

Introduced by

Senators Wardner, Heckaman

Representatives Carlson, Mock

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to create and enact sections 19-24-14, 19-24-15, 19-24-16, 19-24-17,  
2 19-24-18, 19-24-19, 19-24-20, 19-24-21, 19-24-22, 19-24-23, 19-24-24, 19-24-25, 19-24-26,  
3 19-24-27, 19-24-28, 19-24-29, 19-24-30, 19-24-31, 19-24-32, 19-24-33, 19-24-34, 19-24-35,  
4 19-24-36, 19-24-37, 19-24-38, 19-24-39, 19-24-40, 19-24-41, and 19-24-42 of the North Dakota  
5 Century Code, relating to implementation of the North Dakota Compassionate Care Act to  
6 authorize medical marijuana; to amend and reenact sections 19-24-01, 19-24-02, 19-24-03,  
7 19-24-04, 19-24-05, 19-24-06, 19-24-07, 19-24-08, 19-24-09, 19-24-10, 19-24-11, 19-24-12,  
8 and 19-24-13 of the North Dakota Century Code, relating to implementation of the North Dakota  
9 Compassionate Care Act to authorize medical marijuana; to provide a report to the legislative  
10 management; to provide a penalty; to provide a continuing appropriation; and to declare an  
11 emergency.

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

13 **SECTION 1. AMENDMENT.** Section 19-24-01 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **19-24-01. Title - Compassionate care program.**

16 This Act may be cited as the "North Dakota Compassionate Care Act". The state  
17 department of health shall establish a compassionate care program to implement the medical  
18 marijuana program under this chapter.

19 **SECTION 2. AMENDMENT.** Section 19-24-02 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **19-24-02. Definitions.**

22 ~~The following words and terms, when used in these regulations, should have the following~~  
23 ~~meaning, unless the context clearly indicates otherwise:~~

24 1. ~~"Act" means the North Dakota Compassionate Care Act.~~

Sixty-fifth  
Legislative Assembly

- 1       2. ~~"Adulterated" means made impure or inferior by adding extraneous ingredients. Goods~~  
2       ~~that are prepared in food establishments that are licensed facilities in response and~~  
3       ~~that contain marijuana for medical use by a registered patient are not considered to be~~  
4       ~~adulterated.~~
- 5       3. ~~"Advisory board" means a nine-member committee established, chaired, and~~  
6       ~~appointed by the governor, in conjunction with the attorney general, to evaluate and~~  
7       ~~make recommendations to the state legislature and the department.~~
- 8       4. ~~"Applicant" means any person applying to participate in the North Dakota~~  
9       ~~Compassionate Care Act.~~
- 10      5. ~~"Cardholder" means a registered patient of any age or a registered designated~~  
11      ~~caregiver who has been issued and possesses a valid registry identification card.~~
- 12      6. ~~"Compassion center agent" means a principal officer, board member, employee, or~~  
13      ~~agent of a registered compassion center who is twenty-one years of age or older and~~  
14      ~~has not been convicted of an excluded felony offense, and has not been convicted of a~~  
15      ~~drug misdemeanor within five years.~~
- 16      7. ~~"Debilitating medical condition" means one or more of the following:~~
  - 17      a. ~~Cancer and its treatments;~~
  - 18      b. ~~Positive status for human immunodeficiency virus (HIV);~~
  - 19      c. ~~Acquired immune deficiency syndrome (AIDS);~~
  - 20      d. ~~Decompensated cirrhosis (hepatitis C);~~
  - 21      e. ~~Amyotrophic lateral sclerosis (ALS or Lou Gehrig's disease);~~
  - 22      f. ~~Posttraumatic stress disorder (PTSD);~~
  - 23      g. ~~Agitation of Alzheimer's disease, dementia, or the treatment of these conditions;~~
  - 24      h. ~~Crohn's disease or fibromyalgia;~~
  - 25      i. ~~Spinal stenosis or chronic back pain including neuropathy or damage to the~~  
26      ~~nervous tissue of the spinal cord with objective neurological indication of~~  
27      ~~intractable spasticity;~~
  - 28      j. ~~Glaucoma;~~
  - 29      k. ~~Epilepsy;~~
  - 30      l. ~~A chronic or debilitating disease medical condition or its treatment that produces~~  
31      ~~one or more of the following: cachexia or wasting syndrome; severe debilitating~~

