves and flowers to be acquired, but it has been obvious that many supporters of medical marijuana want that and voted for the measure, expecting that to be the case. However, it is extremely important that we provide a structure that will allow the citizens to acquire medical marijuana as was supported by the majority of the voters last November. The plan needs to be one which the Dept. Of Health is able to implement and regulate. It is necessary, as you know, for both houses to pass this law with at least a 2/3 vote in order for it to replace the language of the initiated measure.

We know that this bill is not perfect, and as it moves forward to you from the Senate, there will be additional discussions and amendments to make changes that are seen as appropriate. But ultimately, it is extremely important to set up a system that will provide what the voters supported in a way that is not so disjointed that the public is endangered.

I respectfully request your support of 2344 to show that we are responding to the voters in a responsible way. We will work together in the weeks ahead to make it as good as it can be.

We ask for your favorable consideration of SB 2344.

a H. 4
SB. 2344
3-21-17

Testimony
House Human Services Committee
Senate Bill 2344
Tuesday, March 21, 2017
North Dakota Department of Health

Good morning, Chairman Weisz and members of the Human Services Committee. My name is Arvy Smith, and I am the deputy health officer for the North Dakota Department of Health (DoH). I am here to support and provide information on Senate Bill 2344 regarding a medical marijuana program in North Dakota.

On November 8, 2016, the people of North Dakota voted to establish a medical marijuana program in the state. As we have stated, the new law posed some challenges for which we immediately started analyzing and seeking solutions to. Engrossed Senate Bill 2344 provides those solutions. In addition, the bill increases safety and efficiency factors at levels selected by the sponsors of this bill, and addresses priorities identified in U.S. Deputy Attorney General, James M. Cole's August 29, 2013 letter (attached) regarding marijuana enforcement by the federal government. In Cole's memo, the U.S. Department of Justice (DOJ) reiterated that marijuana remains illegal under the federal Controlled Substances Act, but the DOJ would focus its efforts on certain enforcement priorities including: preventing the distribution of marijuana to minors, preventing diversion of marijuana from a legal market to an illegal market, and preventing violence and the use of firearms in the cultivation and distribution of marijuana.

The legal marijuana industry is a relatively new industry, and states are still learning how best to establish policy and regulate this industry. While we reviewed other states' practices, policies, laws, etc. and a model law developed by the National Conference of State Legislatures (NCSL), it is important to note that the early implementers are continuing to update their laws and regulations to make improvements. We are using this information in developing North Dakota's medical marijuana program.

Introduction/Background

The North Dakota law, as included in Measure 5, was based on Delaware administrative rule, and while this provided a good start, as Delaware and other states improve their laws, changes will be necessary in North Dakota as well. Administrative rule is essentially how an agency will implement a law passed by the legislature. Rules contain a higher level of detail than what is typically contained in state law. The high degree of details and technicalities incorporated

into law by the original measure make it less flexible to adjust as needed for a new industry.

The medical marijuana system includes several key components including growing and manufacturing facilities, dispensaries, laboratories, designated caregivers, and finally qualifying patients. The term compassion center is used when discussing both the manufacturing facilities and the dispensaries. Measure 5 provides that compassion centers grow, cultivate, manufacture, and sell products either directly to qualifying patients or to designated caregivers who may provide for up to five qualifying patients, including themselves.

Safety

In order to address safety and the priorities of the U.S. Deputy Attorney General, the following changes are included in SB 2344:

- Allows patients to purchase the equivalent of 2.5 oz. of dried leaves or flowers in a combustible delivery form per month instead of 3 oz. every fourteen days and limits the amount patients can possess to 3 oz. at any given time (Section 2; page 5 line 30). Many sources indicated that 3 oz. every fourteen days was excessive. Also allows patients to purchase 10 grams of liquid per month, including oil, or pill delivery form or possess no more than 15 grams at any given time. These changes are to reduce diversion as a result of excessive purchasing and possession of marijuana.
- Prohibits patients and designated caregivers from growing their own plants and removes the ability of designated caregivers to have up to 8 plants per qualifying patient. Limitation of growing and dispensing not only reduces the possibility for diversion from a legal market to an illegal market, but also significantly reduces the cost to state and local government. Note that if this provision does not stay in the bill, the fiscal note for SB 2344 will increase significantly.
- Limits forms of use for minors to oils, limits the THC contents for minors at less than 6%, and requires pediatrician sign off for individuals under age 19. The original measure allowed all forms of use for all qualifying patients.
- Allows smoking or vaping of marijuana by adult qualifying patients if a physician attests that no other form of usable marijuana would be effective in providing therapeutic or palliative benefits.
- Requires seed to sale bar coding of every plant by manufacturing facilities. (Section 25; page 66 line 23). This is industry standard.

- Forbids the sale of edibles or marijuana infused food products by a dispensary. Patients would be able to purchase an oil form which they can use to create an edible form or use in a vaporizing system.
- Prohibits individuals < 19 years of age from purchasing or being in possession of marijuana. Use of marijuana for medical purposes is allowed through a parent or guardian registered caregiver.
- Strengthens various security requirements.

Efficiency and Cost Effectiveness

With regard to efficiency and cost effectiveness, the following changes are included in SB 2344:

- Allows compassion centers (manufacturers and dispensaries) to be either non-profit or for profit business models and LLCs. Removes the requirement for compassion centers to be non-profit and the DoH to certify compliance with non-profit status; Since federal 501(c)(3) status is not available because marijuana is federally illegal, a clear standard is not available. Discussion with other states indicates that the non-profit status requirement doesn't seem to add value to the process.
- Allows only 4 manufacturing facilities to grow, manufacture and sell marijuana to dispensaries; allows only 8 dispensaries to sell marijuana to qualifying patients and designated caregivers; the DoH may add dispensaries if product is not readily accessible to North Dakota clients. (Section 12; page 55 line 27). Also requires compassion centers to ensure access to qualifying patients and include a distribution plan in their application. (Section 26, page 68, lines 29)
- Requires fees to cover all DoH implementation costs by the 2019-21 biennium (Section 41; page 82 line 10). This requirement is included in other states and NCSL model law.
- Moves deadlines for processing qualifying patient, designated caregiver and compassion center applications from law to administrative rule. This allows better managing of staff and workload and flexibility to adjust deadlines.
- Removes the ability for the department to add debilitating conditions petitioned by the public (Section 6; page 21 line 10)
- Requires local planning and zoning approval of manufacturers and dispensaries prior to DoH reviewing the application. (Section 14, page 57, lines 15-17) This is consistent with model law and other states' laws to avoid unnecessary costs.

- Requires a bond to ensure adequate clean-up in the event a compassion center goes out of business. (Section 15, page 59, lines 1-3) This improves safety and potential cleanup costs to the DoH.
- Allows compassion center employees and volunteers to be non-residents of North Dakota.

Clarifications and Technical Changes

There are several technical changes to the law incorporated in SB 2344. A critical component added in Senate Bill 2344 is the language to decriminalize the growing, manufacturing, dispensing, possession and use of marijuana for medical purposes. The language is necessary to prevent patients, caregivers and agents of compassion centers, including lab testers and transporters, from arrest or prosecution, under state law, for their actions in compliance with medical marijuana laws. These protections from arrest and prosecution are included in Section 31 of SB 2344.

It is important to note that this language does not change the fact that use of marijuana is still illegal under federal law, and, while the federal government is not currently enforcing this law, there is nothing preventing the federal government from changing that stance. Related to this, a state agency cannot require or ask employees to perform activities that violate federal law in order to accomplish their job duties. Risk Management has advised the DoH that we cannot require our employees to handle, be in possession of, or transport marijuana for regulatory purposes. Consequently, the department will have to find unique ways to conduct random, controlled lab testing and use law enforcement if we find that marijuana product needs to be confiscated.

Another recommended improvement is to clearly define each of the terms used in the law and use them consistently throughout the law. One of these was the frequent use of the term "primary caregiver" in Measure 5 which was not defined and appears to be used in exchange for the term designated caregiver. In SB 2344, the term "primary caregiver" was changed to "designated caregiver" throughout the law. Additional terms including compassion center, dispensary, and manufacturing facility were clarified in SB 2344.

In using Delaware rules to develop the language of the measure that passed, the authors failed to change references to “these rules” to “this law” and in a couple of instances specifically referenced Delaware law. In addition to fixing these references, one of our suggested changes includes moving certain aspects of the law to administrative rule to provide the ability to adjust more rapidly, where necessary, through rule rather than law.

The measure, as passed, contains fourteen pages of regulations compassion centers are required to follow. Language included requirements to operate a compassion center, application requirements to be a compassion center and requirements for things to be included in the operating manual. The language of these requirements was not always consistent, causing confusion as to which requirements to follow. It is critical that the requirements to operate are consistent with the application requirements so that the department receives quality applications that address the requirements to operate and so that the compassion centers are regulated in accordance with the same rules for operation. If we are abundantly clear as to the requirements up front, we will receive better applications and be able to have operational compassion centers earlier than if we are continually sending their applications back to meet a set of regulations they were unaware of when they applied.

Additional clarifications the DoH is supporting are as follows:

- Establish that jurisdiction for judicial review is Burleigh County district court
- Establish all fees in law; fees for compassion centers were in the measure but fee amounts for designated caregivers and qualifying patients were not stated
- Remove the petition/public hearing process and use existing N.D. rules
- Clarify that the continuing appropriation included in the original measure is to the DoH
- Add violations and penalties
- Require conducting of an annual comprehensive inventory rather than biennially
- Clarify registry identification card contents

Fiscal Note

In summary, the fiscal note for engrossed SB 2344 shows the following:

DoH	**2017-19**	**2019-21**
Expenses	2,390,165	2,940,081
Revenue	1,307,500	3,510,000
General Fund App Needed	1,082,665	0
FTE	12	15

Attorney General

Expenses	162,085	346,516
Revenue	0	0
General Fund App Needed	162,085	346,516

In the 2017-19 biennium, since there won't be two full years of revenue and there will be one-time costs of $295,727, one-time general funding of $1,307,500 is needed. By the 2019-21 biennium, the revenue must be sufficient to cover all costs so the general fund need is $0 for the DoH. The cost for the Attorney General is to conduct the criminal background checks. While the designated caregivers and compassion centers or the agents must pay for the background checks, those fees are deposited directly to the general fund, so are not accessible to the Attorney General's Office.

The fiscal note also shows that revenue to the general fund and the state aid distribution fund totals $1,700,000 in the 2017-19 biennium and $3,400,000 in the 2019-21 biennium (91.3% to the general fund and 8.7% to the state aid distribution fund). The Tax Department is unable to calculate the amount of income tax that will be generated as a result of this legislation.

The assumptions used to calculate the fiscal note for each biennium are included in the fiscal note. Note that it is very difficult to estimate the numbers of qualifying patients and designated caregivers that will pursue registration so these numbers could change. Looking at other states, some were as low as .6 per 1,000 population and one was as high as 15.7 per 1,000 population. It appeared that those that allowed patients and caregivers to grow their own marijuana had higher numbers of registrants. Registrations are lower where the number of conditions covered and the forms of use are significantly restricted. Based on this information, we assumed 5 qualifying patients per 1,000 population, and assumed that half of the qualifying patients would have a designated caregiver resulting in 3,800 qualifying patients and 1,900 designated caregivers each year. The fiscal note assumed a $200 per year registration fee for qualified patients, designated caregivers and compassion center agents, an $80,000 per two years registration fee for manufacturing facilities and a $60,000 per two years registration fee for dispensaries.

Timeline

Finally, while not ideal, we plan to begin developing administrative rules immediately and make adjustments once legislation is finalized so that we can move them through the approval process as soon as possible. Once the rules for

compassion centers are finalized, we can begin accepting applications from compassion centers and awarding registrations. We have been told that from the time they are approved to operate, it will take two months for manufacturing facilities to set up business and three months until product can be harvested. Based on that, we expect product to be available for purchase approximately one year from now.

This concludes my testimony. I am happy to answer any questions you may have.

U.S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

August 29, 2013

MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

- Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
- Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.[1]

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department's guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

[1] These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department's interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.

must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department's previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation's compliance with such a system, may allay the threat that an operation's size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department's enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation's large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases – and in all jurisdictions – should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.

Memorandum for All United States Attorneys
Subject: Guidance Regarding Marijuana Enforcement

As with the Department's previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department's authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General's Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation

Senate Bill 2344 Summary (Senate Engrossed)

Key:

CC- Compassion Center - term used in law as generic term for growers/producers and dispensaries
DC - Designated Caregiver - buys on behalf of up to 5 patients including themselves
QP - Qualified Patient - registered with DoH with certification from physician that they are under their care, have a qualifying condition and may benefit from marijuana use

Clarifications/Corrections

- Defines terms
- Removes or clarifies confusing/conflicting language
- Removes Delaware rules and all references to Delaware rules
- Indicates certain areas that can be in rulemaking rather than in law
- Aligns CC application review criteria with application requirements
- Adds decriminalization language - states that a person engaged in or assisting in the medical use of marijuana is exempt from criminal laws of this state for possession, delivery or manufacture of marijuana if they have a registration card (Model law and other state laws contain this language)

Safety

- Allows patients to purchase 2.5 oz. of dried leaves or flowers in a combustible delivery form per month and possess no more than 3 oz. at any time; or purchase 10 grams of liquid per month, including oil, or pill delivery form or possess no more than 15 grams at any given time
- Limits forms of use for children to oils and require pediatrician sign off
- Limits THC levels for children at < 6%
- Requires seed to sale bar coding of every plant (industry standard)
- Forbids the sale of edibles or marijuana infused food products by a dispensary
- Allows the smoking or vaping of marijuana if a physician attests that no other form of usable marijuana would be effective in providing therapeutic or palliative benefits
- Individuals < age 19 cannot purchase or be in possession of usable marijuana but are allowed to use through a parent or guardian registered caregiver

Efficiency/Cost Effectiveness

- Allows either non profit or for profit business models and LLCs
- Prohibits patients and designated caregivers from growing their own plants. This significantly reduces regulation and enforcement challenges and costs for state and local law enforcement in addition to helping to avoid diversion.
- Allows designated caregivers to care for up to 5 patients, including themselves
- Establishes fees for application and registration and adds fines; requires that fees cover all DoH costs by 2019-21 biennium
- Removes deadlines for processing QP, DC and CC applications from law and places them in rule
- Limits the number of manufacturing facilities which grow and produce products to 4 and the number of dispensaries to 8; additional dispensaries can be added by the Department of Health if access is insufficient; also adds language requiring dispensaries to describe their distribution system.
- Requires CCs (growers and dispensaries) to have a local permit prior from the city or county prior to the Department of Health reviewing their application
- Requires bond to ensure adequate clean-up in the event CC goes out of business
- Allows CC employees and volunteers to be non-residents of ND
- Requires dispensaries and manufacturers to have business plans, policies and financial records which are available for review and audit.

Short version - Spoken Testimony

Chairman Weisz and Members of the House Human Services Committee:

I am Anita Morgan of North Dakota Compassionate Care Act coalition. We are here to oppose the large-scale changes in Senate Bill 2344 that substantively changes the intent of the voters passed.
We urge a DO NOT PASS on this bill.

However, should your intent be to continue with this bill, we would like to guide the conversation to help you improve the legislation before you to both maintain the original intent of the voters and have input from experts on this issue.

I have a longer and more spefic written testimony but these are the top things that concern me most:

19-24-02. Definitions. # 23
Under SB 2344 allows only medical cannabis oil or pills for minors. Parents are not allowed to use the type of cannabis that works best. They are only allowed to use oils, even if salves, transdermal patches or other forms work best for them.

19-24-02. Definitions. # 18.
Also, SB 2344 only allow children to use cannabis with 6% THC or less, even though many children weaning off of dangerous seizure medicines need greater amounts of THC.
I have a scholarly handout for you, with all the protections and clinic language and after reading it, I doubt you would feel comfortable enough to make THC recommendation for a young patient. This limit has to be removed.

19-24-02. Definitions. # 19
In SB 2344, there is a huge overreach by the legislature to govern parents by requiring a certification from a pediatric neurologist, gastroenterologist, oncologist, palliative care specialist or a pediatrician working in consultation with one of these specialists. Who knows your child best - a Legislator or you and your family's caring hometown doctor?

With less than ten of those pediatric specialists in the state, securing timely appointments may be difficult or impossible. Also, if a family doesn't already have a bona fide relationship with these new ND specialists, are they in violation of the law?

An example would be, if your child's specialist is MN physician at Mayo Clinic he/she can't write the certification but is a vital part of the team collaborating with your hometown doctor.

A specific example is a little girl in Valley City who has childhood glaucoma. She has a team of out of state specialists including a pediatric ophthalmologist and ND ophthalmologist who isn't specifically trained as a pediatric specialist. How does this work for her? It doesn't.

In the original NDCCA - there is an option to add debilitating medical conditions…SB 2344 deleted that option Please don't make me a liar…I personally took 1,733 signatures and told people it was in the bill.
New research and millions of patients' experiences worldwide continues to advance our understanding of cannabis' therapeutic benefits.

The House needs to clarify "liquids" and bring back the NDCCA wording to exclude the weight of any non-marijuana ingredients combined with marijuana, such as ingredients added to prepare a topical administration.

Here is a chance to vastly improve SB 2344. Since medical cannabis product development is ever evolving, maybe the best wording would be:

Usable marijuana means a pill or liquid, including topical, transdermal, sublingual delivery forms of marijuana or the dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form.

Transdermal patches (similar to Nicotine patches) are an excellent delivery system for patients with feeding tubes and deliver a steady, timed dosages.

Mr. Chairman, I'm sure you noticed, "edibles" or marijuana infused food* have been deleted from SB 2344. Recently, a 66-year-old, District 19 resident, husband, dad, grandpa, business owner,
philanthropist and taxpayer said to me:
"I have first hand knowledge of how edibles can help elderly patients suffering from poor appetite, nausea and sleeplessness. Plus, older people don't, won't or have quit smoking. Why would the Legislators take out edibles?"

Originally, SB 2344 removed the smoking option. When it was added back in and the Senate voted upon it, I noticed there is no language offering protection for the instruments or devices you would use if you prefer to smoke or vape your medication. Would the penalties in the ND Century Code under section Chapter 19-03.4 come into play? A patient may be able to have medical cannabis but be illegally have an instrument in which to smoke or vap which could be a Class A misdemeanor, punishable by a maximum sentence of one-year imprisonment and a maximum fine of $3,000. Devices were defined in original NDCCA so whether it was redact, missed or omited in SB 2344…There must be protection for patients from sanctions.

Also in SB 2344 it appears that there is some vestigial language from the enacted NDCCA when home cultivation was still available. SB 2344 defines an 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.

There is another line stating - If serving as the minor's designated caregiver, prevent the minor from accessing the usable marijuana by storing the usable marijuana in an enclosed, locked facility.

So, the question is this the beginning of legislation for ALL of our state's patients taking ANY medication with minors in the house?

When Home Cultivation was still a patient option, the enclosed, locked facility wording was a function of that section in the original Measure 5/NDCCA. What's the point now?

The legislation could be improved by including wording for a clear definition between a "Familial Caregiver" (a mom, dad or relative) versus a "Contractual Caregiver" who is supervising five medical cannabis patients. You bet I would want each patient's medications, sorted, separated, inventoried and kept locked up. As a parent of a sick little one or attending to an elderly relative's medications, that's an unnecessary.

Another thing in SB 2344 – It states the ND Department of Health can require an onsite interview for an application or renewal with 24 hour notice. Denial of in home interview could include revocation medical cannabis card and referral to law enforcement.

So, they can come into your home for an interview if you are an approved
cardholder and deny your status if you do not comply?

If home cultivation was still in effect, that might be understandable, but that patient option has been deleted. Again, if the person were a "Contractual Caregiver" I can understand this. As an individual patient, I do not understand this section at all.

There are many other concerns I have with SB 2344. As testimony goes along today, I'm sure you will hear them. Do not let an opportunity at this historical crossroads in North Dakota slip away.

We recommend a "DO NOT PASS" on this bill, however barring that, we respectfully urge you to implement the changes we talked about here.

Let's keep the vital, life-changing elements that the people, the people you serve,
Echo the YES vote of 216,000 North Dakotans. It must be patient centered first and foremost.

Thank you and I will stand for questions…

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Cannabis in the Treatment of Pediatric Epilepsy

By Bonni Goldstein, MD

The author documents the progress of more than 100 patients using CBD-rich cannabis oil to treat seizure disorders.

I have been a medical cannabis physician seeing adult patients in California for the past six years. Occasionally I would be approached by parents who knew of my background and asked me to monitor their children's use of cannabis. (As a doctor who trained in pediatrics and practiced pediatrics and emergency medicine for 12 years, I have considerable experience taking care of children.)

In the summer of 2013 I evaluated a few adolescents for use of cannabis: a teenage boy with cancer; a teenage girl who went through a horrific trauma and was suffering with PTSD, anxiety and depression and had failed all conventional treatment; a teenage boy with Tourette Syndrome; another teenager with epilepsy.

The nature of my practice changed dramatically after Dr. Sanjay Gupta's documentary aired on CNN in August 2013. Parents of children with intractable epilepsy wanted to know about CBD and cannabis as a possible treatment. They learned about my background on the Internet and asked if I'd be willing to treat their children. Many of the parents are connected on a pediatric epilepsy Facebook page, through which most of my current patients found my practice.

Epilepsy is not a rare disorder. In the United States, according to the Centers for Disease Control, some 2.3 million adults and 468,000 children (under 17) have epilepsy. Epilepsy in children is often a genetic or congenital condition. Epilepsy can result at any time in life from head trauma, infections, or tumors.

About one-third of epilepsy cases are "intractable" —meaning available pharmaceutical drugs do not control the seizures.

Many patients who get seizure relief from pharmaceutical anticonvulsants suffer intolerable side effects. About one-third of epilepsy cases are "intractable"—meaning available pharmaceutical drugs do not control the seizures.

Between August 2013 and April 2014, I became the medical cannabis consultant to 93 children with intractable epilepsy. Their parents had, in the past, authorized various interventions —surgery, vagus-nerve-stimulator implant, the ketagenic diet. Some had left the country for stem-cell treatment. These are families that are desperately searching.

My first pediatric epilepsy patient was a 14-year-old girl with Lennox-Gastaut Syndrome. Her parents had learned about CBD and signed up to be on the waiting list of Realm of Caring, the Colorado non-profit run by the Stanley Brothers, whose "Charlotte Web" strain was shown to be very effective in the case featured by Dr. Gupta.

Procedures

Prior to coming into my office, parents are required to fax over their child's medical records for review. They fill out a questionnaire and sign an informed consent form. We talk about which medications they've tried, what has helped and what has not helped. Is there is a typical pattern to the child's seizures? Do they occur more when the child is awake or asleep? What kinds of seizures does the child have? How are the medications and seizures affecting their child's development? Have they tried cannabis medication yet?

After this evaluation, I decide if the patient qualifies for medical cannabis based on California law and if I think the child may benefit from medical cannabis. If the answers to these two questions are yes, the child is approved and receives a letter of recommendation to use medical cannabis. The parents receive caregiver letters.

I educate the parents about what we know so far about CBD and the endocannabinoid system. It's important that they understand that although clinical trials are lacking, there's a scientific basis for what we're doing.

I explain that I have very high standards for the medication they are going to give their child. They cannot give untested preparations of CBD. In the world of western medicine we have a sense, as consumers, of being protected when we walk into a pharmacy and pick up a medication. We rely on the pharmacist and the companies that make and distribute drugs to produce a clean, consistent product that contains exactly what the label says it does.

Unfortunately, the state of California hasn't done much to regulate who can produce and distribute marijuana as medicine. It is definitely a "buyer-beware" situation. I insist they only use tested preparations, and I explain to them how to read the results of a cannabis lab test report.

For various reasons my edict sometimes gets ignored. I had one family that had obtained medication from a local cannabis dispensary. It had not been tested and I insisted that before giving another dose, they have it evaluated by a cannabis testing facility. The test results showed that the oil contained 9% rubbing alcohol! Not all oils are contaminated but the only way to be sure is to have the oil tested prior to use.

The oil made from Charlotte's Web has a CBD-to-THC ratio of about 25-to-1. The Stanley brothers authorized Ray Mirzabegian of Los Angeles to grow Charlotte's Web plants and produce oil for distribution in California. As of November, 2014, Mirzabegian was providing oil for 81patients. Another 1175 were on his waiting list.

Some of my patients learned online about other California collectives providing CBD-rich oil from a strain called "ACDC," which has a similar CBD:THC ratio to Charlotte's Web and is equally effective. But in my experience, its producers have not been meticulous and patients have reported occasional inconsistencies. One week I had numerous phone calls from parents reporting that their children were acting "high." This is just not acceptable.