- 1                   pain that has not responded to previously prescribed medication or surgical  
2                   measures for more than three months or for which other treatment options  
3                   produced serious side effects; intractable nausea; seizures; or severe and  
4                   persistent muscle spasms, including but not limited to those characteristic of  
5                   multiple sclerosis;
- 6           m.   Any other medical condition or its treatment added by the North Dakota  
7           department of health.
- 8           8.   "Department" means the North Dakota department of health.
- 9           9.   "Designated caregiver" means a person who:
- 10          a.   Is at least twenty one years of age;
- 11          b.   Has agreed to assist with a patient's medical use of marijuana;
- 12          c.   Has not been convicted of a felony offense; and
- 13          d.   Assists no more than five qualifying patients with their medical use of marijuana.
- 14          10. "Incidental amount of marijuana" means marijuana seeds, stalks and roots of the plant  
15             that are not included when calculating the allowable amounts of marijuana specified in  
16             these rules. This includes the weight of any nonmarijuana ingredients combined with  
17             marijuana, such as ingredients added to prepare a topical ointment, food, or drink.
- 18          11. "Marijuana", also known as cannabis, is an annual, dioecious, flowering herb that  
19             produces a group of chemicals called cannabinoids.
- 20          12. "Marijuana paraphernalia" is limited to equipment, products, and materials that are  
21             ordinarily used in planting, propagating, cultivating, growing, harvesting, processing,  
22             preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting,  
23             inhaling, or otherwise introducing marijuana into the human body. It includes:
- 24          a.   Scales and balances;
- 25          b.   Separation gins and sifters, used or intended for use in removing twigs and  
26             seeds from, or in otherwise cleaning or refining, marijuana;
- 27          c.   Envelopes and other containers used or intended for use in packaging small  
28             quantities of marijuana for medical use;
- 29          d.   Containers and other objects used or intended for use in storing medical  
30             marijuana; and

- 1           e.    Objects used or intended for use in ingesting, inhaling, or otherwise introducing  
2           marijuana into the human body, including but not limited to:
- 3           (1)   Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without  
4           screens, permanent screens, hashish heads or punctured metal bowls;
- 5           (2)   Water pipes;
- 6           (3)   Carburetion tubes and devices;
- 7           (4)   Smoking and carburetion masks;
- 8           (5)   Roach clips, meaning objects used to hold burning marijuana cigarettes that  
9           have become too small or too short to be held in the hand;
- 10          (6)   Chamber pipes;
- 11          (7)   Carburetor pipes;
- 12          (8)   Electric pipes;
- 13          (9)   Air-driven pipes;
- 14          (10)  Chillums;
- 15          (11)  Bongs designed for marijuana and not for cocaine; or
- 16          (12)  Ice pipes or chillers.
- 17    13.   "Medical use" means the acquisition, possession, use, delivery, transfer, or  
18    transportation of marijuana or paraphernalia relating to the administration of marijuana  
19    to treat or alleviate a registered patient's debilitating medical condition or symptoms  
20    associated with the registered patient's debilitating medical condition.
- 21    14.   "Onsite assessment" means a visit by an employee of the department for the purpose  
22    of ensuring compliance with the requirements of these rules.
- 23    15.   "Physician" means a properly licensed physician in the state of North Dakota. If the  
24    qualifying patient's debilitating medical condition is posttraumatic stress disorder, the  
25    physician must also be a licensed psychiatrist.
- 26    16.   "Posttraumatic stress disorder" means that a patient meets the diagnostic criteria for  
27    posttraumatic stress disorder (PTSD), per DSM-5 or subsequent current edition,  
28    including symptoms of intense physical reactions such as tachycardia, shortness of  
29    breath, rapid breathing, muscle tension, and sweating.
- 30    17.   "Qualifying patient" means a person who has been diagnosed by a physician as  
31    having a debilitating medical condition.

- 1        18.    ~~"Registry identification card" means a document issued by the department that~~  
2            ~~identifies a person as a registered patient or registered designated caregiver.~~
- 3        19.    ~~"Tincture" means a mixture created from a concentrated extract of marijuana.~~
- 4        20.    ~~"Topical treatment" means a mixture or extract of marijuana made into a balm, lotion,~~  
5            ~~ointment, or rubbing alcohol solution that is applied transcutaneously.~~
- 6        21.    ~~"Usable amount of medical marijuana for medical use" means three ounces or less of~~  
7            ~~usable marijuana as defined below.~~
- 8        22.    ~~"Usable marijuana" means the dried leaves and flowers of the marijuana plant, and~~  
9            ~~any mixture or preparation of those dried leaves and flowers, including but not limited~~  
10          ~~to tinctures, ointments, and other preparations. It does not include the weight of any~~  
11          ~~nonmarijuana ingredients combined with marijuana, such as ingredients added to~~  
12          ~~prepare a topical administration, food, or drink.~~
- 13       23.    ~~"Verification system" means a phone or web-based system established and~~  
14          ~~maintained by the department that is available to law enforcement personnel and~~  
15          ~~compassion center agents on a twenty-four-hour basis for verification of registry~~  
16          ~~identification cards.~~
- 17       24.    ~~"Written certification" means a document dated and signed by a physician, stating that~~  
18          ~~in the physician's opinion the patient is likely to receive therapeutic or palliative benefit~~  
19          ~~from the medical use of marijuana to treat or alleviate the patient's debilitating medical~~  
20          ~~condition or symptoms associated with the debilitating medical condition. A written~~  
21          ~~certification shall be made only in the course of a bona fide physician-patient~~  
22          ~~relationship where the qualifying patient is under the physician's care for the qualifying~~  
23          ~~patient's primary care or for the qualifying patient's debilitating condition after the~~  
24          ~~physician has completed an assessment of the qualifying patient's medical history and~~  
25          ~~current medical condition. The bona fide physician-patient relationship may not be~~  
26          ~~limited to authorization for the patient to use medical marijuana or consultation for that~~  
27          ~~purpose. The written certification shall specify the qualifying patient's debilitating~~  
28          ~~medical condition. \_\_\_\_\_~~

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

- 30        1.    "Allowable amount of usable marijuana for medical use" means the amount of usable  
31          marijuana an individual may purchase for medical use in a thirty-day period or have in

1 the individual's possession at any time. A registered qualifying patient may not  
2 purchase or have purchased by a registered caregiver more than two and one-half  
3 ounces [70.87 grams] of usable marijuana in a thirty-day period and may not possess  
4 more than three ounces [85.05 grams] of usable marijuana at any time. The allowable  
5 amount does not include the weight of any nonmarijuana ingredients combined with  
6 marijuana, such as ingredients added to prepare a liquid delivery form.