Parents ask if they should test every bottle. This is difficult because in addition to paying out of pocket for the oil, the added expense of testing every bottle becomes prohibitive.

Dosing

Realm of Caring developed a dosing protocol for children on Charlotte's Web that parents are following. For most epilepsy patients, starting dose is 0.5 milligrams per pound per day, divided into three doses to be given at eight-hour intervals (ideally). Thus a 40-pound child would start at 20 milligrams per day divided into three doses. (In pediatric medicine, everything is based on weight because children can outgrow their dose as they gain weight.)

After starting on CBD oil, the children are observed for one or two weeks. Patients whose seizures are less frequent —for example only three seizures a month— may be observed for a longer period without increasing the dose. Most of the patients I see have daily seizures, which enables parents to tell quite quickly if there is any benefit from the oil. Parents are asked to keep a diary or calendar of seizures and improvements and to check in every one to two weeks

If the child is doing well, after a week or two the dose is titrated up by increments of 0.5 milligrams per pound per day. It appears from the data collected in Colorado that the therapeutic range is 2 – 6 mg per pound per day for many of the children that respond well to CBD treatment.

Some patients do need higher doses to achieve good results. One little boy was still having about 20 seizures a month on three anti-epileptic drugs. With Charlotte's Web oil he became seizure free for six months at a dose of 7.5 milligrams per pound per day, and he has been weaned off almost all of the seizure medications.

In Colorado one patient has gone as high as 8 milligrams per pound per day.

Doctors using GW Pharmaceuticals' Epidiolex reportedly have gone as high as 24 milligrams per kilogram per day in an FDA-approved context.

continued on next page

Bonni Goldstein, MD, sees patients in an office in Lawndale (Los Angeles County) and is the director of the Canna-Centers chain of clinics, with five offices in California. She graduated from the Robert Wood Johnson Medical School in New Jersey and did her internship, residency and Chief Residency at Childrens Hospital Los Angeles. She worked in Critical Care Transport and Pediatric Emergency Medicine for 12 years before becoming a medical cannabis specialist.

About Epilepsy

Epilepsy is a condition of recurrent, unprovoked seizures. The seizures may result from a hereditary tendency or a brain injury, but often the cause is unknown. Many use the term "seizure disorder" instead because "epilepsy" seems more serious or stigmatized. However, almost all seizure disorders are epilepsy. A person with epilepsy has had two or more unprovoked seizures, regardless of seizure type.

An estimated 65 million people worldwide are afflicted with epilepsy —some 2.2 million in the U.S. When seizures cannot be eliminated by medication, epilepsy is said to be "refractory" or "intractable" or "treatment-resistant" or "catastrophic." Approximately one-third of all epilepsy cases are refractory.

Many types of epilepsy have been defined in terms of age of onset, seizure types and where they arise in the brain, EEG findings, family history, and neurological history, among other factors.

Seizures are characterized as "generalized" or "partial."

Generalized seizures begin with a widespread, excessive electrical discharge involving most or all of the brain.

Absence Seizure: A brief space-out —an episode usually lasting a few seconds, sometimes associated with automatic movements of the hands or mouth, formerly called "petit mal" seizures.

Atypical Absence Seizure: A staring episode that usually lasts longer than 10 seconds and occurs in children who have other types of seizure, lower than average intelligence and difficult to control epilepsy.

Myoclonic Seizure: A brief jerk or series of jerks that may involve a small part of the body such as a finger, hand or foot, or the shoulders or upper arms.

Atonic Seizure: A sudden loss of muscle tone throughout most or all of the body which may cause the head to drop suddenly, objects to fall from the hands, or the person to fall to the ground.

Clonic Seizure: Rhythmic jerking movements of body parts such as the arms or legs.

Tonic Seizure: A stiffening of the body and/or limb, often resulting in a fall if the patient is standing.

Tonic-Clonic Seizure: Whole body stiffening with simultaneous rhythmic jerking of the arms and legs, usually lasting at least one minute and also incuding loss of consciousness. After this type of seizure, the patient typically enters a state of confusion and fatigue lasting 30 minutes or longer. Also known as a "grand mal" seizure.

Partial seizures begin with an abnormal electrical discharge restricted to one region of the brain.

Simple partial seizure: An episode of altered sensation, cognitive function, or motor activity during which the patient is fully alert. Patients usually call these seizures "auras" and symptoms vary depending on the brain region involved.

Complex partial seizure: An episode altered behavior, sensation or motor activity during which alertness and responsiveness are also compromised. The motor activity may consist of repetitive automatic movements of the face or limbs, or "automatisms." Often patients are unaware of these seizures.

A partial seizure can develop into a tonic-clonic or "grand mal" seizure.

Types of Epilepsy

Temporal Lobe Epilepsy
Frontal Lobe Epilepsy
Parietal Lobe Epilepsy
Occipital Lobe Epilepsy
Primary Generalized Epilepsy
Idiopathic Partial Epilepsy
Symptomatic Generalized Epilepsy
Progressive Myoclonic Epilepsy
Reflex Epilepsy
Febrile Seizures
Benign Rolandic Epilepsy
Juvenile Myoclonic Epilepsy
Infantile Spasms
Lennox-Gastaut Syndrome
Childhood Absence Epilepsy
Benign Occipital Epilepsy
Mitochondrial Disorders
Landau-Kleffner Syndrome
Rasmussen Syndrome
Hypothalamic Hamartoma & Epilepsy

Source: NYU Langone Medical Center Comprehensive Epilepsy Center

Treating Pediatric Epilepsy *from previous page*

THC free preparation

Concentrated oil is the formulation easiest for the parent giving a dose. When you're giving close to four milligrams per pound per day to a 50-pound child, you're giving up to 200 milligrams. If the oil only has 15 milligrams per milliliter, you're giving that child a lot of oil. In large quantities, even healthful olive oil or coconut oil can cause diarrhea.

Many people think that seizure reduction is the goal of treatment, but it's only part of the goal.

Many people think that seizure reduction is the goal of treatment, but it's only part of the goal. The effects of the conventional anti-epileptic drugs (AEDs) can be debilitating —lethargy, developmental delay, liver damage and more. The ultimate goal for pediatric epilepsy patients is freedom from seizure and the side effects of the AEDs. Interestingly, many parents whose children are having success with CBD oil to treat epilepsy are also reporting that their children have improved sleep, improved appetite, more alertness, and developmental progression. It is these other beneficial effects that make CBD a wonderful option for children suffering with seizures.

Drug Interactions

CBD has not been shown to be a pro-convulsant in 21 preclinical and laboratory studies (see below). If a patient using CBD has an increase in seizure activity, it is likely from an interaction with other AEDs that the patient is taking.

Drug interactions are very complex. Each patient is on a different drug regimen and/or special diet. There are many variables: the patient's metabolism, the other medications, the patient's endocannabinoid system, and the profile of the particular cannabis product.

CBD is an inhibitor of the P450 enzyme system, and affects the rate at which other drugs are metabolized. Unfortunately, research is lacking on how CBD interacts with most of the other anti-epilepsy drugs in the liver but there are researchers who have started looking at these very important reactions.

A reassuring fact has been reported by G.W. Pharmaceuticals, the British company that makes Epidiolex and also makes Sativex, which is 50% CBD and has been approved for use in 27 countries to treat pain and spasticity from Multiple Sclerosis. Sativex has been used for 30,000 patient-years by people taking concommitant drugs and there have been no confirmed adverse consequences due to drug-drug interactions.

A journal article from 1977 suggested that CBD potentiated the effects of phenytoin (Dilantin) and phenobarbital, but reduced the anticonvulsant potency of Librium, Clonazepam, Trimethadione, and Ethosuximide.

Laboratory testing has shown that some but not all patients on CBD oil can have decreased Depakote levels and decreased felbamate levels with CBD. It appears that CBD interacts to increase Onfi (clobazam) levels.

Some parents using THCA

THCA is the raw, unheated, non-psychoactive phytocannabinoid that converts to THC when heated. THCA has been shown to be a significant anti-inflammatory. There are tested THCA preparations that have become available and have been claimed to have anticonvulsant properties. There are at least five patients in my practice who added THCA to the CBD treatment regimen and had improved seizure reduction.

Treating pediatric epilepsy patients is very complicated. Treatment varies case-by-case, day-by-day and week-by-week. Weaning a child off an anti-epileptic drug involves an act of faith on the part of the parents who have to deal with the withdrawal symptoms. For example, one of my patients achieved an 80% reduction in seizures. When the parents started to wean one of the AEDs that she was on, she had an increase in number of seizures. After about one week, she improved and seizures reduced again. Parents reported that after this difficult week, she was much more alert and responsive. And now the hope is that seizure reduction due to CBD will resume.

Preliminary Findings

In June 2014 I reported on what I had learned about cannabis in the treatment of pediatric epilepsy at events put on by the Realm of Caring Foundation and the Epilepsy Foundation of Los Angeles. I reviewed the charts of the 93 patients that I approved to use CBD oil for epilepsy and who had been on the oil for at least three months.

Twelve of the children were on oil from Realm of Caring Foundation (Charlotte's Web oil). Nine of the 12 had reduction in severity and frequency of seizures, and some were in the process of weaning off other medications.

Forty-one children were on AC/DC oil and the success rate was very similar —31 out of 41 reporting reduction in frequency of seizures. One child in this group was seizure free.

Ten children were using other CBD-rich oils, obtained from small collectives. Six experienced seizure reduction.

Twenty-two of the families had not started oil and were waiting for Charlotte's Web to become available.

Eight patients had started taking CBD-rich oil from other sources but had stopped, six for financial reasons.

Some patients do not show up as seizure-reduction statistics because the frequency of seizures hasn't gone down —but severity and recovery time have gone down.

On average, the patients had been put on 10 anticonvulsants over the course of their young lives. At present they were on between one and four AEDs. Only one out of the 93 patients was not taking pharmaceuticals at the time I collated my data.

A point worth repeating: some patients do not show up as seizure-reduction statistics because the frequency of seizures hasn't gone down —but severity and recovery time have gone down. Parents may report, "When he has a seizure he's not wiped out for three hours." Each case is so individual.

Report to the Society of Cannabis Clinicians

In September 2014 I described my work with pediatric epilepsy patients to colleagues in the Society of Cannabis Clinicians at a meeting in San Francisco. I had by then seen some 200 children with almost every type of Epilepsy diagnosis .

My patients are concurrently being treated by a pediatrician and a neurologist and may be seeing other specialists such as geneticists. Almost all have been categorized as "refractory" or "intractable" cases, meaning anti-epileptic drugs have not eliminated their seizures. Almost all have been on multiple medications with no improvement.

A study published in the New England Journal of Medicine in 2000 showed that the chances of achieving freedom from seizures diminishes sharply with each drug tried. Whereas 47% responded to the first-line drug they were treated with, the response to a second drug —either substituted or added— went down to 13%. The third drug helped only 4% of patients.

The burdens of refractory epilepsy include poor quality of life, the debilitating side-effects of medications, cognitive decline, physical injuries from falling, psychosocial dysfunction, a restricted lifestyle —adults can't drive, which makes living in our society very difficult— and increased mortality: the idea that you're going to drop dead any day now.

SUDEP —Sudden Unexpected Death in Epilepsy— has been explained to my patients by their neurologists. Those who are teenagers and young adults live with this possibility. One patient in her early twenties said to me, "I could have a seizure tonight and not wake up tomorrow."

With cannabis medicine you can offer hope that patients

The chances of achieving freedom from seizures diminishes sharply with each drug tried.

who have failed all other options that they may get some control over their seizures and possibly lead a normal life.

The side effects of the anti-epilepsy drugs described by my patients and their families include lethargy and somnolence, loss of focus, learning and memory problems, loss of speech, loss of social skills and motor skills, incontinence, insomnia, anorexia, and failure to thrive. Felbamate can cause aplastic anemia and or liver failure. Vigabatrin can cause permanent loss of vision.

Parents have reported that their child seemed to be tolerating the first one or two drugs, but then they'll add another drug and they stop talking and stop walking, it just shuts them down.

Endocannabinoids and Epilepsy

Epilepsy —like any given medical problem— will remain "treatment resistant" if the prescribed medications are not targeting the appropriate metabolic system(s). There is ample evidence that the endocannabinoid system plays an important role in modulating excitatory signals in the brain.

To cite but a few examples, in 2008 Hungarian researchers compared tissue from epileptic patients who had decided to undergo brain surgery to tissue from the brains of people who died naturally. Controlling for age and health status, they found that the level of endocannabinoids in tissue removed from the epileptics was 60% lower than in brain tissue from the cadavers. The strong implication is that a lack of endocannabinoids is associated with loss of neurotransmitter control.

In 2010 Andrea Romigi and colleagues at the University of Rome tested spinal fluid from patients with newly diagnosed temporal-lobe epilepsy and found lower-than-normal endocannabinoid levels. These studies and others suggest that some types of epilepsy are associated with an "endocannabinoid deficiency syndrome." (The concept of an endocannabinoid deficiency syndrome underlying many disorders was introduced by Ethan Russo, MD, himself a pediatric neurologist.)

Because CBD can enhance endocannabinoid tone without inducing psychoactivity, it became a compound of interest to far-sighted medical researchers. In the 1970s and '80s, in addition to animal studies, there were several small, promising studies in Brazil of CBD as a treatment for people with seizure disorders.

A 1978 paper co-authored by Raphael Mechoulam described the treatment of nine patients —four with CBD (200 milligrams/day) and five with placebo. Two of the four CBD patients were seizure-free during the test period and suffered no toxic side effects. None on placebo reported improvement.

In 1980 J.M. Cunha et al treated 16 refractory tonic-clonic seizure patients. Eight received 200-300 milligrams of CBD per day. Of these, three became seizure free, four had seizure reduction, and one was unchanged. In the placebo group, one patient had seizure reduction, seven were unchanged.

"It seemed very promising," said Mechoulam looking back decades later, "but unfortunately, nothing has been done ever since. To the best of my knowledge, nobody has done any work on cannabidiol in the clinic on epilepsy, and I just wonder why?"

At the 2005 meeting of the International Association for Cannnabinoid Medicine, Italian researchers led by A. Pelliccia described an open study ("modulating administration and titration schedules on a case-by-case basis, according to clinical response") in which 18 children with intractable epilepsy were treated with a low dose of CBD in corn oil.

The results were very promising. No patients discontinued due to side effects. Most obtained seizure reduction of 25% or more. And, according to Pelliccia: "in all CBD-

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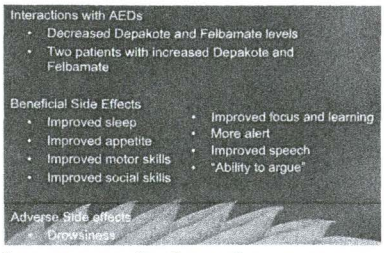
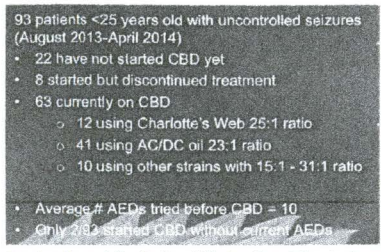
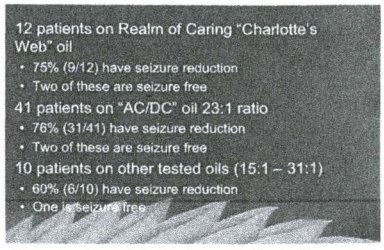


SLIDES SUMMARIZING DR. GOLDSTEIN'S UNPUBLISHED RESULTS were part of her presentation to the Epilepsy Foundation of



Los Angeles and the Realm of Caring Foundation in June. Approximately two-thirds of the pediatric epilepsy patients



whose cannabis use she has been monitoring have experienced seizure reduction.

Treating Pediatric Epilepsy *from previous page*

treated children, a clear improvement of consciousness and spasticity (whenever present) was observed.

"However, only nine out of these are currently on treatment, since the parents of the remaining children, although appreciating the improvement of their offspring, not only concerning the fits but also the awareness and the muscular tone, preferred to discontinue due to the economic overcharge induced by the treatment (approximately 300 Euros per month)."

This heartbreaking situation —parents unable to afford a helpful medication— is one I have encountered in my practice. As noted, the issue of affordability should not be ignored by clinicians.

When G.W. Pharmaceuticals got approval from the British government to develop cannabis-based extracts for clinical trials in 1998, the company began funding lab studies to establish the safety of cannabidiol and other so-called "minor" cannabinoids. G.W. provided purified CBD and CBD extracts to many labs, where scientists studied the effects on cell lines and mice, and the mechanism of action.

In 2013 one of the G.W.-supported researchers, Ben Walley of the University of Reading, reviewed the preclinical data (see graphic at top of page) and found no evidence — zero—that CBD acts as a pro-convulsant. To a physician helping patients figure out appropriate dosing levels, this is important information.

G.W.'s interest in CBD and other possibly beneficial cannabinoids inspired U.S. activists to study the contents of marijuana being grown for distribution by dispensaries. O'Shaughnessy's reported in 2010 that about one in 700 varieties being tested by analytic chemistry labs in California and Colorado contained four percent or more CBD. A few plant breeders crossed these "CBD-rich" strains to create increasingly high CBD-to-THC ratios.

By 2013 there were enough epilepsy patients using CBD to inspire a data-collection effort by Stanford University neurologists B.E. Porter and C. Jacobsen that was published in Epilepsy & Behavior in December 2013.

They looked at results from 19 Colorado patients using oil from Charlotte's Web. Thirteen were Dravet's patients, four had Doose syndrome, and one each had Lennox-Gastaut syndrome and idiopathic epilepsy (meaning of uncertain origin). The average number of anti-epileptic drugs tried before CBD was 12.

Sixteen of 19 families reported a reduction in their child's seizure frequency while taking CBD-rich cannabis. Two reported complete seizure freedom. Eight reported a greater than 80% reduction in seizure frequency. (Interestingly, this corresponds to what Walley found in reviewing the animal studies.) Six patients in the Stanford survey experienced a 25-60% reduction.

Beneficial effects included increased alertness, better mood and improved sleep. Adverse effects included drowsiness and fatigue (which may have been brought on in part by AEDs. The authors didn't specify which child was on which pharmaceuticals.)

Also in December 2013, Drs. Margaret Gedde and Edward Maa, at a meeting of the American Epilepsy Society reported very promising results from 11 patients who had used oil from Charlotte's Web for three months. All the children experienced at least 20% seizure reduction. Nine had at least 75% reduction. Eight had at least 98% reduction. And five had 100% reduction. (Gedde notes that the patients in the study "were selected by the provider of the extract.")

CBD's Anticonvulsant Mechanism of Action

CBD does not act directly on the CB1 receptor. It works by multiple actions —what has been termed "polypharmacology," exerting various effects within different parts of the brain that might defuse seizures. I explain it in comparison to the AEDs that parents are all familiar with.

CBD blocks NMDA receptors, which are involved in excitation. Felbamate acts similarly.

CBD binds to GABA receptors, enhancing the inhibition of excitation —as do Felbamate, Depakote, Tegratol, Onfi, and Phenobarbital.

CBD stabilizes ion channels —as do Banzel, Lamictal, Dilantin, Keppra, and Trileptal.

CBD modulates calcium release in neurons, blocking the uptake of endocannabinoids in order to normalize endocannabinoid tone.

CBD counters inflammatory reactions that appear to increase neuronal excitability and impair cell survival. This is why the National Football League is reviewing a proposal that CBD be provided to players suffering head injuries. CBD is neuroprotective; it reduces oxidative stress and glutamate toxicity.

Obtaining Medicine

The question of where to get their oil and what to use is a family decision. It's hard to find consistent CBD growers in Southern California at this time [September 2014]. There are only a few suppliers of oil that seem to be consistent bottle to bottle. There have been instances of CBD oil products having similar CBD content but having different effects, as they are prepared from different CBD strains.

Having a producer who makes oil from one specific strain increases the likelihood of obtaining consistent medication from month to month. Certain terpenes (essential oils in the cannabis plant) are known to have beneficial medicinal effects. Beta caryophyllene, a terpene that binds to the CB2 receptor, is a potent anti-inflammatory that appears to work synergistically with CBD. Both Charlotte's Web and AC/DC strains contain high amounts of this terpene.

Anybody who is making oil should know that parents get it tested and share the lab results on websites. Some of these parents will get it tested at two or three different labs so they know what is in the oil that they are giving to their child.

Having a reliable supply, one that is available and won't be "out of stock," is also crucial. Patients who start CBD oil treatment may wean their children off other medications. It could be catastrophic if a child is weaned off their anti-epileptic drugs and the CBD oil supplier did not continue to provide the oil that had been working.

Affordability

Affordability is a major concern for most families. They are paying anywhere from $150/month for a small child and up to $1800/ month for an adult-sized teenager.

One oil provider in Southern California is trying to be consistent with concentrated oil made from AC/DC plants. Their oil costs nine cents per mg, which is relatively affordable. Other CBD-rich oils used by my patients cost between 17 cents and 33 cents per milligram.

Realm of Caring is subsidized by the Stanley Brothers Social Enterprises so they can make their oil available for five cents a milligram.

I have had five patients who have had to discontinue treatment because they could not afford the oil. These patients have remained on AEDs and are on the waiting list for more affordable oil from Realm of Caring.

Compound	Species	Studies	Dose	Anticonvulsant	No effect	Proconvulsant
THC	6	31	0.25-200 mg/kg	61%	29%	10% [1]
CBD	2	21	1-400 mg/kg	81%	19%	0%
Other plant cannabinoids	2	7	N/A	100%	0%	0%
CB1 agonists	2	55	N/A	73%	18%	2%

SUMMARY OF PRECLINICAL EVIDENCE was presented by University of Reading pharmacologist Ben Walley at the October, 2013, conference on Cannabidiols and Epilepsy at NYU. "Studies" refers to the separate conditions, models, and designs reviewed. In none of the 21 projects involving CBD or CBDV did researchers see a proconvulsant effect.

CBD actions:	✗ Voltage-gated Na+ channels	✔ HVA Ca^{2+} channels	✔ LVA CA^{2+} channels	✔ Voltage-gated K+ channels	✔ GABAA receptors	✔ GABA Turnover	✔ Glutamate receptors	? Synaptic vesicle protein 2A	? Carbonic anhydrase
Phenobarbital		+			+++		+		
Phenytoin	+++								
Ethosuximide			+++						
Carbamazepine	+++								
Sodium valproate	++		++			++			
Benzodiazepines					+++				
Vigabatrin						+++			
Lamotrigine	+++	++							
Gabapentin	+	++				+			
Felbamate	++	++			++		++		
Topiramate	++	++		+	++		++		+
Tiagabine						+++			
Oxcarbazepine	+++								
Levetiracetam		+			+			+++	
Pregabalin		++							
Zonisamide	+++		++						+
Stiripentol					+++				
Rufinamide	+++								
Lacosamide	+++								+
Esclicarbazepine acetate	+++								
Retigabine				+++					
Perampanel							+++		

CBD ACTS IN WAYS SIMILAR TO VARIOUS ANTI-EPILEPSY DRUGS listed at left. In this chart developed by AJ Hill and colleagues, + signs indicate the relative strength of the interactions (row at top) that have been observed in the lab. "This is a slide that parents find very useful," according to Goldstein. "Instead of having to take all these different drugs, they can get many of the benefits with one medication."

Other patients are using lower-than-ideal doses because they're at their limits financially

CBD use by Diagnosis

Lennox-Gastaut Syndrome: Of 10 patients with LGS, ages two to 14, the parents all reported > 25% seizure reduction. Parents also reported that their children were more alert, more interactive, happier, and had quicker recovery from seizure. Eight of the 10 were able to wean AEDs, two got off the ketogenic diet. There were no reports of negative side effects.

There were eight Dravet patients, ages four to 20. Four of reported 75-90% seizure reduction. One reports 35% reduction. Three report no change. All parents report improved alertness, behaviors, memory, ability to learn, better speech, improved social and motor skills, improved appetite and sleep. One parent reported "better sense of humor." Half have been able to wean AEDs. There were no reports of negative side effects.

Of nine patients with other genetic syndromes, ages two to 17 years, one was seizure free. Four reported 75-90% reduction in frequency. Three reported 50% reduction. One reported no change. Most reported improved alertness, better sleep and appetite. One parent reported side effect of fatigue. Six of nine weaned at least one AED.

Of four patients with Infantile Spasms (West's Syndrome), ages nine to 18 months, one was seizure free, two had 80-90% reduction, one reported no effect from CBD. All parents reported improved development and better eye contact. All reported no negative side effects. Significant development takes place in the first year of life. Many parents state that development is arrested when their very young child has frequent seizures. With reduction of seizures with CBD, development can continue to move forward.

Tuberous Sclerosis: one patient soon after starting CBD was able to wean off Onfi, reduce trileptal, and had 75% fewer seizures. She improved in that she began trying to vocalize and interact with her caregivers.

P.S. 3/22/15: As of December 2014 there was no longer a waiting list for the CBD-rich oil made from the Charlotte's Web strain by the Realm of Caring Foundation. Good quality CBD rich oil from the ACDC strain has also become readily available in Southern California. I have seen an additional 100+ pediatric patients with refractory epilepsy since reviewing my files for this article and will be reporting on their results after three months of treatment and observation. Interestingly, a few patients who have reported excellent results have found, after 9 months or so, an increase of seizures or lethargy that appears to be unrelated to any other cause. Parents in Colorado also noticed this phenomena and found that stopping CBD for a few days, then restarting at a slightly lower dose (10-15% less) completely resolved the issues. It might be that there may be a point at which the endocannabinoid system is "full" and does not need as much cannabinoid medicine. This makes sense as the endocannabinoids are produced "on demand" in response to a trigger. Presumably by taking a break from the CBD oil or decreasing the dose, the endocannabinoid system can reset itself. Research into this phenomenon is greatly needed. —*B.G.*

Att. 6 3/21/17
SB. 2344

MJ producer in Oregon

For: House Committee Hearing for SB 2344 – Neutral Testimony

Date: March 21st, 2017

From: Kevin Cross

Good Morning, this is Kevin Cross from District 5 in Minot. I am unable to physically make it to the hearing today, but still wanted to add some neutral testimony. My parents farm medical marijuana in Oregon and I am looking to do the same here in North Dakota. So my testimony is more from a business standpoint than anything else.

There were some good amendments made to SB 2344 in the Senate and this a very workable bill for a business;

- The residency requirement for licensees is great and will help keep the money generated from the program in the state of North Dakota
- The ability for patients to utilize the benefits of flower in its natural state
- The usable amount of product coincides with patient's average usage of flower and oils

The 1,000 plant limit is probably fine until the next session. Although I would recommend a limitation on canopy size as opposed to plant limit. I say this because there are many different growing styles. Some prefer to grow small plants but grow a lot of them and others like to grow larger plants and grow less. The overall yield per square foot is generally pretty close to the same from the different methods. A maximum square footage of canopy space would be more conducive to the industry. A potential problem with the plant limit would be that if farms get up to that 1,000 plants they will have to choose between research/development and production. This puts the farm in a tough position and it would not only affect the business, but the patients as well. Not to mention the overall advancement of the industry.

I have been a few times to lay out a time frame from a license being issued until we have products ready to sell to a dispensary. For our business this would be roughly 6 months and I would expect for the average licensee it would be 6 to 9 months depending on their facility design and growing practices. I would suggest potentially licensing the manufacturers first and getting them off and going on production then shift to licensing the dispensaries. The farms will need a little time to stock up on product and create a good variety for patients. If the dispensaries are already open from day one of the farms starting to harvest, it is going to create a problem where the farms are struggling to meet demand. It will lead to limited choices for patients and potential price increases as demand could be higher than production. In addition some sort of early enrollment program for patients would help farms know how much to produce initially.

That is all I have for my testimony. I would like to thank the Human Services committee and the Health Department for their continued work on this bill. No bill is perfect at its inception and it will be a work in progress over time as the program develops. Thank you.

SB 2344
3/21/17
Att. 7

Senate Bill 2344- Department of Human Services
House Human Services Committee
Robin Weisz, Chairmen
March 21, 2017

Hello my name is Erica Schmidt it's an honor to be speaking here today. I'm twenty years old and I suffer from chronic pain, migraines, headaches, stomachaches, pain in my back, in my shoulders, and in my neck. At the age of seven, I was diagnosed with cancer, had surgery on my brain, and went through chemotherapy and radiation. Although now I am cancer free and have been for 13 years, throughout the years I've suffered through a lot of pain, and I've had many experiences with medications with terrible side-effects, medications that counteract themselves, and medications that simply just didn't work.

When I was ten I was basically banned from the Emergency room. I had visited the ER so often because, apparently, the only thing that could help completely eliminate my pain was Dilaudid. But, since Dilaudid is a narcotic that's very addictive, apparently the doctors thought I was too young to be getting this powerful treatment and they advised my mother not to bring me back. So, yes, I was basically banned from the Emergency Room.

Of course the ER was only ever used as a last resort, when the pain was just too much to bear, but I found myself there much too often. Now, I feel as though pain is just a part of me; it follows me wherever I go and it is always with me, as if it were my shadow. I don't think I even know the true feeling of pain anymore. I mean, I find relief from neck pains and migraines by hitting my head, on things or with things: with a pencil or pen, with my hand, with the television remote, or even on side of the wall.

When people talk about a headaches where the pain is so bad you just feel like ramming your head through the dry wall, that's my daily thought. At the age of twelve, my parents brought me to a rehabilitation center located in the Mayo Clinic hospital in Rochester, MN. My parents called it a Pain Camp. "Pain Camp" was a 30 day clinic that taught me techniques to control my breathing, reduce my medications, and

how to "essentially" ignore my pain. In the end it didn't help much; although I did learn I was Lactose intolerant. I was beginning to feel special, like I was immune to almost everything that was supposed to help relieve pain. Medications, like Advil, Alieve, Tylenol, and medications created solely to treat migraines, barely made a dent. Of course there was always sumatripton, the latest alternative for my head pain, which acted as a Dilaudid for me in the ER. But it always came with bad side effects. It made my skin crawl, and it gave me uncontrollable leg spasms. It was terrible, it made me want to cry, to jump out of that hospital bed, rip that IV out of my arm and run to the comfort of my home. Aside from medication, I've also tried, acupuncture, chiropractic care, messages, and of course the "pain camp".

Growing up, I was taught that drugs were bad and that they were harmful for your health; yet, through the years, I have seen, and known many people who have used them. I did some research and found that Marijuana, or weed, raises the level of dopamine in your brain, relieving pain. I also found that there are types of weed that don't include chemicals that result in getting people high. I thought that weed was starting to sounds very similar to alcohol, or morphine, or any type of opioid, for that matter; the difference being that marijuana does not include all the negative side effects. Though marijuana is illegal, I realized that if someone wanted to do something, like drink or smoke tobacco, then most people will do it, regardless of the harm it may cause.

I believe that marijuana could be helpful in relieving my pain, and although its's hard, for me, to imagine a world without physical pain because, like I said, it's become a part of my everyday life, and it's an enemy I know all too well, I am hopeful that one day I will live without physical pain, maybe my brain will be able to function without being interrupted by headaches or back pain, or neck pain. Currently, due to pain, I am unable to go to school or work full time, I am unable to fully engage in normal everyday activities.

Including: playing video games, creative writing, reading, exercising, playing with my dog, and so on. Because of pain, I don't want to move because no matter how I move, it causes more pain.

I believe that medical marijuana would be a wonderful medication which I could use "as needed" instead of taking a pill daily or going to the Emergency room frequently. My hope is that, someday, affordable medical marijuana will be available to the state of North Dakota, so I can finally live pain free.

Att. 8
SB 2344
3/21/17

Testimony

Senate Bill No. 2344 - Department of Human Services

Human Services Committee

Robin Weisz, Chairman

March 21, 2017

Chairman Weisz, members of the Human Services committee, my name is Maxine Schmidt. I am Erica's mother. You have already heard her story, so I'm not going to repeat any of that today. As a parent, I have other reasons for speaking to you. It starts with finances.

Health issues are expensive. Time away from work. Medicines. Doctor visits. Medical procedures. I'm sure you can imagine the effects of years and years of costly treatments just for chronic pain. It's devastating.

We know…please don't ask me how we know, but we now know that marijuana will stop her pain instantly. My daughter can be fully functional –for the first time since she was six years old BC, before cancer. But she needs this treatment to be affordable. Other families need it to be affordable. Please keep that in mind.

Allowing medical marijuana in the state of North Dakota but charging $200 a year just for the medical card can make its use prohibitive. Consider the fact that harmful, addictive narcotics are covered by insurance – please don't let narcotics remain the better choice.

North Dakotans currently do not pay $200 just for the privilege of getting a prescription written. Nor do we pay an annual fee when we turn 21 simply for the opportunity to enter a liquor store. This additional charge only increases the cost of health care.

Affordability is important – and so is accessibility.

Measure 5 allowed for the growing of marijuana if the patient's home is located more than forty miles from the nearest distribution center. This was an important piece of the approved measure. North Dakota continues to be a large,

rural state with unfriendly winter weather. I have family members that live 90 miles from Minot, a winter storm, like the one we just had, would prevent them from getting the product they needed. Even with mild weather some health issues didn't always allow long distance travel.

I do have other concerns with the current Senate bill, No. 2344.

This bill wants to remove the option of cannabis edibles and, especially for minors, allowing only cannabis oil. Today, there are options like patches – which could be a wonderful option for my daughter the college student, an option we would certainly like to try.

As a parent of a child who was under 10 when medical marijuana would have been a god-send, cannabis edibles would have also been a wonderful option. I visualize a small cookie making her pain free for a day or two, without leaving her "stoned". This reality could exist in North Dakota. Measure 5 language dealt with this concern – please revisit this for the benefit of our sick children. *(Page 9, Beginning at Line 21)*

I am also concerned with Page 51, line 7, which discusses the plan to enter the home of every cardholder. Please don't treat cardholders as if they were on parole. Instead afford them the dignity they deserve and assume they are possessing and using medical marijuana for legal reasons. Remember we are all innocent until proven guilty. *(Page 51, Line 7)*

Patient protections are needed for the smoking or vaping of medical marijuana. This is regarding the need to legalize the possession, manufacturing, and delivery of paraphernalia. These products are necessary for the use of medical cannabis for the patients that choose to use them. The smoking or **vaping** of marijuana offers immediate relief, while edibles take longer for the intended effect. Often a combination of the two processes is ideal for treatment. As a mother, I want every tool available. And I want it to be legal. *(Page 76, beginning on Line 21)*

One final request I have is to not limit the medical conditions that could benefit from this natural medicine. New research tells us that marijuana can aid in the healing and mending of damaged bones. We shouldn't limit the possibilities that more testing will bring to light.

I have lived in North Dakota all my life and I never imagined that I would be here today discussing the options of medical marijuana. I also never imagined that

I would be the parent of a seriously ill child. Last year when I heard about the Compassionate Care Act, I was hopeful that medical marijuana would be the final treatment option that my daughter would need. We are so close and now her future lies in the decisions that are made in this building. Please don't let us down.

This concludes my testimony. I would be happy to address any questions that you may have.

Maxine Schmidt

Fargo, ND

Maxineschmidt1913@gmail.com

Att #9 3/21/17
SB 2344

Chairman Weisz, and Members of the House Human Services Committee, my name is André Thom. I recommend DO NOT PASS because SB2344 fails to decriminalize the medical use of cannabis and goes against the spirit and intent of the North Dakota Compassionate Care Act.

I graduated from the UND School of Law in December of 2015. I hold certificates from Oaksterdam University in California and have professional experience helping businesses comply with state regulations specific to the production, manufacturing, sale, and distribution of medical cannabis. Unfortunately, without reciprocity, I'm also a **medical cannabis cardholder** unable to find a legal source of my practitioner-recommended medication in North Dakota.

From my experience, I believe there are at least five (5) elements to a successful and safe medical cannabis program:

1. Acceptance;
2. Advancement;
3. Access;
4. Safe; and
5. Affordable.

Specifically, Department of Health policies that promote **acceptance** of a medical practitioner's certification and the **advancement** of patient **access** to a **safe** and **affordable** medical cannabis program. In support of this, the Department should have the authority to expand qualifying conditions.

The voter-initiated and passed Act defines a "debilitating medical condition" that includes "Any other medical condition or its treatment added by the North Dakota Department of Health." SB 2344 redacts the Department's authority to add qualifying conditions and replaces it by separating Crohn's disease and Fibromyalgia into two separate qualifying conditions.

In comparison, any person in Minnesota may request the commissioner to add a qualifying medical condition that goes before a review panel that includes medical cannabis patient advocates. The commissioner of the Minnesota Department of Health "[M]ay periodically revise the list of qualified medical conditions. Revisions to the list must reflect: (1) advances in medical

science; (2) evidence-based medicine and other peer-reviewed research demonstrating treatment efficacy; or (3) other therapeutic factors that will improve patient care." The final decision is subject to judicial review.

A few days ago, the Bismarck Tribune reported that there are concerns to ensure that medical cannabis is safe and labeled accurately. Although the DEA acknowledges that no direct deaths from marijuana overdose has ever been recorded, there are reasonable concerns regarding testing for cannabinoid profiles, metals, pesticide residues, biological contaminants, and residual solvents.

From my experience, the purpose of requiring commercial manufacturers to contract with either independent or government laboratories is to help protect patients by testing medical cannabis before distribution.

Question: Is the Laboratory Services Division of the North Dakota Department of Health interested in charging for services related to the testing of medical cannabis? I ask because the Laboratory Services Division states the following on their website: "Our mission is to provide legally defensible quality analytical laboratory services within a reasonable time for the department and the state of North Dakota."

Before the Act passed, the Department released a fiscal report estimating the cost of a patient and caregiver registration card at $117. SB 2344 increases this cost to $200, making it one of the most expensive medical cannabis registration fees in the country. Unlike the program created by SB 2344, programs in other states offer reduced fees.

For example, Minnesota statute requires reducing the normal fee to $50 if a patient attests to receiving Social Security disability, Supplemental Security Insurance payments, or being enrolled in medical assistance.

Last Thursday, the Jamestown Sun reported that some were "[W]orried that the initiated measure didn't include language to decriminalize the product." Despite revisions, SB 2344 still does not include language to decriminalize cannabis for medical use.

SB 2344's redaction of "delivery, transfer, or transportation," under the definition of "medical use" in the Act, eliminates clear protections for patients and caregivers from criminal sanctions while they perform common activities that are necessary to administer the therapeutic, medical use of cannabis in a sparsely populated state.

In contrast, Minnesota Statute provides criminal and civil protections to those registered and verified in the medical cannabis program with the following language:

> "Therapeutic use means the acquisition, possession, preparation, use, delivery, transfer, or transportation of medical cannabis or paraphernalia relating to the administration of medical cannabis. In addition, federal, state, and local law enforcement authorities are prohibited from accessing Minnesota's patient registry except when acting pursuant to a valid search warrant."

The Act permits home grow of medical cannabis. SB 2344 eliminates this permission but maintains the Department's authority to determine the application or renewal eligibility by entering the home of a cardholder or applicant. In my professional opinion, the clause permitting home interviews was and still is unnecessary if the Department already requires annual registration and verification of a patient's certification through a healthcare practitioner.

In Minnesota, "The health care practitioner must maintain a health record for each patient for whom the health care practitioner has certified a qualifying medical condition" and requires distributors to consult with the patient and/or caregiver that includes "[A]n assessment of the perceived effectiveness of medical cannabis in treating the condition or symptoms of the condition and a review of any changes in the patient's medical condition." Medical professionals in Minnesota are given the authority to determine a patient's recommended daily dosage of CBD and THC.

To summarize, I recommend DO NOT PASS because SB2344 increases cost, fails to decriminalize the medical use of cannabis, fails to protect the privacy of cardholders, fails to include Intractable Pain as a qualifying condition, and forces patients under the age of 19 to use medical cannabis with no more than six percent (6%) THC, regardless of whether the patient's certifying healthcare practitioner or expert recommends a higher percentage to stimulate appetite and provide pain relief without the risk of respiratory depression and narcotic addiction compared to current prescription pain pills.

Thank you for your time and consideration. I shall stand for questions.

Appendix:

A. Adding New Medical Conditions - Medical Cannabis Program. (n.d.). Retrieved March 19, 2017, from http://www.health.state.mn.us/topics/cannabis/rulemaking/addconditions.html

B. 28 Legal Medical Marijuana States and DC - Medical Marijuana - ProCon.org. (2017, February 2). Retrieved March 19, 2017, from http://medicalmarijuana.procon.org/view.resource.php?resourceID=000881

C. THERAPEUTIC RESEARCH ACT; MEDICAL CANNABIS
M.S. 152.21 – 152.37
https://www.revisor.mn.gov/statutes/?id=152

D. Minnesota Administrative Rules; CHAPTER 4770, MEDICAL CANNABIS
https://www.revisor.mn.gov/rules/?id=4770

E. "Medical cannabis is not available through the traditional prescription model which is amenable to insurance reimbursement; therefore patients are required for cover medication costs completely out of pocket."

"Reasons for pausing treatment included a variety of responses, though cost was the most common reason."

Early Results of Office of Medical Cannabis Surveys
May 2016
Minnesota Department of Health
Office of Medical Cannabis
http://www.health.state.mn.us/topics/cannabis/about/surveyresults0516.pdf

F. "Health Commissioner Dr. Ed Ehlinger said. 'However, given the strong medical focus of Minnesota's medical cannabis program and the compelling testimony of hundreds of Minnesotans, it became clear that the right a compassionate choice was to add intractable pain to the program's list of qualifying conditions. This gives new options for clinicians and new hope for suffering patients.'"

Tim Blotz
FOX9
Pain added to list of conditions for medical cannabis in Minnesota
http://www.fox9.com/news/55198610-story

G. Intractable Pain Certification in the MN Medical Cannabis Program:
A Primer for Health Care Practitioners
June 2016
Minnesota Department of Health

Office of Medical Cannabis
http://www.health.state.mn.us/topics/cannabis/practitioners/intractableprimer.pdf

Potency/Stability Testing Procedure and Acceptance Criteria

Manufacturers

- Manufacturers must contact the laboratory in advance to schedule a drop off. This ensures someone with the authority to receive shipments is available.
- Manufacturers must submit each manufacture/product ID for potency and stability testing. Additional testing on samples that have the same manufacture/product ID are required if one of the following conditions below occurs:
    - The product's potency test results fall outside a +/- 5% deviation from the levels printed on the container.
    - The product's stability test results degrade greater than 5% from the initial tested concentration upon sample receipt at time zero (T=0).
    - If the manufacturing process is changed for a product.
    - If any constituents of the product are changed/altered.
- Manufacturers must send in all new final product forms (manufacturing process is changed for a product or any constituents of the product are changed/altered) as they are created to a state approved testing laboratory for safety, potency, and stability testing.
- Manufacturers must submit all stability product of a particular lot to the laboratory at one time (i.e. 18 capsules, 6 0.5mL vaporizing cartridges or oil, and 6 1.0 mL samples of a tincture or oral solution).
- Manufacturers must submit the lot number, date of manufacture, and the expected concentration by volume (mg/mL or mg/capsule) on all items to be tested to the state approved laboratory conducting the testing.
- Manufacturers must provide the product assay value (if applicable) for the laboratory to assess whether potency falls outside +/- 5% deviation from the levels printed on the container.
- Stability Testing: Final product samples for stability testing must be of the same lot number and must not degrade more than 5% from the initial T=0 tested concentration. If the 5% delta is exceeded, the Office of Medical Cannabis (OMC) must be notified immediately and the product must be retested. If the product still exceeds the 5% delta after retest, it must be destroyed or reconstituted/reformulated. Testing frequency is to be executed per the chart below:

Office of Medical Cannabis

Quality Assurance Program; Stability Testing

Product	Sample Size to be Tested at Each Interval	Sample Container	Storage Conditions	Intervals (months)					
Capsules	3 capsules	White Plastic Bottle	Refrigerated	0	3	6	9	12	18
Vaporizing Cartridge	0.5mL	Vape Cartridge	Room Temp.	0	3	6	9	12	18
Tincture/Oral Solutions	1.0mL	Amber Glass Bottle	Room Temp.	0	3	6	9	12	18
Oils	0.5mL	Amber Glass Vial	Room Temp.	0	3	6	9	12	18

Laboratories

- Potency/Stability Testing: If the 5% delta is exceeded, the laboratory must notify the OMC via health.cannabis@state.mn.us and the product must be retested. If the product still exceeds the 5% delta after retest, it must be destroyed or reconstituted/reformulated.
- Communication between the manufacturers and laboratories, with the exception of discussing specific test results or the transport of the medical cannabis, should be done through the OMC.

Any edits or revisions to this document or the procedures outlined in this document must be executed by the MN Office of Medical Cannabis.

Safety Testing Procedure and Acceptance Criteria

Manufacturers

- Manufacturers must submit 14 grams of product per stock solution/extraction submission to allow for the full spectrum of tests and re-testing if necessary.
- Manufacturers must contact the laboratory in advance to schedule a drop off. This ensures someone with the authority to receive shipments is available.
- Manufacturers must notify the Office of Medical Cannabis (OMC) and testing laboratory of any pesticide use.

Laboratories

- If a result falls outside the acceptance level, or a random test detects a pesticide, heavy metal or a solvent, the laboratory must notify the OMC via health.cannabis@state.mn.us.
- Communication between the manufacturers and laboratories, with the exception of discussing specific test results or the transport of the medical cannabis, should be done through the OMC.

Analyte	Maximum level	Comment	Guideline
Metals			
Arsenic	1.5 ppm	Consistent negative tests for three months-then will change to a random test on a quarterly basis. A change in a manufacturer's cultivation process will trigger a new round of consistent testing for three months.	FDA Q3D, Elemental Impurities Guidance*
Cadmium	0.30 ppm		
Lead	1.0 ppm		
Mercury	0.5 ppm		
Toxins			
Aflatoxin B1	5 ppb	Consistently test for all four toxins. B1 has a limit of 5 ppb and there is a 20ppb total limit for all four toxins combined.	American Herbal Pharmacopoeia Recommended Standards
Aflatoxin B2	- ppb		
Aflatoxin G1	- ppb		
Aflatoxin G2	- ppb		
Microbials			
Salmonella	Absence in 1g	Consistently test for all microbials.	American Herbal Pharmacopeia Cannabis Inflorescence*
E. Coli	7 CFU/g		
Mold and Yeast	1000 CFU/g		
Aerobic Bacteria	100000 CFU/g		
Bile tolerant gram negative bacteria	150 CFU/g		
Pesticides			
		Random quarterly testing for Pesticides. Consistent testing of stock solutions will occur if a manufacturer has notified the OMC that they intend to use a particular pesticide.	US Pharmacopeia Herbal Medicines Compendium Chapter 561**
Solvents			
Pentane	3000 ppm	Random quarterly testing.	FDA Q3C Guidance*
n-hexane	290 ppm		

*Limits are at or below the recommended guidelines, E. Coli level is based on the laboratory reporting limit of 5 CFU/g

**Specific tolerance limits are listed in table 4 of Chapter 561 of the US Pharmacopeia Herbal Medicines Compendium

Att. 10
SB 2344
3-21-17

Chairman Weisz and members of the House Human Services Committee
My name is Linda Kerstin and I live in District 6, Rep. Anderson's district. I am a wife, mother of 4, grandmother to 9, and a 71-year-old retired teacher. I've come here today to speak for the 64% of the ND voters who feel betrayed by our legislators and to advocate for the patients of ND to use medical marijuana in the way that best achieves their need for relief from their suffering.

It seems so silly that I am down here in Bismarck participating in this hearing when the tables should be reversed. I know you all remember that 64% of the voters in North Dakota passed the Compassionate Care Act which you, our legislators, then decided to hijack. Without even contacting the writers of the Act, you went about drawing lines through everything this hard working, kindhearted group of people had written and in its stead produced a bill that was unrecognizable to the Act that was passed in November. You have talked about the Act with disgust, made fun on the people who wrote and who voted for it, calling us uniformed. I testified in the Senate hearing and watched as Senator Lee grabbed the bill and held it in front of a fellow testifier stating that the peopled of ND did not know what they voted for. In other words, she considered me and the rest of the 64% of North Dakota voters' ignorant.
Our Compassionate Care Act is now SB2344 and no longer shows any compassion for the patients of North Dakota. You seized our Act, laughed at it, drew lines through it and produced a bill that will fail. And maybe that is what you want. SB2344 has already failed the chronically sick and hurting and most times cash strapped people of ND. In SB2344 patients and their caregivers are treated like criminals on parole, second rate citizens because of their illnesses. SB2344 is more interested in keeping people from getting and using marijuana then it is in providing the choice of medication for our citizens in distress deserve.

The people of ND overwhelmingly voted for an Act that they knew gave chronically ill people the right to use marijuana in any form they chose whether it be in oil, transdermal patches, sublingual drops, edibles, or dried leaves and flowers. They voted for an Act that allowed the patient to choose if they vaped, smoked, ate, or put on a patch. They voted for an Act that allowed a patient to grow their own marijuana under the proper conditions.