7 2. "Bona fide physician-patient relationship" means a treatment or counseling  
8 relationship between a physician and patient in which all the following are present:

9 a. The physician has reviewed the patient's relevant medical records and completed  
10 a full assessment of the patient's medical history and current medical condition,  
11 including a relevant, in-person, medical evaluation of the patient.

12 b. The physician has created and maintained records of the patient's condition in  
13 accordance with medically accepted standards.

14 c. The patient is under the physician's continued care for primary medical care for  
15 the debilitating medical condition that qualifies the patient for the use of medical  
16 marijuana.

17 d. The physician has a reasonable expectation the physician will provide followup  
18 care to the patient to monitor the use of medical marijuana as a treatment of the  
19 patient's debilitating medical condition.

20 e. The relationship is not for the sole purpose of providing written certification for the  
21 use of medical marijuana.

22 3. "Cardholder" means a qualifying patient, designated caregiver, or compassion center  
23 agent who has been issued and possesses a valid registry identification card.

24 4. "Compassion center" means a manufacturing facility or dispensary.

25 5. "Compassion center agent" means a principal officer, board member, employee,  
26 volunteer, or agent of a compassion center.

27 6. "Contaminated" means made impure or inferior by extraneous substances.

28 7. "Debilitating medical condition" means one or more of the following:

29 a. Cancer;

30 b. Positive status for human immunodeficiency virus;

31 c. Acquired immune deficiency syndrome;

- 1           d. Decompensated cirrhosis caused by hepatitis C;  
2           e. Amyotrophic lateral sclerosis;  
3           f. Posttraumatic stress disorder;  
4           g. Agitation of Alzheimer's disease or related dementia;  
5           h. Crohn's disease;  
6           i. Fibromyalgia;  
7           j. Spinal stenosis or chronic back pain, including neuropathy or damage to the  
8           nervous tissue of the spinal cord with objective neurological indication of  
9           intractable spasticity;  
10          k. Glaucoma;  
11          l. Epilepsy;  
12          m. A chronic or debilitating disease or medical condition or treatment for such  
13          disease or medical condition that produces one or more of the following:  
14           (1) Cachexia or wasting syndrome;  
15           (2) Severe debilitating pain that has not responded to previously prescribed  
16           medication or surgical measures for more than three months or for which  
17           other treatment options produced serious side effects;  
18           (3) Intractable nausea;  
19           (4) Seizures; or  
20           (5) Severe and persistent muscle spasms, including those characteristic of  
21           multiple sclerosis; and  
22          n. Any other medical condition or treatment for such condition which is identified by  
23          the department.  
24          8. "Department" means the state department of health.  
25          9. "Designated caregiver" means an individual who agrees to manage the well-being of a  
26          registered qualifying patient with respect to the qualifying patient's medical use of  
27          marijuana.  
28          10. "Dispensary" means an entity registered with the department under this chapter to  
29          acquire, possess, store, deliver, transfer, transport, sell, supply, or dispense usable  
30          marijuana or related supplies and educational materials to a registered qualifying  
31          patient or registered designated caregiver.

- 1        11. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other  
2            enclosed area equipped with locks or other security devices that permit access limited  
3            to individuals authorized under this chapter or rules adopted under this chapter.
- 4        12. "Manufacturing facility" means an entity registered with the department under this  
5            chapter to acquire, possess, cultivate, or transport marijuana for the sole purpose of  
6            manufacturing usable marijuana for the delivery, supply, or sale of usable marijuana to  
7            a dispensary.
- 8        13. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;  
9            the resin extracted from any part of the plant; and every compound, manufacture, salt,  
10           derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin  
11           extracted from any part of the plant.
- 12       14. "Medical marijuana waste" means unused, surplus, returned, or out of date usable  
13           marijuana; recalled usable marijuana; and any marijuana plant debris, including dead  
14           plants and all unused plant parts and roots.
- 15       15. "Medical use" means the acquisition, use, and possession of usable marijuana to treat  
16           or alleviate a registered qualifying patient's debilitating medical condition.
- 17       16. "Minor" means an individual under the age of twenty-one.
- 18       17. "North Dakota identification" means a North Dakota driver's license or comparable  
19           state of North Dakota or federal issued photo identification card verifying North Dakota  
20           residence.
- 21       18. "Pediatric medical marijuana oil" means cannabidiol oil, which is processed cannabis  
22           plant extract that contains no more than six percent tetrahydrocannabinol, or is a  
23           dilution of the resin of the cannabis plant which contains no more than six percent  
24           tetrahydrocannabinol.
- 25       19. "Physician" means a physician licensed to practice medicine in the state of North  
26           Dakota who has the authority to prescribe drugs to humans. If the qualifying patient's  
27           debilitating medical condition is posttraumatic stress disorder, the physician must be a  
28           licensed psychiatrist. If the qualifying patient is younger than eighteen years of age,  
29           the physician must be a pediatric neurologist, pediatric gastroenterologist, pediatric  
30           oncologist, or pediatric palliative care specialist.