And thanks to the Compassionate Care Act you can say the word "MARIJUANA" out loud. It's a common word now. People who never would have thought of ever needing or wanting to say that word now know that it can help children and adults of all ages across our state.
At a basketball game in Westhope a dear sweet woman in her 60s turned to me from 2 rows below and asked how my daughter was doing. I replied that her last checkup in Mayo was good, a clear scan. She then asked if she was still using marijuana. She said that out loud, in front of a crowd of people and I answered "no", as she had no need of it now. Carol just assumed the Act that passed overwhelmingly was now in force. At a retired teachers' meeting held at the Good Samaritan Home in Bottineau to accommodate teachers in that facility, a beautiful elderly retired teacher sat in her wheelchair and repeated two times the fact that 64% of the voters of North Dakota voted for medical marijuana. She was disgusted with our legislators for thinking that the people did not know what they voted for. After a Lenten service over coffee in Kramer, three elderly parishioners also stated their disgust with Bismarck at jeopardizing their vote.

I testified at the Senate hearing back in February concerning my daughter, Karla, and her 7-year battle with stage 4 colon cancer. Karla is here with me today and sitting over there. She's the strongest woman I know. At the time of her diagnosis she was 42 and along with her husband Terry, were parents to a 7 and 4-year-old. She has been through multiple rounds of chemo and endured 4 major surgeries. Thanks to our medical professionals and a prayer family that extends way beyond the borders of ND she is here today and looking beautiful. I am so proud of her.

At that Senate hearing I related how in March of 2016, I signed the petition to get the Compassionate Care Act on the ballot and that by April, Karla's cancer had reoccurred for the 4th time. She was scheduled for more chemo and surgery in Mayo. I would go to Fargo and stay with her during her treatments and it was then that we decided to purchase and use medical marijuana for the extreme nausea, fatigue, pain, and discomfort she was experiencing. She got up off the couch and we went into the bathroom, where she sat on the floor and leaned against the tub and smoked marijuana. Do you believe in miracles? Well, I do and that night for Karla, marijuana was a miracle. After only a few puffs, she walked out of that room, sat up in a chair, something she had not done in several days, and stated she could go for a walk outside if it wasn't dark. If I hadn't seen that miracle with my own eyes I would never have put my family's reputation on the line. But I did see it, and Karla experienced the results and we decided to go public. I wrote letters to the editor, spoke in my church, splashed it all over social media, and even went on talk radio. And we did this for every child who has seizures, every vet with PTSD, every cancer, MS, Parkinson, chronic pain patient across the state of North Dakota.

The Act passed by 64% of the voters and yet here I am, asking and begging you to make us proud as a State and do the right thing first, for the patients of North Dakota that are depending on you, and second, for all the voters of ND that know what they voted for. I see that since the Senate hearing the bill has been updated to include dried leaves and flowers allowing smoking. But then includes this: If the physician authorizes the use of dried leaves or flowers of the plant of the genus cannabis in a combustible delivery form, the written certification must include an attestation in the physician's professional opinion no other form of usable marijuana would be effective in providing the patient therapeutic or palliative benefits. Is smoking illegal in ND? Is it illegal for a patient with a chronic disease to smoke? Are you making up new laws and if so, why? According to the Mayo Clinic web site smoking is the fastest most efficient way to use marijuana. Everyone should be able to choose what is best for them. Because of the many unsympathetic regulations in SB2344 I am asking you to either make severe changes to this bill or recommend a "Do not pass" and return to the Compassionate Care Act.

Linda Kersten
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701-263-1589
District 6

2

Att 11
SB 2344
3-21-17

March 20, 2017

My name is Bill Wilhelm. This is my wife Patty. We're from Beulah. I have Crohn's disease. I've been diagnosed with this disease for the past fourteen years. I've had so many surgeries I can't even count them for this disease. Two years ago I lost my battle to not have a permanent hole in my abdomen. Now I wear an ostomy bag which in itself is a challenge. My Crohn's will affect us for the rest of our lives. I wish I'd had the opportunity for medical marijuana before I had to have so much cutting on my body. Now we are excited to keep the inflammation at bay. I have been on all of the "so called" autoimmune pharmaceuticals available, some even still in the trial stage. None of them were therapeutic for me. None helped. The side effects of these drugs have affected me permanently. At Mayo in Rochester, my GI doctor tells me I'm the most difficult case she's ever had. I also have CMT. Charco-Marie-Tooth disease. It is a progressive, genetic, neurologic disease. There is no cure at this time. No medication you can take to slow the progression or relieve symptoms. It involves muscle and nerve degeneration and wasting. It involves pain in the joints and many of us have bone degeneration as well. It is the primary reason I had to quit my job in the Chem lab at Dakota Gasification. It is my understanding that certain strains of Medical Marijuana will be therapeutic for me. I'm hoping it will help many others as well and possibly prevent future surgeries for those afflicted with Crohn's and CMT.

Measure five, the Compassionate Care Act, needs a bit of clarification at this point. My wife and I strongly feel that we should be able to choose for ourselves what form of Medical Marijuana to use for out medical conditions. We do our due diligence investigating each strain available, what it offers and how it's best delivered to our bodies. Are the medical doctors going to do as much studying with Medical Marijuana as they do the pharmaceuticals? We wonder. We strongly feel that edibles are a valid choice in the delivery system. Also by adding the weight of non marijuana ingredients to salves, etc., we will have a less amount available to us each month. We believe that this bill should include the provision to allow us to use our delivery system outside the home, which would include paraphernalia needed. It will keep us from prison and fines.

It only makes sense that if we are not going to allowed to grow our own, that "an enclosed, locked facility" should be removed from the bill. We also don't need the State Health department to do home visits with 24 hours notice if we are not allowed to grow. It is an invasion of privacy. If we are allowed to grow our own , then we should be grandfathered in if we are too close to a school. We can't move our home that has been our home for decades. We say again, we are not drug addicts, we are not criminals. We are, however, proactive for our health.

Thank you.

Bill and Patty Wilhelm

412 2nd Ave NW

Beulah 58523

bwil@beu.midco.net

a H. 12
SB2344
3-21-17

March 21, 2017

House Committee on Health and Human Service

Good Morning. My name is Rilie Ray Morgan of Fargo ND. 27 Fellow North Dakotans and myself made up the committee to begin the initiated measure process for North Dakotans to vote on Medical Cannabis commonly know as ND Compassionate Care Act or Measure Five.

I want to clear up a couple of things before I testify today. First, in spite of what Senator Judy Lee says I know what I voted for when I voted yes on Measure 5 in November.

Secondly, I believe that Representative Devlin can attest to the fact that I am not an "old dope smoking hippie" like many members of the legislature have called me and our committee members.

When Measure 5 was passed by almost 64% of voters in November, we were pretty darn pleased. And we thought by now the Department of Health would hit the ground running and would be taking applications for Medical Cannabis patients by now.

But instead they sat around wring their hands and said to the legislature "we don't know how we are going to implement this measure" and the legislature with their red neck, reefer madness, ultra conservative majority were more than happy to accommodate the Department of Health.

The biggest complaint that we heard was that Measure 5 didn't have provisions that excluded medical cannabis cardholders from being arrested for possession of marijuana. Instead of fixing that with a simple added amendment, the certain members of the legislature decided that 216,000 North Dakotans didn't know what they were voting for or weren't of sound mind when the voted for Measure 5.

So they decided that the next best course of actions was to gut Measure 5 with a new law that is over 80 pages long. That includes the original measure 5 wording, which was redacted by over 80%.

We now have heard from our legal team that N. D Cent. Code & 1-01-07 states that when we have a specific law and a general law that we are to follow the specific law.
Yes, there is a general law that says marijuana is illegal but what NDCCA did was pass a very specific law allowing for medical cannabis or marijuana.

The specific law (Original ND Compassionate Care Act) trumps the generic law (illegal marijuana), so no changes need to be made to our drug laws to accommodate Measure 5. Those is power should know the rule of interpretation as it has been part of our law since 1943.

The exact language of the law is:

"Whenever a general provision in a statute is in conflict with a special provision in the same or in another statute, the two must be constructed, if possible, so the effect may be given to both provisions, but if the conflict between the two provisions is irreconcilable the special provision must prevail and must be construed as an exception to the general prevision, unless the general provision is enacted later and it is the manifest legislative intent that such general provision shall prevail."

We don't believe that the state legislature needs nor wants a lawsuit concerning the ND Compassionate Care Act.

Be that has it may, we trust this committee and the House of Representatives will role back the changes made to NDCCA by SB 2344 and listen to the voters of North Dakota.

I want to leave you with one final thought—

The enacted law starts "To be enacted by the people of North Dakota".

SB 2344 starts with "To be enacted by the legislature of North Dakota".

Rilie Raymond Morgan III
701.412.1222
3114 37 ½ Avenue South - Fargo ND 58104
rilieray@aol.com

a H. 13
SB 2344
3/21/17

Response and Requested Changes to SB 2344

Gail Pederson, SPRN, HN-BC
3608 117th Ave SE
Valley City, ND, 58072-9540
bewellhealingarts@gmail.com
701-490-2132

March 21, 2017

Good Morning Committee members and visitors,
My name is Gail Pederson (SPRN, HN-BC). I am a board certified Holistic Nurse and the only Special Practice Registered Nurse in Holistic Nursing, in North Dakota. I have a private practice in Valley City where I utilize complementary and alternative therapies to help with chronic pain, stress, sleep and general whole body health care. I focus on nonpharmacological ways to deal with health concerns using imagery, relaxation techniques, energy medicine, diet, herbs and nutritional supplements. I do not diagnose nor do I prescribe. I assist my clients to find methods to help them control the illnesses they are dealing with.

Medical Marijuana has been on my radar for over 20 years. My mother was diagnosed with pancreatic cancer and I was desperately trying to find something to relieve her nausea and pain. A naturopathic physician recommended marijuana. Of course, it was never brought up to her because it was illegal. I am grateful to the people of ND for seeing this as important for those that might benefit from it.

I respectfully request that the committee return the usable forms of marijuana to the original Measure voted on by the people.
I have outlined some areas of concern.

Page 5, lines 3-12: Cases in point, my 2 siblings, in their 70's, in 2 different states, use MM in different forms. My sister uses a tincture and cream, My brother prefers edibles and vaporizing. These are not included in the "usable form" in SB 2344.
I have also been hearing good things about patches for things such as fibromyalgia and neuropathy. These are not included in the definition of "Usable Marijuana" as it stands now.

Limiting oils as the only method that a child may utilize, brings questions for me, also. The oils may disintegrate a feeding tube. Also, if a medically fragile child is having a seizure, is ill or has stomach problems that prevent ingestion, inhalation via vaporizer may be the best route.

Page 5, line 8: The number of pills allowed monthly needs to be specified. This does not compute into weight.

Page 6, line 13-27: What if the physician that you have a "bonafide relationship" with does not wish to participate in certifying people? There needs to be a referral system from physician to physician for this ability. This is a way to prevent people from "Doctor Shopping" and provides continuity of care back to the patient's usual physician.

Page 9-10, lines 30-31, 1-3: The Physician is attesting to the debilitating conditions a person has and that they may benefit from the use of MM. The decision of which form to use should be left up to the dispensary and its agents. They are the specialists.

Page 11, Line 26: This again should be left to the dispensary and its agents, who can recommend to the patient what method would be best for them.

Page 15, Line 4: An unnecessary expense is a background check for the person holding the card or their designated caregiver. A prescription for hydrocodone, or any other class I drug does not require this, neither should MM. This is criminalizing the individual. Please remove this requirement.

My representative was quoted in a local newspaper talking about "Magical Marijuana", coming off quite sarcastically. Yes, the magic of some of the stories and personal experiences with MM that I have heard are amazing. That is why there also needs to be the ability for legal research and development within this bill. Please consider this above and beyond the set number of plants that can be grown.

The people of North Dakota did know what they were voting for with Measure 5. Please take some of my talking points into consideration to make this the best bill it can be. Thank you for the opportunity to speak to you today.

Gail Pederson

Att. 14
3-21-17
SB 2344

From: Jake Anderson
Date: Sat, Feb 4, 2017 8:30 AM
To: kbulling@nd.gov
Subject: SB2344

Dear sir, I am writing you in regards to the proposed bill in the Senate to amend the compassionate care act that I, along with close to 65 percent of the North Dakota citizens, voted for.

This bill completely undermines what the people of our state voted to help. I have rheumatoid arthritis and the constant steroid shots and opioid painkillers are making my life hell.

This bill will limit my access to the alternative medication that may improve my quality of life and that should be unacceptable to you as a Health and Human service worker. I ask you to not support this amendment and push to implement the bill the voters agreed to in November.

Thank you for taking the time to read this.

Jason Anderson
Turtle Lake, ND

Originally sent: February 4, 2017 for the Senate hearing.
E-mailed to NDCCA to print copies
Resubmitted on Sunday, March 19, 2016 at 9:31 am

Att. 15
3-21-17
SB2344

March 20, 2017

Jared Poe
401 Garfield Ave.
Champlin, MN 55316
(512) 496-7991
Jared88poe@gmail.com

To Chairman Weisz and Members of the Committee,

My name is Jared Poe, I'm 28 and I am a certified patient in Minnesota's Medical Cannabis Program. I am a full-time student, and an active volunteer in my community. I am living with HIV with co-infections. Without access to cannabis, completing treatment for Hepatitis C would have been a struggle. Medical cannabis offers me relief from the side effects associated HIV treatment and medications as well as the virus itself. I use cannabis daily and maintain a 4.0 GPA in school; I'm a member of my school's honor society. My quality of life has greatly improved with cannabis use. Allowing me to function as a productive citizen. Studies confirm cannabis is an effective remedy for many illnesses, with minimal side effects. Cannabis as medicine is becoming normalized as people discover its medicinal potential.

However, Minnesota's program has caused me a great financial burden, I cannot afford the amount I require for daily relief, and because the program only provides access to limited extracts, this has weakened the efficacy of my treatment with cannabis overall. I am low-income, and I, and others like me, need to be able to explore all forms of cannabis to find what form(s) of cannabis is best for my medical treatment.

I write in regards to opposition to SB 2344, a bill that would severely restrict the voter-approved North Dakota Medical Cannabis Program. In Minnesota, patients only have access to oils and other extracts; this chosen delivery method is expensive to produce (patients pay out-of-pocket), and the extracts have higher potency levels than whole-flower medicine. Many of Minnesota's patients are searching for their medicine on the illicit-market due to high costs of the available cannabis medicine and the limited manufacturers and cannabis pharmacies available (Minnesota has two manufacturers with eight locations statewide).

Minnesota's Medical Cannabis Program is in dire shape, and many are working diligently to correct its limitations. I'm concerned that the best interests for patients in North Dakota are also going to be overlooked. I urge you to allow patients to grow their own medicine, allow whole-flower as a delivery method without limitation, and provide an open market licensing system for manufacturers – in hopes of avoiding a monopoly or duopoly (as we have here in Minnesota).

A medical cannabis program should not be accessible only to those with means. I hope you will listen to patients with experience in limited medical cannabis programs.

Thank you,

/s/ Jared Poe
Jared Poe

Att. 16
3-21-17
SB2344

Kari Olavson
9748 Foley Blvd NW
Coon Rapids, MN 55433

(651) 808-7436
Kari.Olavson@gmail.com

March 20, 2017

Dear Chairman Weisz and Members of the Committee,

My name is Kari Olavson, I am a resident of Minnesota, and my six-year-old son, Jacob, suffers from epilepsy. We were initially thrilled when our state implemented a law permitting medical cannabis for patients with serious illnesses, and we enrolled Jacob in the Minnesota Medical Cannabis program right away.

Initially, the medicine he was given was helpful to control both the severity and frequency of his seizures, but as time went on, it became harder and harder to achieve the same effect from the cannabis extracts that he was permitted under the system. You see, the Minnesota program does not allow whole plant cannabis; it only permits highly manufactured versions of the medicine.

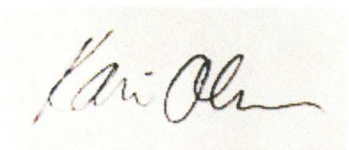
Manufactured cannabis is incredibly expensive to create, and this cost is passed along to the patients. In our case, we were spending $500 per month, and that is on the lower end as compared to some other people we know also enrolled in the Minnesota program. This wiped out our savings, and we have not yet recovered.

Like most people in the state, we do not have a lot of money. I take care of our children, and my husband is a die maker — we are lower middle class. I hope North Dakota does not make the same mistakes as Minnesota or young families may suffer the way my family has. North Dakota should allow whole plant flower without limitation.

I understand that SB 2344 proposes to create pediatric medical marijuana oil that caps THC at 6%. In our experience, a larger dosage of THC can have an immediate effect in stopping seizures. While I would not want my son consuming a large dose on a regular basis, such emergency measures do benefit patients like Jacob. I am concerned that the proposed legislation would prevent patients from accessing this important treatment option.

I hope you will heed my warnings about the failures within Minnesota's program, and amend SB 2344. Don't make the same mistake that my state did — leave Measure 5 intact, show compassion, and place patient care at the center of your analysis.

Sincerely,



Kari Olavson - Mom to Jacob

SB2344
Att. 17
3-21-17

Marijuana Policy Project
P.O. Box 77492
Washington, DC 20013
p: (202) 462-5747 • f: (202) 232-0442
info@mpp.org • www.mpp.org

"We change laws."

March 20, 2017

Submitted via email to rweisz@nd.gov

Re: Letter concerning SB 2344

Dear Chairman Weisz and Members of the Committee:

The Marijuana Policy Project (MPP) is the nation's largest organization dedicated to reforming our country's marijuana laws. In this capacity, we have analyzed the medical marijuana programs of all 28 states, plus the District of Columbia. We have worked with patients, doctors, and experts throughout the country, and over time, we have seen what makes an effective medical cannabis program, and what policies create unnecessary hardships for patients.

We have been following the advancement of SB 2344 closely and with some concern. We were pleased to see the final version of the bill that passed from the Senate incorporated some important revisions from the earlier draft — and we appreciate the clear legal protections the bill includes, which were lacking in Measure 5. However, we remain very concerned that if the bill passes in its current form, patients in the state will suffer, and the eventual program will undermine the will of the voters.

We hope the House Human Services Committee will rework some of this bill, and ultimately the General Assembly will pass legislation that puts patients first. To that end, you will see below our concerns and our proposed fixes. We welcome members of the Committee to reach out to us with any questions or for follow-up information.

SB 2344 should not forbid the addition of new qualifying conditions

New research and millions of patients' experiences worldwide continues to advance our understanding of the therapeutic benefits of cannabis. That is why as the medical community's understanding of this medicine grows, new conditions should be considered and added to the program after a review process by the Department of Health.

As written, SB 2344 prevents patients, physicians, lawmakers, the Department of Health, and advocates from seeking to add new qualifying conditions to the program. The petition process for adding new conditions was written into Measure 5 and into the first draft of SB 2344, but was removed with an amendment in the Senate.

We urge the petition process to be put back into the bill and to allow patients to request the addition of new qualifying conditions. The original measure required a tightly controlled regulatory process in line with what many other successful medical marijuana programs across the country have done. We are happy to provide an overview of what other states have done in this regard if helpful.

SB 2344 now permits whole plant cannabis, but serious problems need to be fixed

We were pleased to see that the Senate Human Services Committee elected to put back into the bill a provision that allows for consuming whole plant cannabis. The prior version of the bill would have completely prohibited this option.

However, significant changes are still needed — the bill should simply allow whole plant cannabis with no restriction, as Measure 5 did. The bill requires a physician to certify, "No other form of usable marijuana would be effective in providing the patient therapeutic or palliative benefits." This is unacceptable because this provision could put physicians at risk, pursuant to federal court case *Conant v. Walters*, 309 F.3d 629, (2002).

In *Conant*, the Ninth Circuit Court of Appeals laid out a structure for determining what conduct physicians are permitted to engage in with regard to medical cannabis without risking their DEA licenses to prescribe controlled substances. The court explained that specific conduct recommending cannabis is permitted in light of physicians' First Amendment right to free speech. However, doctors may not recommend with the intent that their recommendations actually be used to obtain cannabis, or they may jeopardize their license. Therefore, physicians cannot provide written or oral directions for how patients will administer cannabis (including dosage amounts), or instruct that medical cannabis be prepared and distributed to patients. Doctors, however, can discuss with patients the benefits and drawbacks of medical cannabis, make a recommendation that a patient consider this treatment option, and sign a form to that effect. Certifying one form of medical cannabis over another may violate *Conant,* though.

In addition, due to physicians' limited education with medical cannabis, dispensary staff will often have a better understanding of what a patient will benefit from, and many patients try a number of preparations to see what works best for them. This language also assumes raw cannabis will be administered in a way that involves combustion. Yet, many patients vaporize cannabis, which is smoke-free, while others use raw cannabis in smoothies and other preparations.

Only two states with operational programs prohibit whole plant — New York and Minnesota — and in those states, patients have to pay exorbitant fees for their medicine. In New York, about half do not come back to the dispensaries a second time, reportedly due to them preferring illicit marijuana because of the cost of extracts and lack of options, such as whole plant. Effectively prohibiting botanical whole plant cannabis will drive up costs and cause unnecessary suffering.

Criminal code exemptions ensure protection

The most significant problem with Measure 5 is that it did not provide legal protections to patients, caregivers, physicians, and employees within the medical marijuana industry. Thankfully, SB 2344 changes that by adding these protections to the bill, and we applaud this addition.

However, we recommend the Committee add to the bill an amendment to the state's criminal code by providing exemptions for protected activity. Further, this exemption should explicitly include marijuana paraphernalia. The exemption should apply to patients, caregivers, and all others involved with the state's program.

Home cultivation should be added back in

The voter-approved Measure 5 had a very limited home cultivation program — patients had to live 40 miles or farther from a dispensary in order to take advantage of this provision. It also required home inspections.

Seriously ill patients often cannot transport themselves around the state to get to dispensaries, and in geographically large and rural states like North Dakota, having access to home cultivation is incredibly important. Some are homebound and have no caregiver, or have loved ones who are already overtaxed. We hope the House will place this provision back into the bill.

SB 2344 denies younger people relief

Under SB 2344, in order to recommend medical cannabis, pediatricians must consult with a very small number of pediatric specialists. Further, only medical cannabis oil is permitted for minors, thus minors would not be allowed to use the type of cannabis that works best for them. There are very few such specialists in the state, and securing timely appointments with this small pool of specialists may be difficult or impossible for the parents of many of North Dakota's ill minors.

SB 2344 would only allow minors to use oils, even if salves or other forms work best for them. It also would only allow them to use cannabis with 6% THC or less, though many patients weaning off of dangerous seizure medicines need greater amounts of THC.

Further, anyone under the age of 19 would need the permission of their parents to enroll in the program. This means that 18-year-old service members who have fought overseas and may be suffering from PTSD would need to ask the consent of his or her parents before enrolling. This is a patronizing proposal and should not be implemented. In addition, at that age, adults are not wards of parents or other guardians — and their parents may be deceased, or they may have aged out of foster care.

Arbitrarily capping the number and amounts of marijuana for providers

SB 2344 would only allow eight dispensaries statewide and would only allow each dispensary to cultivate 1,000 plants, regardless of patient need. The bill also asks the department to establish the maximum amount of marijuana a compassion center may possess. This is virtually guaranteed to create shortages, drive up prices, and deny patients the medicine they need. Only a few states have attempted to cap the amount of plants that can be grown, and those have seen repeated shortages and high prices. Sensible security and oversight rules are the way to address concerns about diversion, not an arbitrary cap that will harm patients.

There is no statewide cap on the number of pharmacies. Patients should not be forced to drive long distances due to a very low cap in a state that is 70,762 square miles.

The 10-gram purchase limit is far too low

The proposal would allow patients to purchase only 10 grams of cannabis liquid (including oils and pills) per month, which is a fraction of what many patients need. A 10-gram purchase limit will be inadequate for the vast majority of patients — forcing them to needlessly suffer with less medicine than they need. Further, this provision is at odds with voters' mandate to allow purchases of up to three ounces at a time.

Relatedly, SB 2344 removes the provision that non-marijuana products do not count towards the weight of the overall product, for example, non-marijuana ingredients in edibles; this should be added back in.

Limited treatments

Another thing the bill does is limit treatment related to Alzheimer's disease and cancer. In Measure 5, suffering from the treatment of these two conditions, such as from nausea caused by chemotherapy — and not simply the conditions themselves — qualified a patient for the program. This too should be added back in.

Protect the will of voters

Measure 5 was passed in November by 64%, which is a higher percentage than President Trump received from North Dakota voters. If SB 2344 passes as drafted, lawmakers will be sending a message to the state's voters that they do not respect their decisions. Medical marijuana has overwhelming support nationwide, and North Dakota is no exception. SB 2344 should be amended to preserve and expand upon — not to undermine and restrict — voters' wishes.

Overly burdensome pesticide testing

The pesticide testing required by the bill exceeds industry standards in a burdensome way. We have seen that when states go from no regulation and testing to this level of regulation and testing, there are many months of analytical failures; it is very common for pesticide testing to produce false positives as cannabis itself contains so many chemicals. Further, ensuring laboratories are certified to accurately test for pesticides is also a very lengthy process. This results in no product for patients and very high prices for what is available. That is why we generally favor less rigorous regulation as an initial matter; stricter rules can always be added back in at a later date.

Again we stress, excessive requirements for pesticide testing can have a catastrophic result on a program, resulting in the delay of products to patients by six months or even longer.

Also on this topic, requiring the reporting of pesticides after testing "immediately" to the department and to the agriculture commissioner is very burdensome. Within five business days is more appropriate. Requiring the reporting of any target compound that falls below the limit of quantification is also inappropriate. False positives are not uncommon, especially for new programs. Further, the bill requires the product to then be immediately destroyed. This could result in the permanent loss of hundreds of thousands of dollars; products should be reviewed several times before being reported. And, it is not uncommon that product can be remediated. We urge lawmakers to consult with scientists involved in existing state programs for more information on this important topic.

Stronger anti-discrimination provisions are needed

We recommend stronger anti-discrimination provisions be added to the bill. These, like those of other states, could prevent discrimination in child custody, medical care/organ transplant, and perhaps housing and education.

Potential compromises we suggest

In order to improve the bill — and bring it more in line with Measure 5 — as suggested above, we propose three compromises that could be arranged.

1) A provision could be placed into the bill forbidding patients under the age of 18 from *smoking* cannabis.

2) Edibles could only be permitted after having undergone a thorough review process to ensure their design does not unduly appeal to children, as is the case in Washington state. Though we note delay could not be rejection — there would need to be clear standards and a time limit for the state to object to

make sure inaction by the state does not mean patients are denied access to edibles, which many patients do prefer. There should also be labeling and warnings for edibles.

3) Further regulation of home cultivation. For example, as is the case in Rhode Island, individual identifier tags could be required for each plant, and a separate fee could be paid for that.

Positives in the bill

Not every provision in the bill is harmful. Indeed, offering clear legal protections for patients, caregivers, businesses, and their staff is incredibly important to ensure a workable program and was missing from Measure 5. .

We also think the choice to allow dispensaries to operate as for-profit entities and the issuing of separate licenses for dispensaries and manufacturers are fine additions.

Conclusion

This letter has listed only a few of the many concerns we have with SB 2344. Among other issues, it would also include excessive costs for patients — up to $200 for each a patient and a caregiver — and businesses that serve them (which would recoup costs in higher prices).

We want to see the state place patients first and show compassion for the most vulnerable. That is why we must significantly reform SB 2344 so that patients may use the form of cannabis that works best for them, and so that they will not be denied access to medicine due to excessive costs.

Sincerely,

Maggie Ellinger-Locke
Legislative Counsel
Marijuana Policy Project

3-21-17
SB2344
Att. 18

March 21, 2017

SB 2344 Testimony
House Human Services Committee

My name is Joan Lee, Casselton, ND. I represent myself. I am not an expert on Marijuana. I am familiar with drug administration for the treatment of the ill. My professional background is Nursing. I am also a concerned parent and grandmother.

I think SB 2344 bill is an improvement over the the Initiated Measure that this bill hopes to fix. But I believe it is naive to think that this bill will solve more problems than it creates for the people of this state.

Widely broadcast, Measure 5 (for Medical Marijuana) was passed by 64% of the voters. To bring a little perspective to that number, however, that is just 38% of all eligible voters; and only 28.5% of the (estimated 2016) total population of ND. (Though Measure 5 was successful, I would like to remind the committee that voters did not support recreational use: promoters could not garner sufficient signatures to put it on the ballot.)

The Legislature must do its best to protect all of our citizens from unintended access or the consequences of a drug that is still illegal under Federal Law. This includes the protection of the individuals who are ill, our workforce, the traveling public; particularly, the protection of our children and the consequences of exposure as a gateway drug; consequences to their development, and educational success. There is a false perception that marijuana is harmless, even beneficial, because it is used for medicine.

Most importantly, I stand in Opposition to SB 2344 for permitting smoking as useable marijuana:

1. Already, legal, FDA approved drugs with THC exist, are effective, and are available for medical use, But, not widely known. (Dronabinol and nabilone, contain a regulated synthetic THC.)
2. Noteworthy, MN's medical marijuana law does not permit combustible use.
3. Smoking of Marijuana should not be permitted for many of the same reasons tobacco smoking is unhealthy, including secondary exposure especially to children. Many millions of dollars have been spent in this state to prevent and treat smoking related disease. Should we add another substance?
4. Combustible MJ would create more issues for Law enforcement because it may be more difficult to distinguish legally regulated and grown MJ from the blackmarket. At a time when the budget is already tight, this is cost the state can ill afford. It may be wise to follow MN example and move forward slowly. If the purpose of medical marijuana is to be medicine—the supply must be reliable and consistently controlled.

Concerns I have with the bill:

a. Pg 10, lines 1-3, and pg 11, lines 26-29 regarding physician attestation, I suggest stricter language, such as: " in physician's professional opinion no other form of FDA approved THC or useable marijuana **has demonstrated** effective**ness**..."

b. Suggest a provision that Card holders who have the been approved to smoke MJ, may be subject to home/site visits to verify compliance with rules (i.e. suspicion of growing) not just for application interviews.

c. Pg 76, lines 7 -14 and pg 77, lines 7-9, is not clear to me. Is a registered card holder protected if they buy marijuana on the black market? When Law enforcement verifies a card holder is in the system, they should also be able to see the pattern of purchase on record.
d. Pg. 20, line 8, apparent typo—word missing? "as"

Additionally, I would suggest collection of data of Patient perceived benefit (*MN surveys their patients and caregivers); and related impact on highway accidents, arrests, etc., in the state.

Thank you for your consideration.

Good sources of additional info:

Comparisons across the states of various problems associated
https://learnaboutsam.org/wp-content/uploads/2016/11/SAM-report-on-CO-and-WA-issued-31-Oct-2016.pdf

2016 CBS 60Minutes report on legal Marijuana-wide ranging effects
http://www.cbsnews.com/news/60-minutes-five-states-to-vote-on-recreational-pot/

*MN Cannibus Program reports
http://www.health.state.mn.us/topics/cannabis/index.html

SB2344 Att.19
3-21-17

Dear Chairman Weisz and ND House Human Services Committee:

Please keep the North Dakota Compassionate Care Act (Measure Five) the way it was originally written.

My grandmother (age: 84) is planning on using cannabis treatment for essential tremors and her doctor agrees with this choice. She is currently a resident of Michigan, where medical treatment with cannabis is available. As time goes on, I would prefer to bring her here to with the family rather than a nursing home in Michigan.

Our family will be disenfranchised if the rewritten bill goes into effect. There will be a financial hardship (the increase of the patient and caregiver registration fees) on a fixed Income. Also, our family is unhappy with the limitations placed on the methods she could use medical cannabis effectively.

Please keep her, our family and all ND patients in your mind and heart as you listen to testimony about this treatment option.

Don't destroy the original North Dakota Compassionate Care Act.

Your constituent,

Nathan Prince
12195 23rd Street NW
Watford City ND 58854

Tikijoe90@yahoo.com
701-609-1526
E-mailed to NDCCA to print copies
Monday, March 20, 2017 at 12:25 pm

SB2344
Att. 20
3-21-17

TESTIMONY OF CAREL TWO-EAGLE IN RE SB2344 BEFORE HOUSE HUMAN SERVICES COMMITTEE 03/21/2017

Good morning, Chairman Weisz and members of House Human Services Committee.

For the record, my name is Carel Two-Eagle. I am in adamant opposition to any use of marijuana for any reason, and today I speak about gaps in the existing language of this bill.

First – nowhere in the bill is there any mention of *where* this trash may or may not be smoked. Since it is well-known that secondary smoke is far more dangerous to health than primary smoke, and this includes marijuana, I hereby serve notice on you that should someone light this garbage near me, s/he *will* be decked. The fact that I am on one crutch most of the time, and two crutches some of the time – as today – is irrelevant. I have every Right to protect my health and safety from anything I see as endangering them, and I will without any hesitation. I am fully capable of doing so.

The pain I have suffered for 45 years, since I tore the soft tissue in my left hip, has become intense. I have been a Traditional healer in the Lakota Way for over 50 years. I know for fact that there are many safer ways to deal with "intractable pain", and I use them. Many days, I have no pain at all, although I have become about as flexible as a fence post. What put me on two crutches of late is the floors of the Capitol building – having to walk on hard surfaces for extended periods of time brings on or intensifies my pain. In proper Traditional healing ways of every culture, however, we are governed by the rede, "cause no additional harm".

Because marijuana causes holes to form in the brain, easily seen in CT scans; and it causes users to lose their will to thrive or survive – well-documented by thousands of years of observation by the Chinese, among others, and our own law enforcement personnel now – and has been shown in studies to cause genetic changes in all exposed to marijuana – *marijuana definitely "causes additional harm*". It falls outside the rede. As one law enforcer remarked, "Marijuana users are called 'stoners' for a reason. They *can't* function normally.' I have not yet heard from anyone in law enforcement who is not opposed to legalization of marijuana for any reason. They – and I and other thinking people – see all manner of traffic crashes and damage, industrial nightmares, and similar, as a result of this law & others like it. Law enforcers and I both see the use of this garbage as a national security issue and the reasons are intuitively obvious.

Second – in the Amendments prepared for Senator O. Larsen, as well as in the rest of the bill, there is nothing that states that registered users of this trash *cannot* provide it to others, whether registered or not. To not address this opens the door to casual use.

I strongly request and advise that you further amend this bill, since I expect you will pass it in spite of good evidence to keep it illegal.

Thank you for hearing me in a good way now. As always, I am always available for questions.

Att. 21
3-21-17
SB2344

Patrick McClellan
8438 14th Ave S.
Bloomington, MN 55425
(952) 452-6373

March 20, 2017

Re: Written testimony regarding SB 2344

Dear Chairperson Weisz and members of the House Human Services Committee:

My name is Patrick McClellan, and I have Muscular Dystrophy (Mitochondrial Myopathy). I am currently enrolled in Minnesota's medical cannabis program, and I'm writing to advise you against adopting some of the problematic provisions that have been included in our state's medical cannabis program.

I suffer from severe muscle spasms, peripheral neuropathy, and chronic pain. I lost my career and became totally disabled six years ago. But, I have found that using cannabis has a remarkable effect on reducing my muscle spasms and pain.

My doctors completely support my use of cannabis and have told me that they have many other patients reporting the same results. I currently take 26 pills per day, a mix of muscle relaxants and anti-seizure and neuropathic painkillers, along with high-dose vitamin therapy.
One of the most intense and painful symptoms of my disease are severe muscle spasms. During an attack, I am unable to walk, eat, use the bathroom, or even use a phone to dial 911. I do receive warning signs in advance of an attack in the form of fasciculations (involuntary muscle contractions).

During the winter of 2010, I had an attack that left me trapped between my bed and the wall for over 2 ½ hours. During that time, I was unable to move and was in excruciating pain, I was unable to get to a phone, and I was forced to wait 2 ½ hours for my wife to get home and help me. I will never forget that 2 ½ hours, and I will do anything it takes to prevent it from happening again.

I was originally not convinced that cannabis could help my symptoms. I tried cannabis recreationally in my twenties, but I quit because I didn't enjoy the high.

In 2010, before these medications became legal, I did my own experiment to discover if cannabis could help relieve my most severe symptoms. When the warning signs of an attack arrived, I would alternate between vaporizing whole plant cannabis and taking my prescribed medications — Alprazolam and Quinine — that I have in a pill case on my medical alert necklace. The two drugs were effective approximately 70% of the time, whereas cannabis was effective 100% of the time when I used whole plant cannabis in a vaporizer. It was slightly less effective when I consumed it orally, due to the amount of time it took to take effect, but still better than Alprazolam and Quinine. The Food and Drug Administration cautioned consumers against using Quinine for muscle spasms and cramps, warning that the drug could cause severe side effects,

including death. I have not used Quinine and Alprazolam since the beginning of the Minnesota medical cannabis program.

The medications I receive from the Minnesota program have given me my life back.

Unfortunately, the cost of these medications has made it very difficult to afford relief with legal medications alone. Our insurance coverage does not cover any cannabis medications. The high cost of producing cannabis concentrates has forced me to continue buying leaf or flower cannabis on the street. I am not alone — many patients are either purchasing less than they need from dispensaries or are forced into dangerous drug deals on the street. Patients like me are seeking relief from very serious diseases. We are asking for safe legal medications that we can afford.

A survey conducted by our state's program asked patients, on a scale of 1 to 7, how affordable medical cannabis preparations were — with 1 being very affordable and 7 being "cost is very prohibitive." Seventy-three percent of patients ranked it between a 5 and a 7 for being unaffordable, with 35% ranking it at a 7 — "very prohibitive." Several comments complained of having to spend hundreds of dollars per month, with one parent of a seizure patient reporting, "our son has life threatening seizures and we are spending close to $1000 per month not including travel costs and caregiver expenses."

Please do not follow our state's misguided lead. Without the availability of whole plant cannabis without limitation, the cost of concentrates will only force patients back to illegal cannabis. I am 50 years old and hopefully have a lot more life to live. I should be able to use treatments that my doctor recommends without becoming a criminal in the process.

Please put patients first in North Dakota. Whole plant medical cannabis should be permitted without limitation, or patients will not receive the benefit of the medication, and the cost of the medication will prohibit most people from taking advantage of the program. In addition, patients who live far from dispensaries should be allowed to cultivate their own medicine to help keep costs down.

Sincerely,

/s/ Patrick McClellan
Patrick McClellan

aH. 22
SB 2344
3-21-17

E.mailed to the committee – Back up copy

March 20, 2017

Subject: SB 2344

Dear House Human Service Committee,

I regret that I am unable to attend the hearings today, but please include my testimony for the record. I have concerns about the SB 2344, and why medical marijuana needs to be treated different than other medications.

As an MS patient, who is currently on 9 medications, I understand the financial burden and responsibility of an illness. I am currently managed by a great team of doctors, which includes a neurologist, gastrologist, primary care physician, psychologist, and clinical nurse specialist. I am seen on a regular basis by all of these doctors. My CNS specifically meets with me quarterly to monitor medications, drug reactions and interactions. Together we have developed comprehensive plans & techniques for managing my daily medication dosing & to ensure consistency for non-lapses of dosing. This is vital in my care management, as cognitive issues are one of my MS symptoms.

In reviewing the SB 2344 I am anxious about the requirements of keeping my medical marijuana (medication) locked up and away from my other medications. This out of sight out of mind, concerns me about consistency. Furthermore, I am troubled about the feasibility of availability due to living in a rural area, and limitations of dispensaries allowed in the state and lastly I am alarmed about the cost estimates. Already bearing the responsibility of copayments on 9 medications is a burden. Our goal with the medical marijuana bill was to put the patients' needs first, and with that in mind, my doctors and I are hopeful I will be able to reduce some medications. However, will I even be able to afford the MM option?

It seems in reviewing SB 2344, it appears the state is fearful MM will be utilized for the wrong purpose and this bill was written with that more in mind, not the patients' needs. I was greatly saddened reading SB 2344, as I am a patient that will benefit from this bill and have a team of doctors that fully agree. I have AVOIDED taking the step of going and getting marijuana on the street to help my disease, because I DID NOT want to be a criminal, yet reading this bill makes me feel like I am a criminal and I MUST follow all these guidelines, yet none of my other medications require me to do anything of this magnitude? This just feels ironic, I hope you can read my words and take them to heart, the people that will benefit from this SB 2344 are NOT criminals and should never be treated as such...

Lastly, with the new writing of SB 2344 how does ND compare to other states? We originally named this the ND Compassionate Care Act; the voters showed this compassion we hope you will as well with integrity and character. Thank you!

Regards,

Sheri Paulson
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Galesburg, ND 58035
701.261.3083
sheri4ms@gmail.com

1

AH.23
SB2344
3-21-17

March 20, 2017

Dr. Sue Sisley
6991 E. Camelback Rd.
Scottsdale, AZ 85251
(480) 922-9015
ssisleymd@gmail.com

Submitted via email to rweisz@nd.gov

Re: Letter concerning SB 2344

Dear Chairman Weisz and Members of the Committee:

I was a practicing Arizona physician for 14 years in internal medicine and psychiatry. I served as clinical faculty at St. Joseph's Hospital internal medicine clinic and also worked at the University of Arizona, College of Medicine. As a board certified psychiatrist, I have a long-standing interest in psychiatry and substance abuse. My practice is filled with many combat veterans and first responders with treatment-resistant PTSD. I am serving as principal investigator of an FDA-approved randomized controlled trial looking at the safety and efficacy of marijuana in treating PTSD.

I do not use medical marijuana or recreational marijuana. I have never even tried it. Not once. But, from my scientific background and clinical experience, I do believe that medical marijuana, for some patients and for some conditions, may be the best and most effective form of treatment.

As one who cares for combat veterans, I have had several patients killed or injured in various conflicts over the years. Of those that came home, several have suffered from PTSD, and my interest in North Dakota's medical marijuana program is partly because this condition is covered.

I have been watching the progression of SB 2344 with interest, and while I support some of what is included in the current version, I write today to share with you my concerns related to one particular matter.

If SB 2344 is implemented as written, the program will fail because it makes it too risky for physicians like myself to issue recommendations for patients who would benefit from botanical cannabis in its natural, flower form. Specifically, SB 2344 provides that in order to recommend a patient administer cannabis flowers (which may be vaporized, smoked, or eaten raw in food), a doctor must certify, "No other form of usable marijuana would be effective in providing the patient therapeutic or palliative benefits." However, following this requirement jeopardizes the physician's DEA license to prescribe medicine.

The federal court case *Conant v. Walters*, 309 F.3d 629, (2002) lays out the boundaries for what physicians can and cannot do with regard to medical cannabis without risking our DEA licenses to prescribe controlled substances. We enjoy a First Amendment right to free speech, but we cannot recommend cannabis with the intent that our recommendations actually be used to obtain

cannabis. Hence, we cannot provide written or oral directions to patients on how to administer medical cannabis — including dosage amounts — or issue instructions that medical cannabis be prepared and distributed. What we can do is discuss with our patients the drawbacks to medical cannabis consumption, make a recommendation that a patient enroll in a state program, and sign a form to that effect. Certifying one form of cannabis over another may violate *Conant* and thus physicians will be unlikely to do so. Please remove this provision from the bill.

Dispensary staff may have stronger knowledgeable of how patients will respond to different preparations. Physicians have been under-educated on this topic — largely due to cannabis's federal status — and dispensary staff are almost always in a better position to help patients discover what works best for them. Some patients prefer the smoke-free vaporization of medical cannabis, other prefer consuming raw cannabis in food or drink. Patients need access to a variety of different delivery routes, and due to the Ninth Circuit Court of Appeals ruling, that is not something physicians can assist.

If this provision remains, in practice North Dakota patients would likely *only* be able to use extracts and other cannabis preparations. However, extracts are far more expensive, and do not work as well for some patients. The two states with operational programs that only allow preparations have seen prohibitively expensive costs, meaning many potential patients simply go to the illicit market or needlessly suffer.

Please do not forsake your program before it even gets started by requiring doctors to certify patients as described in SB 2344. Please heed my advice, and follow the will of the voters of North Dakota.

Thank you,

Sue Sisley, MD

Att. 24
3-21-17
S.B2344

March 20, 2017

My name is Sonya Jensen from Fargo, ND . The following is my testimony in regard to SB 2344.

I was and continue to be a big proponent of the original Compassionate Care Act. My primary concern with the changes made to the current SB 2344 pertain to the limitations placed on the delivery methods available to qualifying patients. The restrictions currently proposed for the usage of marijuana in the combustible form and the extra attestation required by physicians is of particular concern.

Our personal story

My daughter, Megan Westphal, now 25 years old was once a vibrant and upbeat spark of light in our world. Her health issues started when she was 16 years old and gradually worsened to her current diagnosis of chronic pancreatitis and non-alcoholic steatohepatitis with liver atrophy.

Megan is a graduate of NDSU and had high hopes of opening her own business in Fargo. She had a full and busy life growing up and has had the opportunity to travel all over Europe, Australia, New Zealand, and once had a goal of hitting every one of the US National Parks to take part in one of her favorite activities, hiking.

Today, life for Megan consists of 3 time weekly fluid infusions with IV anti-nausea medications, doctor appointments between Sanford, the University of MN, and the Mayo Clinic. Megan has an entire team of doctors working on her care plan to include, Gastroenterology, Internal Medicine, Psychiatry, Hepatology, Endocrinology, and Pancreatic specialists. Her typical day consists of about 16 hours in her bed, no ability to work, no time out with friends, no ability to walk her two beloved dogs, and a severe depression that has taken over her life.

Megan has daily abdominal pain fluctuating from moderate to severe, worsening after eating. She also has debilitating nausea that she claims is far less tolerable than the pain itself. Over the last few years she has tried every oral and IV nausea drug available. Each drug has proven to work in part, (On those opportunities in which she is able to keep the medication down), for a period of time before her system builds up a tolerance. The problem is two fold with these anti-nausea drugs. First they cause extreme constipation, which makes her already moderate abdominal pain much worse. Second, when she is extremely nauseated, she has trouble eating or drinking anything and often is unable to keep oral meds down. The IV meds she receives at her tri-weekly appointments help tremendously, but only for a 4 hour time period. She has had an opportunity to smoke marijuana and she had it give her 100% nausea relief. She was able to eat and actually take care of her household chores and herself.

This is not the life I choose for my daughter. This is not the life she dreamt of when she was a little girl. Chronic pancreatitis has no cure, this is now her journey until which time it progresses to a level of damage that warrants surgical intervention. The prognosis after which is guarded.

Medical marijuana has been proven to help her. I am conflicted in my feelings on passing or not passing this bill in the current form. I am very anxious to have this treatment available for Megan as soon as possible, but also want to ensure it will be available to not only Megan, but all ND patients in the delivery form that suits them best. I know first hand the stress of navigating the medical system with a loved one. Please do not add further angst to an already difficult situation by instituting an unreasonable amount of stipulations for these patients and their families. So many people are suffering and there is an answer in reach; I urge you to make medical marijuana available to all patients in whatever delivery form is determined most effective by their personal physician.

Thank you for this opportunity to share our story and for considering our concerns as you move forward.

Sonya Jensen
6257 14th St. S
Fargo, ND 58104
sonya@thecoffmanco.com
701-730-6242

a44.25
3-21-17
SB2344

To whom it may concern and the ND House Human Services Committee:

I want to address before this committee today my displeasure in the changes in ND Compassionate Cate Act (Measure 5) that 64% of North Dakota voted for.

The language of the measure was very clear and concise. There was no deception or manipulation of the wording of the measure to warrant such a drastic change.

My husband has PTSD. He is a 14-year Air Force retiree. A war Vet. Along with his PTSD is accompanied with severe anxiety and depressive attacks. While most of his symptoms were fairly controllable in active duty, civilian life with a wife and five children and an ailing 70-year-old mother-in-law has taken its toll on his mental health.

Mental health that is barely touched by the VA services that he receives and is not covered by most insurance companies offered through his employers.

Yes. I said employers. Because of his PTSD he is accident-prone and has either been fired or forced into a reduced pay position causing a terrible financial crisis in our household. The medications that the VA doctors or physicians assistance keep prescribing him are ineffective.

I myself have PMDD, fibromyalgia and treatment resistant depression. These are things I've been living with most of my life.

Now, I have to hold up my husband when he crashes from his episodes in order to get this household through from one paycheck to another. It is a physically, emotionally and mentally straining job between my conditions and his. This toll almost caused me to take my life last March. The difference last March was I caved and started using cannabis edibles to cope with the physical pain I live with every day.

A pain so severe it had me curled up on the couch for months wanting to die and everything they tried to shove down my throats made me sick. It just added to the desire for death to come quickly. But with the help of cannabis, I have come completely out of my shell of despair.

Now, I'm livid at personal opinions blocking attempts for healthy progress.
When I saw the new outlined bill I cried for two days straight. Not because we failed. But because I now have to work harder then my body will allow to fight a group of people we the people employ.

Senate Bill number 2344 is not the measure that I voted on. It is not the measure that my husband voted on. It's not the measure that 100% of North Dakotans in this state voted on. Whether they voted yes or no this is not what was put before the constituents.
The more time wasted on debating what was in the bill instead of creating a plan to implement this, the more people continue to suffer.