- 1        20. "Posttraumatic stress disorder" means a patient meets the diagnostic criteria for  
2        posttraumatic stress disorder under the "Diagnostic and Statistical Manual of Mental  
3        Disorders", American psychiatric association, fifth edition, text revision (2013), or a  
4        future edition adopted by the department, including symptoms of intense physical  
5        reactions such as tachycardia, shortness of breath, rapid breathing, muscle tension,  
6        and sweating.
- 7        21. "Qualifying patient" means an individual who has been diagnosed by a physician as  
8        having a debilitating medical condition.
- 9        22. "Registry identification card" means a document issued by the department which  
10       identifies an individual as a registered qualifying patient, registered designated  
11       caregiver, or registered compassion center agent.
- 12       23. "Usable marijuana" means a liquid, including an oil, or a pill delivery form of marijuana.  
13       The term does not include the dried leaves or flowers of the plant. In the case of a  
14       registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric  
15       medical marijuana oil.
- 16       24. "Verification system" means the system maintained by the department under section  
17       19-24-36 for verification of registry identification cards.
- 18       25. "Written certification" means a form established by the department which is executed,  
19       dated, and signed by a physician within ninety calendar days of the date of application,  
20       stating that in the physician's professional opinion the patient is likely to receive  
21       therapeutic or palliative benefit from the medical use of marijuana to treat or alleviate  
22       the patient's debilitating medical condition. A written certification may not be made  
23       except in the course of a bona fide physician-patient relationship.

24        **SECTION 3. AMENDMENT.** Section 19-24-03 of the North Dakota Century Code is  
25        amended and reenacted as follows:

26        **19-24-03. Qualifying patient registry identification card application- Application**  
27        **requirements.**

- 28        1. ~~The department shall issue a registry identification card to an applicant for the purpose~~  
29        ~~of participating in the medical marijuana program upon the written certification of the~~  
30        ~~applicant's physician, supporting application documents, and a nonrefundable~~  
31        ~~application fee with a personal check or a cashier's check made out to "North Dakota~~

1 department of health, compassionate care program". The following information shall  
2 be provided in the participant enrollment form submitted to the department in order for  
3 a registry identification card to be obtained and processed.

4 2. An attached original written certification for patient eligibility form shall contain:

5 a. The name, address, and telephone number of the applicant's physician;

6 b. The physician's clinical licensure;

7 c. The patient applicant's name and date of birth;

8 d. The medical justification for the physician's certification of the patient's  
9 debilitating medical condition;

10 e. The physician's signature and date;

11 f. The name, address, and date of birth of the applicant;

12 g. The name, address, and date of birth of the applicant's primary caregiver, if any;

13 h. A reasonable photographic copy of the applicant's North Dakota driver's license  
14 or comparable state of North Dakota or federal issued photo identification card  
15 verifying North Dakota residence; state of North Dakota issued identification card  
16 must be available for inspection or verification. Should the applicant be a minor, a  
17 certificated copy of a birth record will meet the identification requirement;

18 i. The length of time the applicant has been under the care of the physician  
19 providing the medical provider certification for patient eligibility;

20 j. The applicant's or guardian's signature and date; and

21 k. A signed consent for release of medical information related to the patient's  
22 debilitating medical condition, on a form provided by the North Dakota  
23 department of health.

24 1. A qualifying patient is not eligible to participate in the compassionate care program  
25 unless the qualifying patient has a valid registry identification card issued by the  
26 department.

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

29 a. A nonrefundable application fee with a personal check or cashier's check payable  
30 to "North Dakota State Department of Health, Compassionate Care Program".

1           The department shall establish an application fee in an amount not to exceed  
2           three hundred dollars.

3           b. An original written certification, which must include:

4           (1) The name, address, and telephone number of the practice location of the  
5           applicant's physician;

6           (2) The physician's North Dakota clinical licensure number;

7           (3) The physician's medical specialty;

8           (4) The applicant's name and date of birth;

9           (5) The applicant's debilitating medical condition and the medical justification  
10           for the physician's certification of the patient's debilitating medical condition;

11           (6) Attestation the written certification is made in the course of a bona fide  
12           physician-patient relationship and that in the physician's professional

13           opinion the applicant is likely to receive therapeutic or palliative benefit from  
14           the medical use of marijuana to treat or alleviate the applicant's debilitating

15           medical condition; and

16           (7) The physician's signature and the date.