You do not get to say we have to be guinea pigs to the medical industry or the pharmaceutical industry before we qualify for medical marijuana. We as a collective whole voted yes to measure five. And I am adamantly against Senate Bill number 2344. I am adamantly against you removing any of the language from measure five and adding language that has not been voted on by the constituents. I also want to remind this committee that the deadliest most addicting substance on this planet is alcohol. Yet it's legal

all over this country. I can't even drink alcohol because it eats my stomach just like the prescription NSAIDS, Steroids and antidepressants that doctors keep trying to prescribe to me. Despite my refusal to take them and my explanations to said doctors as to why.

You are causing more harm than you are good by stalling up this process threatening to take away the vaccination program, making it too expensive for people on fixed incomes to have access to medical marijuana and making the decision for them how their delivery method is for their cannabis intake.

We are not going to allow you to treat us like ignorant children. We are not going to allow you to shut your eyes to the atrocities that you create when you impose Government that we didn't vote for.

Ladies and gentlemen you work for us. It is not the other way around.

So know that a war vet, and myself who was in the army, our five children and my 70 year old disabled mother will continue struggling to keep our spirits above water because nothing traditional works for myself and husband.

It does not matter what your personal stance is on this issue. The majority of North Dakota voted yes. 100% of North Dakota understood the bill including the State Attorney General who signed off on the petition and provided the wording for the November ballot.

So please put aside your apprehension and let us work together to get this implemented as it was worded originally with provisions that would help protect the people who need medical marijuana in this state.

Thank you for your time and consideration

Mrs. Danielle Goble
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Minot, ND. 58701
takahari4@gmail.com
701-852-1487

Originally sent: February 6, 2017 for the Senate hearing.
E-mailed to NDCCA to print copies
Resubmitted on Sunday, March 19, 2016 at 8:05 pm

Annual Causes of Death in the United States

Related Chapter:
Overdose
For facts about specific drugs, **here's a list of Controlled Substance sections**.

1. ***(Annual Causes of Death in the US, By Cause)***

Cause of death (Data from 2014 unless otherwise noted)	Number
All Causes	2,626,418
Major Cardiovascular Diseases [MCD]	803,227
Cerebrovascular Diseases [subset of MCD]	133,103
Essential Hypertension and Hypertensive Renal Disease [subset of MCD]	30,221
Malignant Neoplasms [Cancer]	591,699
Chronic Lower Respiratory Diseases	147,101
Accidents (Unintentional Injuries) [Total]	136,053
Motor Vehicle Accidents [subset of Total Accidents]	35,398
Alzheimer's Disease	93,541
Diabetes Mellitus	76,488
Influenza and Pneumonia	55,227
Drug-Induced Deaths[1]	49,714
Nephritis, Nephrotic Syndrome and Nephrosis	48,146
Intentional Self-Harm (Suicide)	42,773
Septicemia	38,940
Chronic Liver Disease and Cirrhosis	38,170
Alcoholic Liver Disease [subset of Chronic Liver Disease]	19,388
Injury by Firearms	33,599
Alcohol-Induced Deaths	30,722
Parkinson's Disease	26,150
Pneumonitis Due to Solids and Liquids	18,792
Homicide	15,809
Viral Hepatitis	8,081
Human Immunodeficiency Virus (HIV) Disease	6,721
All Illicit Drugs Combined (2000)[2]	17,000[2]
Cannabis (Marijuana)[3]	0
2014 Data Detailing Drug-Induced Deaths, Breaking Out Specific Data for Prescription Analgesics and Heroin, as Reported by the CDC[4]	
Drug Overdose Total	47,055
Pharmaceutical Opioid Analgesics	18,893
Heroin Overdose	10,574
2010 Drug Overdose Mortality Data In Detail, Reported By Paulozzi et al.[5]	
Drug Overdose Total	38,329
Pharmaceutical Drugs	22,134
Pharmaceutical Opioid Analgesics	16,651

1 "Drug" includes both legal and illegal drugs.
2 Mokdad, Ali H., PhD, James S. Marks, MD, MPH, Donna F. Stroup, PhD, MSc, Julie L. Gerberding, MD, MPH, "Actual Causes of Death in the United States, 2000," Journal of the American Medical Association, (March 10, 2004), G225 Vol. 291, No. 10, 1242.
3 No recorded cases of overdose deaths from cannabis have been found in extensive literature reviews, see for example Gable, Robert S., "The Toxicity of Recreational Drugs," American Scientist (Research Triangle Park, NC: Sigma Xi, The Scientific Research Society, May-June 2006) Vol. 94, No. 3, p. 207.
4 CDC/NCHS, National Vital Statistics System, Mortality File, 2015, last accessed Dec. 11, 2015.
5 Paulozzi et al analyzed mortality figures and found that of 38,329 drug overdose deaths then reported in 2010, pharmaceutical drugs accounted for 22,134 deaths, of which 16,651 were opiod analgesic overdoses. The data were apparently revised slightly between the time the research letter was published in JAMA (February 2013) and release of the CDC's Deaths: Final Data for 2010 publication report, officially dated May 8, 2013.

Source: *Kochanek KD, Murphy SL, Xu JQ, Tejada-Vera B. Deaths: Final data for 2014. National vital statistics reports; vol 65 no 4. Hyattsville, MD: National Center for Health Statistics. 2016, pp. 41-45, Table 10.*
https://www.cdc.gov/nchs/products/nvsr.htm
https://www.cdc.gov/nchs/data/nvsr/nvsr65/nvsr65_04.pdf
https://www.cdc.gov/nchs/data/nvsr/nvsr65/nvsr65_04_tables.pdf
CDC/NCHS, National Vital Statistics System, Mortality File, 2015, last accessed Dec. 11, 2015.
http://www.cdc.gov/nchs/data/health_policy/AADR_drug_poisoning_involving...
Hedegaard H, Chen LH, Warner M. Drug poisoning deaths involving heroin: United States, 2000–2013. NCHS data brief, no 190. Hyattsville, MD: National Center for Health Statistics. 2015.
http://www.cdc.gov/nchs/data/databriefs/db190.pdf
http://www.cdc.gov/nchs/data/databriefs/db190.htm
Chen LH, Hedegaard H, Warner M. Drug-poisoning deaths involving opioid analgesics: United States, 1999–2011. NCHS data brief no. 166.
Hyattsville, MD: US Department of Health and Human Services, CDC; 2014, p. 1.
http://www.cdc.gov/nchs/data/databriefs/db166.htm.

Att. 1
SB2344
3/27/17

March 27, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 5, line 31, remove "or have in"

Page 6, line 1, remove "the individual's possession at any time"

Page 6, line 1, replace "A" with:

"a. During a thirty-day period, a"

Page 6, line 2, after "registered" insert "designated"

Page 6, line 4, replace "in a thirty-day period and" with ". At any time a registered qualifying patient or a registered designated caregiver"

Page 6, line 5, after the third "of" insert "the"

Page 6, line 6, remove "at any time"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 7, after "registered" insert "designated"

Page 6, line 7, remove "ten grams of liquid,"

Page 6, replace lines 8 through 12 with "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 is two thousand milligrams. The maximum concentration or amount of tetrahydrocannabinol permitted in a cannabinoid topical is six percent. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a cannabinoid capsule or cannabinoid transdermal patch is fifty milligrams."

Page 6, line 28, after "3." insert ""Cannabinoid" means a chemical compound that is one of the active constituents of marijuana.

4. "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.

5. "Cannabinoid concentrate" means a concentrate or extract obtained by separating cannabinoids from marijuana by a mechanical, chemical, or other process.

6. "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 are incorporated.

7. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and other ingredients intended for consumption.

8. "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.

9. "Cannabinoid transdermal patch" means an adhesive substance applied to skin which contains a cannabinoid product or cannabinoid concentrate for absorption into the bloodstream.

10."

Page 6, line 30, replace "4." with "11."

Page 7, line 1, replace "5." with "12."

Page 7, line 3, replace "6." with "13."

Page 7, line 4, replace "7." with "14."

Page 7, line 29, replace "8." with "15."

Page 8, line 1, replace "9." with "16."

Page 8, line 4, replace "10." with "17."

Page 8, line 8, replace "11." with "18."

Page 8, line 11, replace "12." with "19. "Local zoning laws" means local government, including county, city, and township, ordinances or regulations governing the time, place, or manner or the number of compassion centers operating in a locality.

20."

Page 8, line 12, replace "cultivate" with "produce, process"

Page 8, line 13, replace "manufacturing" with "producing or processing"

Page 8, line 15, replace "13." with "21."

Page 8, line 16, remove ", manufacture"

Page 8, line 19, replace "14." with "22. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid product or a cannabinoid concentrate.

23. "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;

(4) Cannabinoid topical; and

(5) Pediatric medical marijuana oil.

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.

24. "Medical marijuana product" means a cannabinoid concentrate or a medical cannabinoid product.

25."

Page 8, line 22, replace "15." with "26."

Page 8, line 24, replace "16." with "27."

Page 8, line 25, replace "17." with "28."

Page 8, line 28, replace "18." with "29."

Page 8, line 29, replace "no more than" with "a maximum concentration or amount of tetrahydrocannabinol of"

Page 8, line 29, remove "tetrahydrocannabinol"

Page 8, line 30, replace "no more than" with "a maximum concentration or amount of tetrahydrocannabinol of"

Page 8, line 31, remove "tetrahydrocannabinol"

Page 9, line 1, replace "19." with "30."

Page 9, line 8, replace "20." with "31."

Page 9, line 14, replace "21." with "32."

Page 9, line 14, replace "21." with "32. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.

33. "Producing", "produce", or "production" means 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.

34."

Page 9, line 16, replace "22." with "35."

Page 9, line 19, replace "23." with "36."

Page 9, line 19, replace "liquid, including an oil, or a pill delivery form of marijuana" with "medical marijuana product"

Page 9, line 21, replace "The" with "However, the"

Page 9, line 21, replace "marijuana infused food" with "the dried leaves or flowers unless required through a written certification and does not include a cannabinoid edible product"

Page 9, line 24, replace "24." with "37."

Page 9, line 26, replace "25." with "38."

Page 20, line 8, after "act" insert "as"

Page 8, line 19, replace "11." with "11. "The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing.

Page 51, line 15, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 51, line 19, remove "registered qualifying"

Page 51, line 20, replace "patient or registered designated caregiver" with "cardholder"

Page 51, line 23, remove "registered qualifying"

Page 51, line 24, replace "patient or registered designated caregiver" with "cardholder"

Page 51, line 26, remove "registered qualifying patient or"

Page 51, line 27, replace "registered designated caregiver" with "cardholder"

Page 51, line 29, remove "registered qualifying patient or registered"

Page 51, line 30, replace "designated caregiver" with "cardholder"

Page 52, line 4, remove "registered qualifying patient or"

Page 52, line 5, replace "registered designated caregiver" with "cardholder"

Page 55, line 6, replace "**Cultivation, manufacturing**" with "**Producing, processing**"

Page 55, line 24, replace "cultivate, manufacture" with "produce, process"

Page 56, line 25, after "to" insert "producing,"

Page 56, line 26, replace "cultivating" with "processing"

Page 56, line 26, replace "manufacturing" with "producing or processing"

Page 57, line 22, replace "the cultivation of marijuana" with "producing and processing"

Page 57, line 23, remove "marijuana cultivation and"

Page 57, line 23, after "production" insert "processing"

Page 58, line 4, replace "marijuana cultivation" with "production"

Page 58, line 4, replace "preparation" with "processing"

Page 58, line 13, remove "enrolled in medical assistance or receiving"

Page 58, line 14, replace "supplemental security income or social security disability insurance" with "with limited financial resources"

Page 62, line 30, after the second "registered" insert "designated"

Page 63, line 1, after "to" insert "purchase or"

Page 63, line 2, after "more" insert "usable"

Page 63, line 3, after the second "registered" insert "designated"

Page 63, line 18, replace "pesticides, fungi, and molds" with "contaminants"

Page 64, line 23, replace "marijuana is cultivated or manufactured" with "producing or processing takes place"

Page 66, line 3, replace "growing areas and manufacturing" with "producing and processing"

Page 66, line 3, remove "processing and"

Page 67, line 13, replace "manufacturing" with "production or processing"

Page 68, line 21, replace "growing, manufacturing" with "producing, processing"

Page 68, line 27, remove "designated"

Page 68, line 28, after "registered" insert "designated"

Page 71, line 26, remove "Denial of an application or renewal is considered a"

Page 71, replace lines 27 through 28 with "The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing.

Page 72, line 19, after "card" insert "immediately"

Page 73, line 16, replace "to cultivate and possess marijuana" with "producing and processing"

Page 73, line 20, replace "d." with "d. "The cardholder or compassion center may appeal a denial or revocation of a registry identification card or registration certificate to the district court of Burleigh County for hearing.

Page 75, line 16, replace "cultivation" with "production"

Page 75, line 28, after "marijuana" insert "or related supplies" Page 76, line 20, replace "cultivate" with "produce, process,"

Page 76, line 20, replace "manufacturing" with "producing and processing"

Page 77, line 7, replace "manufacturing" with "producing, processing,"

Page 77, line 10, after "9." insert "A cardholder or registered compassion center is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

10."

Page 77, line 13, replace "10." with "11."

Page 78, line 14, replace "the cultivation of marijuana for medical use" with "production"

Page 80, after line 30, insert:

"4. Data submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential."

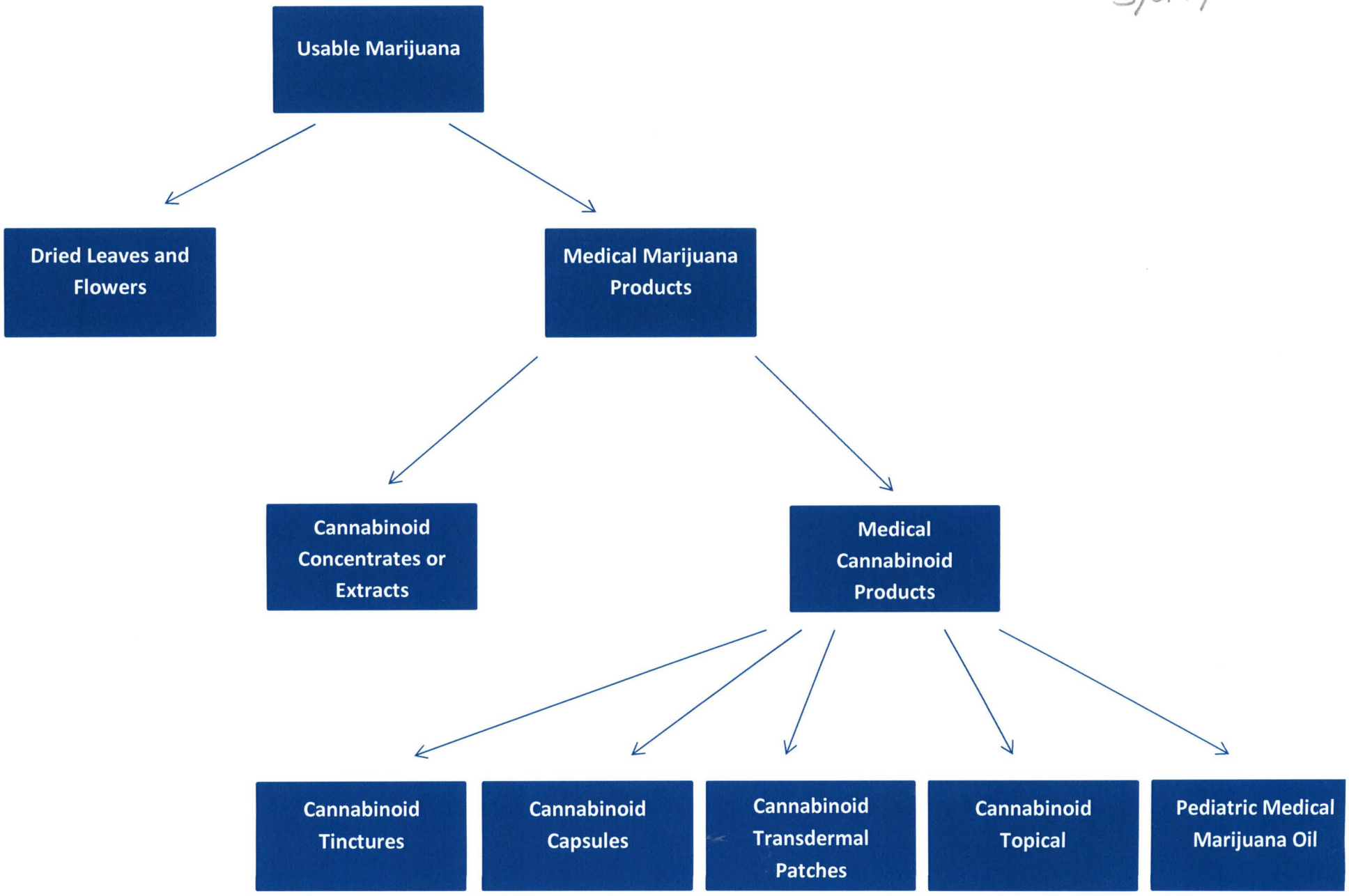
Renumber accordingly

Concern	Comparison of Measure 5 and SB 2344
Fees for Cardholders	Measure 5: • Qualified Patient and Caregiver not specified. SB 2344: 19-24-04 • Qualified Patient: $200 • Designated Caregiver: $200
Zoning Laws	Measure 5: • 19-24-07: Required registration and operation of compassion centers SB 2344: 19-24-14 • Compassion Centers- Application Amendment: • Provides additional clarification by defining "zoning laws"
THC Limit for minors	Measure: • No Restrictions for minors. SB 2344: • Pediatric medical marijuana oil limited to 6% THC.
Pediatrician Clarification	Measure: • No restrictions for minors. SB 2344: • Specialist or a North Dakota pediatrician working in consultation with one of the pediatric specialists: pediatric neurologist, pediatric gastroenterologist, pediatric oncologist, or pediatric palliative care specialist.
Addition of conditions	Measure 5: • 19-24-06: Provided for a petition system through the Department. SB 2344: • Allows the addition of new conditions via the legislature.
Paraphernalia	Measure 5: • 19-24-02: Defined marijuana paraphernalia. SB 2344: • Paraphernalia not criminalized when used for medical purposes. Amendment: • Specifically decriminalizes paraphernalia related to medicinal marijuana use.
Home Grow	Measure 5: • 19-24-08: Allows qualified patients or designated caregivers to cultivate 5-8 marijuana plants at home if located more than 40 miles from the nearest center. SB 2344: • Removed home grow to comply with the 2013 Cole Memo to prevent diversion, manage the fiscal burden, avoid a threat to public safety, public health, and law enforcement interests.

Onsite visits and interviews	Measure: 19-24-09: • Allowed the department to conduct onsite interviews to qualified patients or designated caregivers with 24 hour notice. SB 2344: 19-24-09: • No changes.
Background Checks	Measure required: 19-24-04, 19-24-07. • Designated Caregivers – no felony offense • Compassion Center Agent – no felony offense or drug related misdemeanor conviction five years prior to application. SB 2344: Designated Caregivers and Compassion Center Agents. • No felony offense or drug related misdemeanor conviction five years prior to application. ➔ Qualifying patients are not subject to background checks.
Sales Tax	• Not a prescription therefore subject to sales tax. • Compassion Centers subject to income tax.
Usable Forms of Medical Marijuana	Measure 5: • 19-24-02: Dried leaves and flowers and any mixture or preparation. SB 2344: 19-24-02 • Liquid, including oil, pill delivery form. • Dried leaves and flowers are allowed if authorized by physician. Amendment • Specifically defines products included in liquid, pill or oil delivery method. • Also adds in cannabinoid transdermal patches and cannabinoid topicals. • *See Chart*
Amounts	Measure: • 3 ounces every 14 days SB 2344: • 2.5 ounces every 30 days Amendment: • *See Chart*

Att. 2
SB 2344
3/27/17

SB 2344



att. 3
SB 2344
3/27/17

NORTH DAKOTA
MEDICAL MARIJUANA CONCENTRATION AND SERVING LIMITS

Types of Medical Marijuana Products	Maximum Concentration or Amount of THC Per Serving	Maximum Concentration or Amount of THC every 30 days
Cannabinoid Topicals	6%	2,000 mg
Pediatric Marijuana Oil	6%	
Cannabinoid Tinctures	N/A	
Cannabinoid Capsules	50 mg	
Cannabinoid Transdermal Patches	50 mg	
Cannabinoid Concentrates or Extracts	N/A	

NORTH DAKOTA
MEDICAL MARIJUANA PURCHASE AND POSSESSION LIMITS

Product	Maximum Purchase Amount in 30 day period	Maximum Possession Amount
Dried Leaves and Flowers (Written Certification)	2.5 ounces	3 ounces

Att #4 3-27-17
SB 2344

17.0630.03004
Title.

Prepared by the Legislative Council staff for
Representative P. Anderson
March 1, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 7, line 18, remove "and"

Page 7, line 28, replace the underscored period with "; and

n. Any other medical condition or treatment for such condition which is identified by rule adopted by the health council."

Page 79, after line 21, insert:

"5. The health council may adopt by rule a medical condition or treatment for such condition which qualifies as a debilitating medical condition."

Renumber accordingly

Att #5
3-27-17
SB 2344

17.0630.03012
Title.

Prepared by the Legislative Council staff for
Representative P. Anderson
March 27, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 9, line 5, remove "pediatric neurologist, pediatric gastroenterologist, pediatric"

Page 9, line 6, remove "oncologist, or pediatric palliative care specialist or must be a"

Page 9, line 6, remove "working in"

Page 9, line 7, remove "consultation with one of these pediatric specialists"

Renumber accordingly

#6 SB 2344 3-27-17

17.0630.03005
Title.

Prepared by the Legislative Council staff for
Representative P. Anderson
March 1, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 6, line 3, remove "in a"

Page 6, line 4, remove "combustible delivery form"

Page 6, line 5, remove "in a"

Page 6, line 6, remove "combustible delivery form"

Page 9, line 20, remove "in a combustible"

Page 9, line 21, remove "delivery form"

Page 9, line 30, remove "If the physician authorizes the use"

Page 9, remove line 31

Page 10, remove lines 1 and 2

Page 10, line 3, remove "therapeutic or palliative benefits."

Page 11, remove lines 26 through 28

Page 11, line 29, remove "be effective in providing the patient therapeutic or palliative benefits;"

Page 11, line 30, replace "(8)" with "(7)"

Page 54, remove lines 18 through 20

Page 54, line 21, replace "e." with "d."

Page 54, line 22, replace "f." with "e."

Page 54, line 24, replace "g." with "f."

Page 54, line 26, replace "h." with "g."

Page 54, line 27, replace "i." with "h."

Page 63, remove lines 3 through 6

Page 77, line 30, replace "a combustible delivery form of usable marijuana" with "combustion"

Page 77, line 30, after "vaporizing" insert "as a delivery method of"

Renumber accordingly

#7 SB 2344
3/27/17

17.0630.03001
Title.

Prepared by the Legislative Council staff for
Senator O. Larsen
February 20, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 1, line 4, remove "and"

Page 1, line 4, after "19-24-41" insert ", and 19-24-42"

Page 54, line 21, after "e." insert "A designation as to whether a qualifying patient or designated caregiver under subdivision d is authorized to grow the plant of the genus cannabis as provided under section 19-24-42;

f."

Page 54, line 22, replace "f." with "g."

Page 54, line 24, replace "g." with "h."

Page 54, line 26, replace "h." with "i."

Page 54, line 27, replace "i." with "j."

Page 55, line 24, replace "A" with "Except as otherwise provided under section 19-24-42, a"

Page 75, line 27, after the underscored comma insert "cultivation,"

Page 75, line 30, after the first underscored comma insert "cultivation,"

Page 76, line 4, after the first underscored comma insert "cultivation,"

Page 76, line 8, after the second underscored comma insert "cultivation,"

Page 76, line 12, after the first underscored comma insert "cultivation,"

Page 82, after line 11, insert:

"**SECTION 42.** Section 19-24-42 of the North Dakota Century Code is created and enacted as follows:

19-24-42. Cultivation of marijuana by a registered qualifying patient or registered designated caregiver.

1. If the residence of a registered qualifying patient who is authorized to use the dried leaves or flowers of the plant of the genus cannabis is more than forty miles [64.37 kilometers] from the nearest dispensary, that qualifying patient or that qualifying patient's registered designated caregiver may grow the plant of the genus cannabis for the use of that registered qualifying patient.

2. A registered qualifying patient or registered qualifying caregiver authorized to grow under this section may grow no more than eight plants of the genus cannabis, but may not exceed the allowable amount of usable marijuana for medical use. A plant grown under this section must be grown in an enclosed, locked facility, which may not be located within one thousand feet [604.80 meters] of a property line of a pre-existing public or private school.