17           c. An original qualifying patient application for a registry identification card form  
18           established by the department which must include:

19           (1) The applicant's name, address, and date of birth;

20           (2) The applicant's social security number;

21           (3) The name, address, and date of birth of the applicant's proposed  
22           designated caregiver, if any;

23           (4) A photographic copy of the applicant's North Dakota identification. The  
24           North Dakota identification must be available for inspection and verification

25           upon request of the department. If the applicant is a minor, a certificated  
26           copy of a birth record is required; and

27           (5) The applicant's or guardian's signature and the date, or in the case of a  
28           minor, the signature of the minor's parent or legal guardian with  
29           responsibility for health care decisions and the date.

30           d. A signed consent for release of medical information related to the applicant's  
31           debilitating medical condition, on a form provided by the department.

- 1           e. A recent two-by-two inch [5.08 by 5.08 centimeter] photograph of the applicant.
- 2           3. If the applicant is unable to submit the required application information due to age or  
3           medical condition, the individual responsible for making medical decisions for the  
4           applicant may submit the application on behalf of the applicant. The individual  
5           responsible for making medical decisions:
- 6           a. Must be identified on the qualifying patient application for a registry identification  
7           card; and
- 8           b. Shall provide a copy of the individual's North Dakota identification. The North  
9           Dakota identification must be available for inspection and verification upon the  
10          request of the department.

11           **SECTION 4. AMENDMENT.** Section 19-24-04 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13           **19-24-04. Designated caregiver registry identification card application- Application**  
14 **requirements.**

- 15           ~~1. The department shall issue a registry identification card to a primary caregiver~~  
16           ~~applicant for the purpose of managing the well-being of one to five qualified patients,~~  
17           ~~including themselves if the caregiver is a qualified patient, in response to the~~  
18           ~~requirements of this rule upon the completion and approval of the primary caregiver~~  
19           ~~application form, available from the medical marijuana program, and a nonrefundable~~  
20           ~~application fee, in the form of a personal check or a cashier's check made out to~~  
21           ~~"North Dakota department of health, compassionate care program". In order for a~~  
22           ~~registry identification card to be obtained and processed, the following information~~  
23           ~~shall be submitted to the medical marijuana program:~~
- 24           a. ~~A certified copy of a birth record verifying that the applicant is at least twenty-one~~  
25           ~~years of age;~~
- 26           b. ~~A reasonable photographic copy of the applicant's North Dakota driver's license~~  
27           ~~or comparable state of North Dakota or federal issued photo identification card~~  
28           ~~verifying North Dakota residence; state of North Dakota issued identification card~~  
29           ~~must be available for inspection or verification;~~
- 30           e. ~~Written approval by the qualified patient authorizing responsibility for managing~~  
31           ~~the well-being of a qualified patient with respect to the use of marijuana;~~

- 1           d. ~~The name, address, telephone number, and date of birth of the qualified patient;~~
- 2           e. ~~The name, address, and telephone number for each of the qualified patient's~~
- 3                 ~~physicians;~~
- 4           f. ~~The name, address, and telephone number of the applicant; and~~
- 5           g. ~~The applicant's signature and date.~~
- 6       2. ~~Designated caregiver application requirements:~~
- 7           a. ~~Criminal history screening requirements:~~
- 8                 (1) ~~All designated caregiver applicants are required to consent to a nationwide~~
- 9                 ~~and statewide criminal history screening background check. All applicable~~
- 10                 ~~application fees associated with the nationwide and statewide criminal~~
- 11                 ~~history screening background check shall be paid by the primary caregiver~~
- 12                 ~~applicant.~~
- 13                 (2) ~~Individuals convicted of an excluded felony offense are prohibited from~~
- 14                 ~~serving as a designated caregiver. The applicant and qualified patient shall~~
- 15                 ~~be notified by registered mail of his or her disqualification from being a~~
- 16                 ~~designated caregiver.~~
- 17       1. A designated caregiver is not eligible to participate in the compassionate care program
- 18           unless the designated caregiver has a valid registry identification card issued by the
- 19           department.
- 20       2. A designated caregiver application is complete and eligible for review if an applicant
- 21           submits to the department:
- 22           a. A nonrefundable application fee with a personal check or cashier's check made
- 23                 payable to "North Dakota State Department of Health, Compassionate Care
- 24                 Program". The department shall establish an application fee in an amount not to
- 25                 exceed three hundred dollars.
- 26           b. An original designated caregiver application for a registry identification card form
- 27                 established by the department which must include:
- 28                 (1) A certified copy of a birth record verifying the applicant is at least twenty-one
- 29                 years of age:

- 1           (2) A photographic copy of the applicant's North Dakota identification. The  
2           North Dakota identification must be available for inspection and verification  
3           upon request of the department;
- 4           (3) The name, address, telephone number, and date of birth of the qualifying  
5           patient;
- 6           (4) The name, address, and telephone number for the qualifying patient's  
7           physician;
- 8           (5) The name, address, and telephone number of the applicant;
- 9           (6) The applicant's social security number; and
- 10          (7) The applicant's signature and the date.
- 11          c. An original designated caregiver authorization form established by the  
12          department which must be executed by a registered qualifying patient providing  
13          the designated caregiver applicant with the responsibility of managing the well-  
14          being of the registered qualifying patient with respect to the registered qualifying  
15          patient's medical use of marijuana. The form must include:
- 16               (1) The name and date of birth of the designated caregiver applicant; and
- 17               (2) The registered qualifying patient's signature and the date.
- 18          d. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- 19          3. A criminal history record check conducted under section 12-60-24 must be performed  
20          upon initial application and biennially thereafter and at any other time upon the request  
21          of the department. All fees associated with the criminal history record check must be  
22          paid by the applicant.
- 23          4. An individual convicted of a drug-related misdemeanor offense within the five years  
24          preceding the date of application, or of a felony offense is prohibited from serving as a  
25          designated caregiver.
- 26          5. An applicant shall submit a separate and complete application for each of the  
27          applicant's registered qualifying patients. A registered designated caregiver may assist  
28          no more than five registered qualifying patients. A designated caregiver who is a  
29          registered qualifying patient may assist no more than four additional registered  
30          qualifying patients.