3. Before a registered qualifying patient or registered qualifying caregiver grows the plant of the genus cannabis under this section, the patient or caregiver shall give local law enforcement a notice of intent to grow. The department shall establish the notice requirements under this subsection.

4. A registered qualifying patient or registered caregiver may not grow the plant of the genus cannabis under this section, unless that individual's registry identification card designates that individual as authorized to grow under this section."

Renumber accordingly

#8 SB 2344
3/27/17

17.0630.03006
Title.

Prepared by the Legislative Council staff for
Representative P. Anderson
March 10, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 9, line 19, after "oil" insert "or a transdermal patch or gel"

Renumber accordingly

#9 SB2344
3/27/17

17.0630.03008
Title.

Prepared by the Legislative Council staff for
Representative P. Anderson
March 16, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 21, line 5, after "11." insert "The department shall establish an expedited application process for a qualifying patient or designated caregiver applicant reporting time sensitive circumstances.

12."

Renumber accordingly

#10 SB 2344
3/27/17

17.0630.03007
Title.

Prepared by the Legislative Council staff for
Representative P. Anderson
March 15, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 77, line 10, after "9." insert "A cardholder or registered compassion center is not subject to arrest for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

10."

Page 77, line 13, replace "10." with "11."

Renumber accordingly

#11
SB2344
3/27/17

17.0630.03010
Title.

Prepared by the Legislative Council

March 23, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 5, line 31, remove "or have in"

Page 6, line 1, remove "the individual's possession at any time"

Page 6, line 1, replace "A" with:

"a. During a thirty-day period, a"

Page 6, line 2, after "registered" insert "designated"

Page 6, line 4, replace "in a thirty-day period and" with ". At any time a registered qualifying patient or a registered designated caregiver"

Page 6, line 5, after the third "of" insert "the"

Page 6, line 6, remove "at any time"

Page 6, line 6, after the underscored period insert:

"b."

Page 6, line 7, after "registered" insert "designated"

Page 6, line 7, remove "ten grams of liquid,"

Page 6, replace lines 8 through 12 with "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 is two thousand milligrams. The maximum concentration or amount of tetrahydrocannabinol permitted in a cannabinoid topical is six percent. The maximum concentration or amount of tetrahydrocannabinol permitted in a serving of a cannabinoid capsule or cannabinoid transdermal patch is fifty milligrams."

Page 6, line 28, after "3." insert ""Cannabinoid" means a chemical compound that is one of the active constituents of marijuana.

4. "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.

5. "Cannabinoid concentrate" means a concentrate or extract obtained by separating cannabinoids from marijuana by a mechanical, chemical, or other process.

6. "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 are incorporated.

7. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and other ingredients intended for consumption.

8. "Cannabinoid topical" means a cannabinoid product intended to be applied to skin or hair.

9. "Cannabinoid transdermal patch" means an adhesive substance applied to skin which contains a cannabinoid product or cannabinoid concentrate for absorption into the bloodstream.

10."

Page 6, line 30, replace "4." with "11."

Page 7, line 1, replace "5." with "12."

Page 7, line 3, replace "6." with "13."

Page 7, line 4, replace "7." with "14."

Page 7, line 29, replace "8." with "15."

Page 8, line 1, replace "9." with "16."

Page 8, line 4, replace "10." with "17."

Page 8, line 8, replace "11." with "18."

Page 8, line 11, replace "12." with "19. "Local zoning laws" means local government, including county, city, and township, ordinances or regulations governing the time, place, or manner or the number of compassionate care centers operation in a locality.

20."

Page 8, line 12, replace "cultivate" with "produce, process"

Page 8, line 13, replace "manufacturing" with "processing"

Page 8, line 15, replace "13." with "21."

Page 8, line 16, remove ", manufacture"

Page 8, line 19, replace "14." with "22. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid product or a cannabinoid concentrate.

23. "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;

(4) Cannabinoid topical; and

(5) Pediatric medical marijuana oil.

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.

24. "Medical marijuana product" means a cannabinoid concentrate or a medical cannabinoid product.

25."

Page 8, line 22, replace "15." with "26."

Page 8, line 24, replace "16." with "27."

Page 8, line 25, replace "17." with "28."

Page 8, line 28, replace "18." with "29."

Page 8, line 29, replace "no more than" with "a maximum concentration or amount of tetrahydrocannabinol of"

Page 8, line 29, remove "tetrahydrocannabinol"

Page 8, line 30, replace "no more than" with "a maximum concentration or amount of tetrahydrocannabinol of"

Page 8, line 31, remove "tetrahydrocannabinol"

Page 9, line 1, replace "19." with "30."

Page 9, line 8, replace "20." with "31."

Page 9, line 14, replace "21." with "32."

Page 9, line 14, replace "21." with "32. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.

33. "Producing", "produce", or "production" means 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.

34."

Page 9, line 16, replace "22." with "35."

Page 9, line 19, replace "23." with "36."

Page 9, line 19, replace "liquid, including an oil, or a pill delivery form of marijuana" with "medical marijuana product"

Page 9, line 21, replace "The" with "However, the"

Page 9, line 21, replace "marijuana infused food" with "the dried leaves or flowers unless required through a written certification and does not include a cannabinoid edible product"

Page 9, line 24, replace "24." with "37."

Page 9, line 26, replace "25." with "38."

Page 51, line 15, replace "registered qualifying patient or registered designated caregiver" with "cardholder"

Page 51, line 19, remove "registered qualifying"

Page 51, line 20, replace "patient or registered designated caregiver" with "cardholder"

Page 51, line 23, remove "registered qualifying"

Page 51, line 24, replace "patient or registered designated caregiver" with "cardholder"

Page 51, line 26, remove "registered qualifying patient or"

Page 51, line 27, replace "registered designated caregiver" with "cardholder"

Page 51, line 29, remove "registered qualifying patient or registered"

Page 51, line 30, replace "designated caregiver" with "cardholder"

Page 52, line 4, remove "registered qualifying patient or"

Page 52, line 5, replace "registered designated caregiver" with "cardholder"

Page 55, line 6, replace "**Cultivation, manufacturing**" with "**Producing, processing**"

Page 55, line 24, replace "cultivate, manufacture" with "produce, process"

Page 56, line 25, after "to" insert "producing,"

Page 56, line 26, replace "cultivating" with "processing"

Page 56, line 26, replace "manufacturing" with "processing"

Page 57, line 22, replace "the cultivation of marijuana" with "producing"

Page 57, line 23, remove "marijuana cultivation and"

Page 58, line 4, replace "marijuana cultivation" with "production"

Page 62, line 30, after the second "registered" insert "designated"

Page 63, line 1, after "to" insert "purchase or"

Page 63, line 2, after "more" insert "usable"

Page 63, line 3, after the second "registered" insert "designated"

Page 63, line 18, replace "pesticides, fungi, and molds" with "contaminants"

Page 64, line 23, replace "marijuana is cultivated or manufactured" with "producing or processing takes place"

Page 66, line 3, replace "growing areas and manufacturing" with "producing and processing"

Page 66, line 3, remove "processing and"

Page 67, line 13, replace "manufacturing" with "production or processing"

Page 68, line 21, replace "growing, manufacturing" with "producing, processing"

Page 72, line 19, after "card" insert "immediately"

Page 73, line 16, replace "to cultivate and possess marijuana" with "producing and processing"

Page 75, line 16, replace "cultivation" with "production"

Page 75, line 28, after "marijuana" insert "or related supplies"

Page 76, line 20, replace "cultivate" with "produce"

Page 76, line 20, replace "manufacturing" with "processing"

Page 77, line 7, replace "manufacturing" with "producing, processing,"

Page 77, line 10, after "9." insert "A cardholder or registered compassion center is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

10."

Page 77, line 13, replace "10." with "11."

Page 78, line 14, replace "the cultivation of marijuana for medical use" with "production"

Page 80, after line 30, insert:

"4. Data submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential."

Renumber accordingly

From: Tom Kading

1. Any physician can certify a condition. Remove the primary physician language.
2. Allow more dispensaries and grows. 4 Grows and 8 Dispensaries is not enough.
3. Include all mediums of use which were included in the original bill. OK
4. No disclosure of investors/owners of firms required
5. No recommendation or prescription is needed. Only a certification
6. Reduce all 6 felonies to Class A misdemeanors
7. Remove warrant-less searches of medical cannabis users
8. Change donation fund back to a fund to be used for people in need, not to the general fund.
9. The 1000 plant limit should not include immature plants.

Commissioner Insurance

Department of Health
Engrossed SB 2344 - Medical Marijuana
Fiscal Impact Summary

	Governor Dalrymple's Budget 2017-2019	Governor Burgum's Budget 2017-2019	Engossed SB 2344 Partial Biennium 2017-2019	Engossed SB 2344 Full Biennium 2019-2021
Revenue	$ 5,000,000	$ 4,525,508	$ 1,307,500	$ 3,510,000
Expenditures	7,057,644	6,216,884	2,390,165	2,940,081
Revenue Excess / (Shortfall)	$ (2,057,644)	$ (1,691,376)	$ (1,082,665)	$ 569,919
FTE	17	13	12	15

Assumptions - Proposed Law Changes	Partial Biennium	Full Biennium
Qualified Patients (5 per 1000 population) - $200 per year	1,900	3,800
Designated Caregivers (50% QPs) - $200 per year	950	1,900
Compassion Centers - board members, staff, volunteers - $200 per year	300	700
Replacement Cards / Failure to notify fees - $25 / $150 per occurrence	150/25	300/50
Compassion Centers - Fees paid each biennium		
Grow - application and registration fees - $5,000 / $80,000	4	4
Sell only - application and registration fees - $5,000 / $60,000	4	8
Add'l Sell only application and registration fees - $5,000 / $60,000	-	2

H Hum. 1-23-17 3/29/17

Att. 2
SB 2344
3/29/17

Department of Health
Proposed Engrossed SB 2344 - Medical Marijuana - $50 Reg Fee
Fiscal Impact Summary

	Governor Dalrymple's Budget 2017-2019	Governor Burgum's Budget 2017-2019	Engossed SB 2344 Partial Biennium 2017-2019	Engossed SB 2344 Full Biennium 2019-2021
Revenue	$ 5,000,000	$ 4,525,508	$ 635,000	$ 1,525,000
Expenditures	7,057,644	6,216,884	1,560,769	1,942,569
Revenue Excess / (Shortfall)	$ (2,057,644)	$ (1,691,376)	$ (925,769)	$ (417,569)
FTE	17	13	6	8

Assumptions - Proposed Law Changes	Partial Biennium	Full Biennium
Qualified Patients (5 per 1000 population) - $50 per year	1,900	3,800
Designated Caregivers (50% QPs) - $50 per year	950	1,900
Compassion Centers - board members, staff, volunteers - $50 per year	150	600
Replacement Cards / Failure to notify fees - $25 / $150 per occurrence	150/25	300/50
Compassion Centers - Fees paid each biennium		
Grow - application and registration fees - $5,000 / $80,000	2	2
Sell only - application and registration fees - $5,000 / $60,000	4	8
Add'l Sell only application and registration fees - $5,000 / $60,000	-	2

Education Dept. general Administrative Regulations

US Dept of Education Complying with the Drug-free schools and campuses regulations

Use back arrow for previous page | Federal law site map | Federal Statute | CompelledToAct.com Home Page

Update--Governmental Failure to Enforce Failure to Enforce Federal Law to Protect Students-*Confirmed-see IG Report-3/14/12*

EDGAR Part 86 (Drug and Alcohol Abuse Prevention)-Subpart A (General)

Brenda. Weisz

TITLE 34--Education

PART 86_DRUG AND ALCOHOL ABUSE PREVENTION

Subpart A_General

Sec.

86.1 What is the purpose of the Drug and Alcohol Abuse Prevention regulations?
86.2 What Federal programs are covered by this part?
86.3 What actions shall an IHE take to comply with the requirements of this part?
86.4 What are the procedures for submitting a drug prevention program certification?
86.5 What are the consequences if an IHE fails to submit a drug prevention program certification?
86.6 When must an IHE submit a drug prevention program certification?
86.7 What definitions apply to this part?

Subpart B_Institutions of Higher Education

86.100 What must the IHE's drug prevention program include?
86.101 What review of IHE drug prevention programs does the Secretary conduct?
86.102 What is required of an IHE that the Secretary selects for annual review?
86.103 What records and information must an IHE make available to the Secretary and the public concerning its drug prevention program?

Subpart C [Reserved]

Subpart D_Responses and Sanctions Issued or Imposed by the Secretary for Violations by an IHE

86.300 What constitutes a violation of this part by an IHE?
86.301 What actions may the Secretary take if an IHE violates this part?
86.302 What are the procedures used by the Secretary for providing information or technical assistance?
86.303 What are the procedures used by the Secretary for issuing a response other than the formulation of a compliance agreement or the provision of information or technical assistance?
86.304 What are the procedures used by the Secretary to demand repayment of Federal financial assistance or terminate an IHE's eligibility for any or all forms of Federal financial assistance?

Subpart E_Appeal Procedures

86.400 What is the scope of this subpart?
86.401 What are the authority and responsibility of the ALJ?
86.402 Who may be a party in a hearing under this subpart?
86.403 May a party be represented by counsel?
86.404 How may a party communicate with an ALJ?
86.405 What are the requirements for filing written submissions?
86.406 What must the ALJ do if the parties enter settlement negotiations?
86.407 What are the procedures for scheduling a hearing?
86.408 What are the procedures for conducting a pre-hearing conference?
86.409 What are the procedures for conducting a hearing on the record?
86.410 What are the procedures for issuance of a decision?
86.411 What are the procedures for requesting reinstatement of eligibility?

Authority: 20 U.S.C. 1145g, unless otherwise noted.

requirements of 1989 amendments to the Drug-free schools & Communities Act as assimilated in the EDGAR part 86

Source: 55 FR 33581, Aug. 16, 1990, unless otherwise noted.

Subpart A_General---*Back to index*

Sec. 86.1 What is the purpose of the Drug and Alcohol Abuse Prevention regulations? Back to index

The purpose of the Drug and Alcohol Abuse Prevention regulations is to implement section 22 of the Drug-Free Schools and Communities Act Amendments of 1989, which added section 1213 to the Higher Education Act. These amendments require that, as a condition of receiving funds or any other form of financial assistance under any Federal program, an institution of higher education (IHE) must certify that it has adopted and implemented a drug prevention program as described in this part.

(Authority: 20 U.S.C. 1145g)

[61 FR 66225, Dec. 17, 1996]

Sec. 86.2 What Federal programs are covered by this part? Back to index

The Federal programs covered by this part include--

(a) All programs administered by the Department of Education under which an IHE may receive funds or any other form of Federal financial assistance; and

(b) All programs administered by any other Federal agency under which an IHE may receive funds or any other form of Federal financial assistance.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.3 What actions shall an IHE take to comply with the requirements of this part? Back to index

(a) An IHE shall adopt and implement a drug prevention program as described in Sec. 86.100 to prevent the unlawful possession, use, or distribution of illicit drugs and alcohol by all students and employees on school premises or as part of any of its activities.

(b) An IHE shall provide a written certification that it has adopted and implemented the drug prevention program described in Sec. 86.100.

(Approved by the Office of Management and Budget under control number 1880-0522)

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, 66226, Dec. 17, 1996]

Sec. 86.4 What are the procedures for submitting a drug prevention program certification? Back to index

An IHE shall submit to the Secretary the drug prevention program certification required by Sec. 86.3(b).

(Approved by the Office of Management and Budget under control number 1880-0522)

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66226, Dec. 17, 1996]

Sec. 86.5 What are the consequences if an IHE fails to submit a drug prevention program certification? Back to index

(a) An IHE that fails to submit a drug prevention program certification is not eligible to receive funds or any other form of financial assistance under any Federal program.

(b) The effect of loss of eligibility to receive funds or any other form of Federal financial assistance is determined by the statute and regulations governing the Federal programs under which an IHE receives or desires to receive assistance.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.6 When must an IHE submit a drug prevention program certification? Back to index

(a) After October 1, 1990, except as provided in paragraph (b) of this section, an IHE is not eligible to receive funds or any other form of financial assistance under any Federal program until the IHE has submitted a drug prevention program certification.

(b)(1) The Secretary may allow an IHE until not later than April 1, 1991, to submit the drug prevention program certification, only if the IHE establishes that it has a need, other than administrative convenience, for more time to adopt and implement its drug prevention program.

(2) An IHE that wants to receive an extension of time to submit its drug prevention program certification shall submit a written justification to the Secretary that--

(i) Describes each part of its drug prevention program, whether in effect or planned;

(ii) Provides a schedule to complete and implement its drug prevention program; and

(iii) Explains why it has a need, other than administrative convenience, for more time to adopt and implement its drug prevention program.

(3) An IHE shall submit a request for an extension to the Secretary.

(Approved by the Office of Management and Budget under control number 1880-0522)

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66226, Dec. 17, 1996]

Sec. 86.7 What definitions apply to this part? Back to index

(a) Definitions in EDGAR. The following terms used in this part are defined in 34 CFR part 77:

Department EDGAR Secretary Back to index

(b) Other definitions. The following terms used in this part are defined as follows:

Compliance agreement means an agreement between the Secretary and an IHE that is not in full compliance with its drug prevention program certification. The agreement specifies the steps the IHE will take to comply fully with its drug prevention program certification, and provides a schedule for the accomplishment of those steps. A compliance agreement does not excuse or remedy past violations of this part.

Institution of higher education means--

(1) An institution of higher education, as defined in 34 CFR 600.4;

(2) A proprietary institution of higher education, as defined in 34 CFR 600.5;

(3) A postsecondary vocational institution, as defined in 34 CFR 600.6; and

(4) A vocational school, as defined in 34 CFR 600.7.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66226, Dec. 17, 1996]

EDGAR Part 86 Subpart B (Institutions of Higher Education), Subpart C [Reserved]\

Subpart B Institutions of Higher Education---*Back to index*

Sec. 86.100 What must the IHE's drug prevention program include?

The IHE's drug prevention program must, at a minimum, include the following:

(a) The annual distribution in writing to each employee, and to each student who is taking one or more classes for any type of academic credit except for continuing education units, regardless of the length of the student's program of study, of--

(1) Standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on its property or as part of any of its activities;

(2) A description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(3) A description of the health risks associated with the use of illicit drugs and the abuse of alcohol;

(4) A description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(5) A clear statement that the IHE will impose disciplinary sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by paragraph (a)(1) of this section. For the purpose of this section, a disciplinary sanction may include the completion of an appropriate rehabilitation program.

(b) A biennial review by the IHE of its program to--

(1) Determine its effectiveness and implement changes to the program if they are needed; and

(2) Ensure that the disciplinary sanctions described in paragraph (a)(5) of this section are consistently enforced.

(Approved by the Office of Management and Budget under control number 1880-0522)

(Authority: 20 U.S.C. 1145g)

Sec. 86.101 What review of IHE drug prevention programs does the Secretary conduct? --Back to index

The Secretary annually reviews a representative sample of IHE drug prevention programs.

(Authority: 20 U.S.C. 1145g)

Sec. 86.102 What is required of an IHE that the Secretary selects for annual review? --Back to index

If the Secretary selects an IHE for review under Sec. 86.101, the IHE shall provide the Secretary access to personnel, records, documents and any other necessary information requested by the Secretary to review the IHE's adoption and implementation of its drug prevention program.

(Approved by the Office of Management and Budget under control number 1880-0522)

(Authority: 20 U.S.C. 1145g)

Sec. 86.103 What records and information must an IHE make available to the Secretary and the public concerning its drug prevention program? --Back to index

(a) Each IHE that provides the drug prevention program certification required by Sec. 86.3(b) shall, upon request, make available to the Secretary and the public a copy of each item required by Sec. 86.100(a) as well as the results of the biennial review required by Sec. 86.100(b).

(b)(1) An IHE shall retain the following records for three years after the fiscal year in which the record was created:

(i) The items described in paragraph (a) of this section.

(ii) Any other records reasonably related to the IHE's compliance with the drug prevention program certification.

(2) If any litigation, claim, negotiation, audit, review, or other action involving the records has been started before expiration of the three-year period, the IHE shall retain the records until completion of the action and resolution of all issues that arise from it, or until the end of the regular three-year period, whichever is later.

(Approved by the Office of Management and Budget under control number 1880-0522)

(Authority: 20 U.S.C. 1145g)

Subpart C [Reserved]

EDGAR Part 86 Subpart D (Responses/Sanctions Issued/Imposed by the Secretary for Violations by an IHE)

Subpart D Responses and Sanctions Issued or Imposed by the Secretary for Violations by an IHE---*Back to index*

Sec. 86.300 What constitutes a violation of this part by an IHE?

An IHE violates this part by--

(a) Receiving any form of Federal financial assistance after becoming ineligible to receive that assistance because of failure to submit a certification in accordance with Sec. 86.3(b); or

(b) **Violating its certification. Violation of a certification includes failure of an IHE to--**

(1) Adopt or implement its drug prevention program; or

(2) Consistently enforce its disciplinary sanctions for violations by students and employees of the standards of conduct adopted by an IHE under Sec. 86.100(a)(1).

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66226, Dec. 17, 1996]

Sec. 86.301 What actions may the Secretary take if an IHE violates this part? ---Back to index

(a) If an IHE violates its certification, the Secretary may issue a response to the IHE. A response may include, but is not limited to--

(1) Provision of information and technical assistance; and

(2) Formulation of a compliance agreement designed to bring the IHE into full compliance with this part as soon as feasible.

(b) If an IHE receives any form of Federal financial assistance

without having submitted a certification or violates its certification, the Secretary may impose one or more sanctions on the IHE, including--

(1) Repayment of any or all forms of Federal financial assistance received by the IHE when it was in violation of this part; and

(2) The termination of any or all forms of Federal financial assistance that--

(i)(A) Except as specified in paragraph (b)(2)(ii) of this section, ends an IHE's eligibility to receive any or all forms of Federal financial assistance. The Secretary specifies which forms of Federal financial assistance would be affected; and

(B) Prohibits an IHE from making any new obligations against Federal funds; and

(ii) For purposes of an IHE's participation in the student financial assistance programs authorized by title IV of the Higher Education Act of 1965 as amended, has the same effect as a termination under 34 CFR 668.94.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.302 What are the procedures used by the Secretary for providing information or technical assistance? ---Back to index

(a) The Secretary provides information or technical assistance to an IHE in writing, through site visits, or by other means.

(b) The IHE shall inform the Secretary of any corrective action it has taken within a period specified by the Secretary.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.303 What are the procedures used by the Secretary for issuing a response other than the formulation of a compliance agreement or the provision of information or technical assistance? ---Back to index

(a) If the Secretary intends to issue a response other than the formulation of a compliance agreement or the provision of information or technical assistance, the Secretary notifies the IHE in writing of--

(1) The Secretary's determination that there are grounds to issue a response other than the formulation of a compliance agreement or providing information or technical assistance; and

(2) The response the Secretary intends to issue.

(b) An IHE may submit written comments to the Secretary on the determination under paragraph (a)(1) of this section and the intended response under paragraph (a)(2) of this section within 30 days after the date the IHE receives the notification of the Secretary's intent to issue a response.

(c) Based on the initial notification and the written comments of the IHE the Secretary makes a final determination and, if appropriate, issues a final response.

(d) The IHE shall inform the Secretary of the corrective action it has taken in order to comply with the terms of the Secretary's response within a period specified by the Secretary.

(e) If an IHE does not comply with the terms of a response issued by the Secretary, the Secretary may issue an additional response or impose a sanction on the IHE in accordance with the procedures in Sec. 86.304.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.304 What are the procedures used by the Secretary to demand repayment of Federal financial assistance or terminate an IHE's eligibility for any or all forms of Federal financial assistance? ---Back to index

(a) A designated Department official begins a proceeding for repayment of Federal financial assistance or termination, or both, of an IHE's eligibility for any or all forms of Federal financial assistance by sending the IHE a notice by certified mail with return receipt requested. This notice--

(1) Informs the IHE of the Secretary's intent to demand repayment of Federal financial assistance or to terminate, describes the consequences of that action, and identifies the alleged violations that constitute the basis for the action;

(2) Specifies, as appropriate--

(i) The amount of Federal financial assistance that must be repaid and the date by which the IHE must repay the funds; and

(ii) The proposed effective date of the termination, which must be at least 30 days after the date of receipt of the notice of intent; and

(3) Informs the IHE that the repayment of Federal financial assistance will not be required or that the termination will not be effective on the date specified in the notice if the designated Department official receives, within a 30-day period beginning on the date the IHE receives the notice of intent described in this paragraph--

(i) Written material indicating why the repayment of Federal financial assistance or termination should not take place; or

(ii) A request for a hearing that contains a concise statement of disputed issues of law and fact, the IHE's position with respect to these issues, and, if appropriate, a description of which Federal financial assistance the IHE contends need not be repaid.