- 1       6. A registered designated caretaker may not purchase or possess more than the  
2           allowable amount of usable marijuana for medical use for each of the registered  
3           designated caregiver's registered qualifying patients and for the registered designated  
4           caregiver if the caregiver is a registered qualifying patient.

5       **SECTION 5. AMENDMENT.** Section 19-24-05 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7       **19-24-05. Registry Qualifying patient and designated caregiver registry identification**  
8 **cards - Issuance and denial.**

9       1. Department inquiry:

10       a. ~~The department may verify information on each application and accompanying~~  
11           ~~documentation by the following methods:~~

12           ~~(1) Contacting each applicant by telephone, mail, or if proof of identity is~~  
13           ~~uncertain, the department shall require a face-to-face meeting and the~~  
14           ~~production of additional identification materials;~~

15           ~~(2) Contacting the North Dakota board of medicine to verify that the physician is~~  
16           ~~licensed to practice medicine in North Dakota and is in good standing; and~~

17           ~~(3) Contacting the physician to obtain further documentation that the applicant's~~  
18           ~~medical diagnosis and medical condition qualify the applicant for enrollment~~  
19           ~~in the compassionate care program.~~

20       2. ~~Upon verification of the information contained in an application submitted in response~~  
21           ~~to this subsection, the department shall approve or deny an application within forty five~~  
22           ~~calendar days of receipt.~~

23       3. ~~Department registry identification card: The department shall issue a registry~~  
24           ~~identification card within thirty calendar days of approving an application. A registry~~  
25           ~~identification card shall contain a ten-digit alphanumeric identification, maintained by~~  
26           ~~the department, which identifies the qualified patient or primary caregiver. Unless~~  
27           ~~suspended or revoked, or if the physician stated in the written certification that the~~  
28           ~~qualifying patient would benefit from marijuana until a specified earlier date, a registry~~  
29           ~~identification card shall be valid for a period of one year from the date of issuance and~~  
30           ~~shall expire at midnight on the day indicated on the registry identification card as the~~  
31           ~~expiration date.~~

- 1           4. Supplemental requirement:
- 2           a. ~~A registered qualifying patient or registered designated caregiver who possesses~~
- 3           ~~a registry identification card shall notify the department of any of the following~~
- 4           ~~within ten calendar days of the change. An extension shall be granted by the~~
- 5           ~~medical marijuana program upon the showing of good cause.~~
- 6           (1) ~~A change in card holder's name or address;~~
- 7           (2) ~~Knowledge of a change that would render the patient no longer qualified to~~
- 8           ~~participate in the program, such as a cure of the debilitating condition~~
- 9           ~~causing the need for medical marijuana;~~
- 10          (3) ~~Knowledge of a change that renders the patient's physician no longer a~~
- 11          ~~qualified "physician" as defined in subsection 15 of section 19-24-02 of~~
- 12          ~~these regulations; or~~
- 13          (4) ~~Knowledge of a change that renders the patient's caregiver no longer~~
- 14          ~~eligible as defined in these regulations.~~
- 15          b. ~~Before a registered qualifying patient changes his or her designated caregiver,~~
- 16          ~~the qualifying patient must notify the department in writing.~~
- 17          c. ~~If a cardholder loses his or her registry identification card, he or she shall notify~~
- 18          ~~the department in writing within ten days of becoming aware the card has been~~
- 19          ~~lost. Upon notification, the department shall issue a new registry identification~~
- 20          ~~card. Unless documentation in the initial application has changed, the qualified~~
- 21          ~~patient or designated caregiver shall not be required to submit a new application.~~
- 22          d. ~~When a cardholder notifies the department of items listed in subsection 4 but~~
- 23          ~~remains eligible, the department shall issue the cardholder a new registry~~
- 24          ~~identification card with a new random ten digit alphanumeric identification~~
- 25          ~~number within ten days of receiving the updated information and the cardholder~~
- 26          ~~shall pay a twenty-five dollar fee. If the person notifying the department is a~~
- 27          ~~registered qualifying patient, the department shall also issue his or her registered~~
- 28          ~~designated caregiver, if any, a new registry identification card within ten days of~~
- 29          ~~receiving the updated information.~~
- 30          e. ~~If a registered qualifying patient ceases to be a registered qualifying patient or~~
- 31          ~~changes his or her registered designated caregiver, the department shall~~

- 1 promptly notify the designated caregiver by certified, registered mail. The  
2 registered designated caregiver's protections under this chapter as to that  
3 qualifying patient shall expire fifteen days after notification by the department.
- 4 f. A cardholder who fails to make a notification to the department that is required by  
5 subsection 4 is subject to a civil infraction, punishable by a penalty of no more  
6 than one hundred fifty dollars and is also subject to the immediate revocation of  
7 the registry identification card and all lawful privileges provided under the Act.
- 8 g. If the registered qualifying patient's certifying physician notifies the department in  
9 writing that either the registered qualifying patient has ceased to suffer from a  
10 debilitating medical condition or that the physician no longer believes the patient  
11 would receive therapeutic or palliative benefit from the medical use of marijuana,  
12 the card shall become null and void. However, the registered qualifying patient  
13 shall have fifteen days to dispose of the patient's marijuana.
- 14 5. Registry identification card application denial: The state health officer or designee shall  
15 deny an application if the applicant fails to provide the information required, if the  
16 department determines that the information provided is false, or if the patient does not  
17 have a debilitating medical condition eligible for enrollment in the program, as  
18 determined by the state health officer. A person whose application has been denied  
19 shall not reapply for six months from the date of the denial, unless otherwise  
20 authorized by the department, and is prohibited from all lawful privileges provided by  
21 this rule and Act.
- 22 6. The department shall deny an application or renewal of a qualifying patient's registry  
23 identification card if the applicant:
- 24 a. Did not provide the required information and materials;  
25 b. Previously had a registry identification card revoked; or  
26 c. Provided false or falsified information.
- 27 7. The department shall deny an application or renewal for a designated caregiver  
28 chosen by a qualifying patient whose registry identification card was granted if:
- 29 a. The designated caregiver does not meet the requirements of subsection 2 of  
30 section 19-24-04;  
31 b. The applicant did not provide the information required;

- 1 e. The designated caregiver previously had a registry identification card revoked; or  
2 d. The applicant or the designated caregiver provides false or falsified information.
- 3 8. ~~The department shall notify the qualifying patient who has designated someone to~~  
4 ~~serve as his or her designated caregiver if a registry identification card will not be~~  
5 ~~issued to the designated caregiver.~~
- 6 9. ~~Denial of an application or renewal is considered a final department action, subject to~~  
7 ~~judicial review. Jurisdiction and venue for judicial review are vested in the district court.~~
- 8 10. ~~Registry identification card renewal application: Each registry identification card issued~~  
9 ~~by the department is valid in accordance with subsection 2 of section 19-24-03. A~~  
10 ~~qualified patient or primary caregiver shall apply for a registry identification card~~  
11 ~~renewal no less than forty-five calendar days prior to the expiration date of the existing~~  
12 ~~registry identification card in order to prevent interruption of possession of a valid~~  
13 ~~(unexpired) registry identification card.~~
- 14 11. ~~Nontransferable registration of registry identification card: A registry identification card~~  
15 ~~shall not be transferred, by assignment or otherwise, to other persons or locations.~~  
16 ~~Any attempt shall result in the immediate revocation of the registry identification card~~  
17 ~~and all lawful privileges provided by this rule and Act.~~
- 18 12. ~~Automatic expiration of registry identification card by administrative withdrawal: Upon~~  
19 ~~request the qualified patient or designated caregiver shall discontinue the medical~~  
20 ~~marijuana program by an administrative withdrawal. A qualified patient or designated~~  
21 ~~caregiver that intends to seek an administrative withdrawal shall notify the licensing~~  
22 ~~authority in writing no less than thirty calendar days prior to withdrawal.~~
- 23 1. Upon receipt of a complete application for or renewal of a qualifying patient or  
24 designated caregiver registry identification card, the department shall verify the  
25 submitted information.
- 26 2. The verification methods used by the department on an application or renewal and  
27 accompanying documentation may include:
- 28 a. Contacting an applicant by telephone or mail, or if proof of identity is uncertain,  
29 the department shall require a face-to-face meeting and the production of  
30 additional identification materials;

- 1           b. Contacting the North Dakota board of medicine to verify the certifying physician is  
2           licensed to practice medicine in the state, has the authority to prescribe drugs to  
3           humans, and is in good standing; and
- 4           c. Contacting the physician to obtain additional documentation verifying the  
5           qualifying patient applicant's medical diagnosis and medical condition qualify the  
6           applicant for participation in the compassionate care program.
- 7        3. Upon verification of the information contained in an application or renewal, the  
8        department shall approve or deny the application or renewal.
- 9        4. Except as provided in subsection 5, the department shall issue a registry identification  
10       card within thirty calendar days of approving an application or renewal. A designated  
11       caregiver must have a registry identification card for each of the designated  
12       caregiver's registered qualifying patients.
- 13       5. The department may not issue a registry identification card to a qualifying patient who  
14       is a minor unless:
- 15           a. The department receives documentation the minor's physician has explained to  
16           the parent or legal guardian with responsibility for health care decisions for the  
17           minor the potential risks and benefits of the medical use of marijuana; and
- 18           b. The department receives documentation the parent or legal guardian with  
19           responsibility for health care decisions for the minor consents in writing to:
- 20               (1) Allow the minor's medical use of marijuana;  
21               (2) Serve as the minor's designated caregiver or identifies a registered  
22               designated caregiver to act the minor's designated caregiver;  
23               (3) Control the acquisition of usable marijuana, and the dosage and frequency  
24               of the use of usable marijuana by the minor; and
- 25               (4) If serving as the minor's designated caregiver, prevent the minor from  
26               accessing the usable marijuana by storing the usable marijuana in an  
27               enclosed, locked facility.
- 28        6. If the department denies an application or renewal, the applicant may not reapply for  
29        one year from the date of the denial, unless otherwise authorized by the department,  
30        and the applicant is prohibited from all lawful privileges provided under this chapter.