(b) If the IHE does not request a hearing but submits written material--

(1) The IHE receives no additional opportunity to request or receive a hearing; and

(2) The designated Department official, after considering the written material, notifies the IHE in writing whether--

(i) Any or all of the Federal financial assistance must be repaid; or

(ii) The proposed termination is dismissed or imposed as of a specified date.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

EDGAR Part 86 Subpart E (Appeal Procedures)

Subpart E_Appeal Procedures---*Back to index*

Sec. 86.400 What is the scope of this subpart?

(a) The procedures in this subpart are the exclusive procedures governing appeals of decisions by a designated Department official to demand the repayment of Federal financial assistance or terminate the eligibility of an IHE to receive some or all forms of Federal financial assistance for violations of this part.

(b) An Administrative Law Judge (ALJ) hears appeals under this subpart.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.401 What are the authority and responsibility of the ALJ?
--*Back to index*

(a) The ALJ regulates the course of the proceeding and conduct of the parties during the hearing and takes all steps necessary to conduct a fair and impartial proceeding.

(b) The ALJ is not authorized to issue subpoenas.

(c) The ALJ takes whatever measures are appropriate to expedite the proceeding. These measures may include, but are not limited to--
(1) Scheduling of conferences;
(2) Setting time limits for hearings and submission of written documents; and
(3) Terminating the hearing and issuing a decision against a party if that party does not meet those time limits.
(d) The scope of the ALJ's review is limited to determining whether--
(1) The IHE received any form of Federal financial assistance after becoming ineligible to receive that assistance because of failure to submit a certification; or
(2) The IHE violated its certification.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.402 Who may be a party in a hearing under this subpart? -Back to index

(a) Only the designated Department official and the IHE that is the subject of the proposed termination or recovery of Federal financial assistance may be parties in a hearing under this subpart.
(b) Except as provided in this subpart, no person or organization other than a party may participate in a hearing under this subpart.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.403 May a party be represented by counsel? -Back to index

A party may be represented by counsel.

(Authority: 20 U.S.C. 1145g)

Sec. 86.404 How may a party communicate with an ALJ? -Back to index

(a) A party may not communicate with an ALJ on any fact at issue in the case or on any matter relevant to the merits of the case unless the other party is given notice and an opportunity to participate.
(b)(1) To obtain an order or ruling from an ALJ, a party shall make a motion to the ALJ.
(2) Except for a request for an extension of time, a motion must be made in writing unless the parties appear in person or participate in a conference telephone call. The ALJ may require a party to reduce an oral motion to writing.
(3) If a party files a written motion, the party shall do so in accordance with Sec. 86.405.
(4) Except for a request for an extension of time, the ALJ may not grant a party's written motion without the consent of the other party unless the other party has had at least 21 days from the date of service of the motion to respond. However, the ALJ may deny a motion without awaiting a response.
(5) The date of service of a motion is determined by the standards for determining a filing date in Sec. 86.405(d).

(Authority: 20 U.S.C. 1145g)

Sec. 86.405 What are the requirements for filing written submissions? -Back to index

(a) Any written submission under this subpart must be filed by hand-delivery, by mail, or by facsimile transmission. The Secretary discourages the use of facsimile transmission for documents longer than five pages.
(b) If a party files a brief or other document, the party shall serve a copy of the filed material on the other party on the filing date

by hand-delivery or by mail. If agreed upon by the parties, service of a document may be made upon the other party by facsimile transmission.

(c) Any written submission must be accompanied by a statement certifying the date that the filed material was filed and served on the other party.

(d)(1) The filing date for a written submission is the date the document is--

(i) Hand-delivered;

(ii) Mailed; or

(iii) Sent by facsimile transmission.

(2) If a scheduled filing date falls on a Saturday, Sunday, or Federal holiday, the filing deadline is the next Federal business day.

(e) A party filing by facsimile transmission is responsible for confirming that a complete and legible copy of the document was received by the Department.

(f) If a document is filed by facsimile transmission, the Secretary or the designated Department official, as applicable, may require the filing of a follow-up hard copy by hand-delivery or by mail within a reasonable period of time.

(Authority: 20 U.S.C. 1145g)

[57 FR 56795, Nov. 30, 1992]

Sec. 86.406 What must the ALJ do if the parties enter settlement negotiations? -Back to index

(a) If the parties to a case file a joint motion requesting a stay of the proceedings for settlement negotiations or for the parties to obtain approval of a settlement agreement, the ALJ grants the stay.

(b) The following are not admissible in any proceeding under this part:

(1) Evidence of conduct during settlement negotiations.

(2) Statements made during settlement negotiations.

(3) Terms of settlement offers.

(c) The parties may not disclose the contents of settlement negotiations to the ALJ. If the parties enter into a settlement agreement and file a joint motion to dismiss the case, the ALJ grants the motion.

(Authority: 20 U.S.C. 1145g)

Sec. 86.407 What are the procedures for scheduling a hearing? -Back to index

(a) If the IHE requests a hearing by the time specified in Sec. 86.304(a)(3), the designated Department official sets the date and the place.

(b)(1) The date is at least 15 days after the designated Department official receives the request and no later than 45 days after the request for hearing is received by the Department.

(2) On the motion of either or both parties, the ALJ may extend the period before the hearing is scheduled beyond the 45 days specified in paragraph (b)(1) of this section.

(c) No termination takes effect until after a hearing is held and a decision is issued by the Department.

(d) With the approval of the ALJ and the consent of the designated Department official and the IHE, any time schedule specified in this section may be shortened.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.408 What are the procedures for conducting a pre-hearing conference? -Back to index

(a)(1) A pre-hearing conference may be convened by the ALJ if the

ALJ thinks that such a conference would be useful, or if requested by--
(i) The designated Department official; or
(ii) The IHE.
(2) The purpose of a pre-hearing conference is to allow the parties to settle, narrow, or clarify the dispute.
(b) A pre-hearing conference may consist of--
(1) A conference telephone call;
(2) An informal meeting; or
(3) The submission and exchange of written material.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.409 What are the procedures for conducting a hearing on the record? -Back to index

(a) A hearing on the record is an orderly presentation of arguments and evidence conducted by an ALJ.
(b) An ALJ conducts the hearing entirely on the basis of briefs and other written submissions unless--
(1) The ALJ determines, after reviewing all appropriate submissions, that an evidentiary hearing is needed to resolve a material factual issue in dispute; or
(2) The ALJ determines, after reviewing all appropriate submissions, that oral argument is needed to clarify the issues in the case.
(c) The hearing process may be expedited as agreed by the ALJ, the designated Department official, and the IHE. Procedures to expedite may include, but are not limited to, the following:
(1) A restriction on the number or length of submissions.
(2) The conduct of the hearing by telephone conference call.
(3) A review limited to the written record.
(4) A certification by the parties to facts and legal authorities not in dispute.
(d)(1) The formal rules of evidence and procedures applicable to proceedings in a court of law are not applicable.
(2) The designated Department official has the burden of persuasion in any proceeding under this subpart.
(3)(i) The parties may agree to exchange relevant documents and information.
(ii) The ALJ may not order discovery, as provided for under the Federal Rules of Civil Procedure, or any other exchange between the parties of documents or information.
(4) The ALJ accepts only evidence that is relevant and material to the proceeding and is not unduly repetitious.
(e) The ALJ makes a transcribed record of any evidentiary hearing or oral argument that is held, and makes the record available to--
(1) The designated Department official; and
(2) The IHE on its request and upon payment of a fee comparable to that prescribed under the Department of Education Freedom of Information Act regulations (34 CFR part 5).

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.410 What are the procedures for issuance of a decision? -Back to index

(a)(1) The ALJ issues a written decision to the IHE, the designated Department official, and the Secretary by certified mail, return receipt requested, within 30 days after--
(i) The last brief is filed;
(ii) The last day of the hearing if one is held; or
(iii) The date on which the ALJ terminates the hearing in accordance with Sec. 86.401(c)(3).
(2) The ALJ's decision states whether the violation or violations contained in the Secretary's notification occurred, and articulates the

reasons for the ALJ's finding.
(3) The ALJ bases findings of fact only on evidence in the hearing record and on matters given judicial notice.
(b)(1) The ALJ's decision is the final decision of the agency. However, the Secretary reviews the decision on request of either party, and may review the decision on his or her own initiative.
(2) If the Secretary decides to review the decision on his or her own initiative, the Secretary informs the parties of his or her intention to review by written notice sent within 15 days of the Secretary's receipt of the ALJ's decision.
(c)(1) Either party may request review by the Secretary by submitting a brief or written materials to the Secretary within 20 days of the party's receipt of the ALJ's decision. The submission must explain why the decision of the ALJ should be modified, reversed, or remanded. The other party shall respond within 20 days of receipt of the brief or written materials filed by the opposing party.
(2) Neither party may introduce new evidence on review.
(d) The decision of the ALJ ordering the repayment of Federal financial assistance or terminating the eligibility of an IHE does not take effect pending the Secretary's review.
(e)(1) The Secretary reviews the ALJ's decision considering only evidence introduced into the record.
(2) The Secretary's decision may affirm, modify, reverse or remand the ALJ's decision and includes a statement of reasons for the decision.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

Sec. 86.411 What are the procedures for requesting reinstatement of eligibility? -Back to index

(a)(1) An IHE whose eligibility to receive any or all forms of Federal financial assistance has been terminated may file with the Department a request for reinstatement as an eligible entity no earlier than 18 months after the effective date of the termination.
(2) In order to be reinstated, the IHE must demonstrate that it has corrected the violation or violations on which the termination was based, and that it has met any repayment obligation imposed upon it under Sec. 86.301(b)(1) of this part.
(b) In addition to the requirements of paragraph (a) of this section, the IHE shall comply with the requirements and procedures for reinstatement of eligibility applicable to any Federal program under which it desires to receive Federal financial assistance.

(Authority: 20 U.S.C. 1145g)

[55 FR 33581, Aug. 16, 1990, as amended at 61 FR 66225, Dec. 17, 1996]

- PART 86-Drug and Alcohol Abuse Prevention-DOE sit links-nonoperative as of 7/24/10
  - Subpart A-General and Part 86 Table of Contents
  - Subpart B-Institutions of Higher Education, Subpart C [Reserved]
  - Subpart D-Responses and Sanctions Issued or Imposed by the Secretary for Violations by an IHE
  - Subpart E-Appeal Procedures

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ACT NOW-Before Events Leave You With No Choice

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Title.

Prepared by the Legislative Council staff for
Representative Weisz
March 30, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 19-24.1 of the North Dakota Century Code, relating to medical marijuana; to repeal chapter 19-24 of the North Dakota Century Code, relating to medical marijuana; to provide for a report; to provide a penalty; to provide a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 19-24.1 of the North Dakota Century Code is created and enacted 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 as 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 tetrahhydrocannabinol 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 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 that 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. "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. "Processing" or "process" means the compounding or conversion of marijuana into a medical marijuana product.

34. "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. "Qualifying patient" means an individual who has been diagnosed by a health care provider as having a debilitating medical condition.

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

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 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.

19-24.1-02. Medical marijuana program.

The department shall establish and implement a medical marijuana program under this chapter to allow for production and processing, the sale and dispensing of usable marijuana, and medical use of marijuana. A person may not produce or process or sell, possess, transport, dispense or use marijuana or usable marijuana under the medical marijuana program unless the person is authorized to do so as a compassion center, a cardholder, or otherwise authorized by rule adopted under this chapter.

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.

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.

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 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.

19-24.1-04. Designated caregivers - Registration.

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

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

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

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

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

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

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

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

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

      (6) The applicant's social security number.

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

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

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

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

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

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

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

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

5. An applicant shall submit a separate and complete application for each of the applicant's registered qualifying patients. A registered designated

caregiver may assist no more than five registered qualifying patients. A registered designated caregiver who is a registered qualifying patient may assist no more than four additional registered qualifying patients.

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

19-24.1-05. Qualifying patients and designated caregivers - Identification cards - Issuance and denial.

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

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

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

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

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

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

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

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

   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

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

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

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

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

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

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

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

a. Does not meet the requirements of this section or section 19-24.1-03;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked; or

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

8. The department shall deny an application for or renewal of a designated caregiver registry identification card if the designated caregiver applicant:

a. Does not meet the requirements of this section or section 19-24.1-04;

b. Did not provide the required information and materials;

c. Previously had a registry identification card revoked; or

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

9. The department shall notify, in writing, the qualifying patient or designated caregiver applicant of the reason for denying an application or renewal.

10. The department shall notify the following in writing:

a. A registered qualifying patient if that patient's designated caregiver's application or renewal is denied; and

b. A registered designated caregiver if that caregiver's qualifying patient's application or renewal is denied.

11. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing.

19-24.1-06. Registry identification cards - Renewal.

To prevent interruption of possession of a valid registry identification card, a registered qualifying patient or registered designated caregiver shall apply for a registry identification card renewal by submitting a complete reapplication as provided under section 19-24.1-03 or 19-24.1-04 no less than forty-five calendar days before the expiration date of the existing registry identification card.

19-24.1-07. Registry identification cards - Nontransferable.

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

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

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

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

1. The department or the department's designee may conduct an onsite assessment of a compassion center based on the department's reasonable suspicion the compassion center is violating this chapter. The compassion center shall provide the department with immediate access to determine compliance with this chapter.

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

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

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

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

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

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

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

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

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

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

1. Within ten calendar days of the change, in a manner prescribed by the department, a registered qualifying patient or registered designated caregiver shall notify the department of any of the following:

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

   b. Knowledge of a change that would render the registered qualifying patient no longer eligible to participate in the medical marijuana program;

   c. Knowledge of a change that results in the registered qualifying patient's health care provider no longer meeting the definition of the term "health care provider" as defined under section 19-24.1-01; or

   d. Knowledge of a change that renders the registered qualifying patient's registered designated caregiver no longer eligible to participate in the medical marijuana program.

2. If a registered qualifying patient seeks to change the patient's designated caregiver, the registered qualifying patient shall notify the department in writing of this change.

3. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department in writing within twenty-four hours of becoming aware of the loss.

4. If a registered qualifying patient is unable to make a notification required under this section due to age or medical condition, that patient's registered designated caregiver or the individual responsible for making medical decisions for that patient shall provide the notification.

5. If the department receives notification of an item listed in this section and the nature of the item reported does not affect a cardholder's eligibility, the department shall issue the cardholder a new registry identification card with a new random ten-digit alphanumeric identification number within twenty calendar days of approving the updated information and the cardholder shall pay a fee, not to exceed twenty-five dollars. If a cardholder notifying the department is a registered qualifying patient who has a registered designated caregiver, the department shall issue the patient's registered designated caregiver a new registry identification card within twenty calendar days of approving the updated information.

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

7. A registered qualifying patient's certifying health care provider shall 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. 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.

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 the dried leaves or flowers of the plant of the genus cannabis;

   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 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.

19-24.1-12. Compassion centers.

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

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

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

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

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

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

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

19-24.1-13. Compassion centers - Authority.

1. The activities of a manufacturing facility are limited to producing and processing and to related activities, including acquiring, possessing, storing, transferring, and transporting marijuana and usable marijuana, for the sole purpose of selling usable marijuana to a dispensary.

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

3. A manufacturing facility and a dispensary may not have common ownership.

19-24.1-14. Compassion centers - Application.

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

   a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota State Department of Health, Medical Marijuana Program".

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

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

   d. The physical address of the proposed location of the proposed compassion center and:

      (1) Evidence of approval from local officials as to the proposed compassion center applicant's compliance with local zoning laws for the physical address to be used by the proposed compassion center; and

      (2) Evidence the physical address of the proposed compassion center is not located within one thousand feet [604.80 meters] of a property line of a pre-existing public or private school.

   e. For a manufacturing facility applicant, a description of the enclosed, locked facility that would be used in the production and processing of marijuana, including steps that will be taken to ensure the production and processing is not visible from the street or other public areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19-24.1-15. Compassion centers - Registration.

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 eighty thousand dollars for a dispensary and one hundred 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. An update to previously submitted information, including information about compassion center agents and compliance with section 19-24.1-18.

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

19-24.1-16. Compassion centers - Renewal.

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

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

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

b. The compassion center submits a complete renewal application;

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

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

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

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

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 may waive all or part of the required advance notice to address emergent or emergency situations.

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

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

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 verifying the state of residence. 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. The agent's signature and the date.

h. 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".

3. Each compassion center agent shall consent to a criminal history record check conducted under section 12-60-24 to demonstrate compliance with the eligibility requirements.

a. All applicable fees associated with the required criminal history record checks must be paid by the compassion center or the agent.

b. A criminal history record check must be performed upon initial application and biennially upon renewal. A compassion center agent shall consent to a criminal history record check at any time the department determines necessary.

c. An individual convicted of a drug-related misdemeanor offense within the five-year period before the date of application or a felony offense is prohibited from being a compassion center agent.

4. The department shall notify the compassion center in writing of the purpose for denying a compassion center agent application for a registry identification card. The department shall deny an application if the agent fails to meet the registration requirements or to provide the information required, or if the department determines the information provided is false. The cardholder may appeal a denial or revocation of a registry identification card to the district court of Burleigh County for hearing.

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

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

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

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

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

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

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

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

19-24.1-19. Cardholders - Compassion centers - Revocation.

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

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

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

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

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

   b. A manufacturing facility may continue to produce and process and to possess marijuana and usable marijuana during a suspension, but may not transfer or sell usable marijuana.

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

d. The cardholder or the compassion center may appeal a denial or revocation of a registry identification card or registry certificate to the district court of Burleigh County for hearing.

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

1. A cardholder or compassion center that fails to provide a notice as required under this chapter shall pay to the department a fee in an amount established by the department.

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

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

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

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

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

7. In addition to any other penalty applicable in law, a registered qualifying patient who intentionally sells or otherwise transfers usable marijuana, in

exchange for anything of value, to another person, is guilty of a class B felony. An individual convicted under this subsection is disqualified from further participation under this chapter.

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

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

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

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

19-24.1-21. Compassion centers - Dispensing.

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

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

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

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 oil.

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.

19-24.1-22. Compassion centers - Inspections.

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

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

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

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

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

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

department-authorized research and development related to production and processing.

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

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

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

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

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

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

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

   c. Any breach of security.

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

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

   a. A manufacturing facility shall:

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

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

   b. A dispensary shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A compassion center shall keep detailed financial reports of proceeds and expenses. A compassion center shall maintain all inventory, sales, and financial records in accordance with generally accepted accounting principles. The compassion center shall maintain for a period of seven years all reports and records required under this section. A compassion center shall allow the department, or an audit firm

contracted by the department, access at all times to all books and records kept by the compassion center.

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

1. Each compassion center shall maintain:

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

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

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

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

19-24.1-31. Verification system.

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

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

   a. Whether an identification card is valid;

   b. The name of the cardholder;

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

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

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

19-24.1-32. Protections.

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

1. A registered qualifying patient 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 for the acquisition, use, or possession of usable marijuana ore related supplies under this chapter.

2. A registered designated caregiver 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:

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

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

3. It is presumed a registered qualifying patient is engaged in, or a registered designated caregiver is assisting with, the acquisition, use, or possession of usable marijuana or related supplies in accordance with this chapter if the registered qualifying patient or registered designated caregiver is in possession of a valid registry identification card and is not in possession of usable marijuana in an amount that exceeds what is authorized under this chapter. This presumption may be rebutted by evidence the conduct related to acquisition, use, or possession of usable marijuana or related supplies was not for the purpose of treating or alleviating the registered qualifying patient's debilitating medical condition under this chapter.

4. A person is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for being in the presence or vicinity of the medical use of marijuana authorized under this chapter.

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

   a. Produce or process or to conduct related activities for the sole purpose of selling usable marijuana to a dispensary; or

   b. Transfer, transport, or deliver marijuana or usable marijuana to and from a department designee or manufacturing facility in accordance with this chapter.

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

   a. Purchase usable marijuana from a manufacturing facility and conducting related activities for the sole purpose of dispensing usable

marijuana, selling related supplies, and and providing educational materials to registered qualifying patients and designated caregivers; or

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

7. A registered compassion center agent is not subject to arrest or prosecution or the denial of any right or privilege, including a civil penalty or disciplinary action by a court or occupational or professional regulating entity, for working or volunteering for a compassion center if the action performed by the compassion center agent on behalf of the compassion center is authorized under this chapter.

8. The sale and possession of marijuana paraphernalia by a dispensary is lawful if in accordance with this chapter.

9. The medical use of marijuana by a registered cardholder or the producing and processing and the dispensing of usable marijuana by a compassion center is lawful if in accordance with this chapter.

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.

11. A cardholder or registered compassion center is not subject to arrest or prosecution for use of drug paraphernalia or possession with intent to use drug paraphernalia in a manner consistent with this chapter.

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

13. A person in possession of marijuana or medical marijuana 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.

19-24.1-33. Limitations.

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

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

2. Possessing or consuming usable marijuana:

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

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

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

   d. On the grounds of a correctional facility; or

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

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

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

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

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

1. This chapter does not require:

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

   b. A person in lawful possession of property to allow a guest, client, customer, or other visitor to possess or consume usable marijuana on or in that property;

   c. A landlord to allow production or processing on rental property; or

   d. A health care provider to provide a written certification or otherwise recommend marijuana to a patient.

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

19-24.1-35. Facility restrictions.

1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or adult foster care home licensed in the state may adopt reasonable restrictions on the medical use of marijuana by residents or individuals receiving inpatient services, including:

a. The facility will not store or maintain the registered qualifying patient's supply of usable marijuana.

b. The facility, caregivers, or hospice agencies serving the facility's residents are not responsible for providing the usable marijuana for registered qualifying patients or assisting with the medical use of marijuana.

c. Usable marijuana can be consumed by a method other than vaporizing or combustion.

d. Consumption of usable marijuana is limited to a place specified by the facility.

2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying patient's medical use of marijuana.

19-24.1-36. Health council - Rules.

1. The health council shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of marijuana and usable marijuana, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate record keeping.

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

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

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

19-24.1-37. Confidentiality.

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

2. Data kept or maintained by the department may be disclosed 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 submitted to a local government to demonstrate compliance with any security requirements required by local zoning ordinances or regulations is confidential.

19-24.1-38. Advisory board.

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

a. Shall advise the department in implementation of the medical marijuana program.

b. May receive reports from the department on the status and activities of the medical marijuana program.

c. May provide recommendations to the department and the legislative management on the medical marijuana program.

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

19-24.1-39. Report to legislative management.

Annually, the department shall submit to the legislative management a report that does not disclose any identifying information about registered cardholders, compassion centers, or health care providers, but contains the following information:

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

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

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

4. The number of registry identification cards revoked;

5. The number of health care providers providing written certifications for qualifying patients;

6. The number of compassionate care centers; and

7. Any expenses incurred and revenues generated by the department from the medical marijuana program.

19-24.1-40. Medical marijuana fund - Continuing appropriation.

The medical marijuana fund is established in the state treasury. The department shall deposit in the fund all fees collected under this chapter. The department shall administer the fund. Moneys in the fund are appropriated to the department on a continuing basis for use in administering this chapter.

SECTION 2. STATE DEPARTMENT OF HEALTH REPORT - MEDICAL MARIJUANA DEBILITATING MEDICAL CONDITIONS. During the 2017-18 interim, the state department of health shall conduct a study of the feasibility and desirability of adding identified medical conditions or providing for an administrative process to add identified medical conditions to the definitions of "debilitating medical condition" under the medical marijuana program. The department shall include the findings and recommendations of this study, together with any legislation required to implement the recommendations, to the annual reports made to the legislative management under section 19-24.1-39.

SECTION 3. REPEAL. Chapter 19-24 of the North Dakota Century Code is repealed.

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

Renumber accordingly

Att. 2 4/3/17
SB2344

17.0630.03023
Title.

Prepared by the Legislative Council staff for
Representative Weisz
March 30, 2017

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2344

Page 1, line 4, after "19-24-41" insert ", paragraph 3 of subdivision a of subsection 15 of section 57-02-08, and paragraph 2 of subdivision b of subsection 15 of section 57-02-08"

Page 1, line 6, after "marijuana" insert "and the property tax exemption for farm buildings and residences"

Page 82, after line 11, insert:

"**SECTION 42. AMENDMENT.** Paragraph 3 of subdivision a of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24-02, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

SECTION 43. AMENDMENT. Paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24; poultry~~,~~; livestock~~,~~; or dairy farming in such products' unmanufactured state and has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. For purposes of this paragraph, "farmer" includes a:

(a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years.

(b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

(c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer."

Renumber accordingly