- 1       7. The department shall deny an application for or renewal of a qualifying patient's  
2       registry identification card if the applicant:
- 3       a. Does not meet the requirements of this section or section 19-24-03;  
4       b. Did not provide the required information and materials;  
5       c. Previously had a registry identification card revoked; or  
6       d. Provided false or falsified information or made a material misstatement.
- 7       8. The department shall deny an application for or renewal of a designated caregiver  
8       registry identification card if the designated caregiver applicant:
- 9       a. Does not meet the requirements of this section or section 19-24-04;  
10      b. Did not provide the required information and materials;  
11      c. Previously had a registry identification card revoked; or  
12      d. Provided false or falsified information or made a material misstatement.
- 13      9. The department shall notify the qualifying patient or designated caregiver in writing of  
14      the reason for denying an application.
- 15      10. The department shall notify the following in writing:
- 16      a. A registered qualifying patient if that patient's designated caregiver's application  
17          or renewal is denied; and
- 18      b. A registered designated caregiver if the caregiver's qualifying patient's application  
19          or renewal is denied.
- 20      11. Denial of an application or renewal is a final department action, subject to judicial  
21      review. Jurisdiction and venue for judicial review are vested in the Burleigh County  
22      district court.

23       **SECTION 6. AMENDMENT.** Section 19-24-06 of the North Dakota Century Code is  
24      amended and reenacted as follows:

25       **19-24-06. ~~Addition of debilitating medical conditions~~Registry identification card -**  
26      **Renewal application.**

- 27      1. ~~Any citizen may petition the department to add conditions or treatments to the list of~~  
28          ~~debilitating medical conditions listed in subsection 7 of section 19-24-02.~~
- 29      2. ~~The department shall not add a condition or treatment to the list of debilitating medical~~  
30          ~~conditions unless it finds that:~~
- 31      a. ~~The medical condition or treatment is debilitating; and~~

- 1           b.    Marijuana is more likely than not to have the potential to be beneficial to treat or  
2            alleviate the debilitation associated with the medical condition or treatment.
- 3        ~~3.    Contents of the petition: In connection with any petition to add conditions or treatments~~  
4        ~~to the list of debilitating medical conditions listed in subsection 7 of section 19-24-02, a~~  
5        ~~petitioner shall provide the following information to the department:~~
- 6           a.    The extent to which the condition is generally accepted by the medical  
7            community and other experts as a valid, existing debilitating medical condition;
- 8           b.    If one or more treatments of the condition, rather than the condition itself, are  
9            alleged to be the cause of the patient's suffering, the extent to which the  
10          treatments causing suffering are generally accepted by the medical community  
11          and other experts as valid treatments for the condition;
- 12          e.    The extent to which the condition or treatments cause severe suffering, such as  
13          severe or chronic pain or severe nausea or vomiting, or otherwise severely impair  
14          the patient's ability to carry on activities of daily living;
- 15          d.    The ability of conventional medical therapies other than those that cause  
16          suffering to alleviate suffering caused by the condition or treatment;
- 17          e.    The extent to which evidence that is generally accepted among the medical  
18          community and other experts supports a finding that the use of marijuana  
19          alleviates suffering caused by the condition or treatment; and
- 20          f.    Letters of support from physicians or other licensed health care professionals  
21          knowledgeable about the condition or treatment.
- 22        ~~4.    Evaluation of a petition.~~
- 23           a.    Upon review of materials submitted in response to subsection 3 above, the  
24            department shall make a determination as to whether the petition has merit.
- 25           b.    A petition will be determined to have merit if it contains all of the material required  
26            in subsection 3 above and the debilitating condition that is the subject of the  
27            petition has not been considered through this process in the prior two years,  
28            unless significant, generally accepted, scientific discoveries have been made that  
29            are substantially likely to reverse the prior decision.

- 1 e. ~~A decision that a petition does not have merit will be made in writing, stating the~~  
2 ~~reason it has been determined not to have merit and that it is the final decision,~~  
3 ~~subject to judicial review.~~
- 4 d. ~~A final decision on a petition determined to have merit will be made within one~~  
5 ~~hundred eighty days of receipt of the petition in response to the following~~  
6 ~~process.~~
- 7 (1) ~~The department will post the complete petition on the department's website~~  
8 ~~for a sixty-day public comment period.~~
- 9 (2) ~~The department will post notice of a public hearing no fewer than ten days~~  
10 ~~prior to the public hearing.~~
- 11 (3) ~~The department will hold a public hearing within the sixty-day public~~  
12 ~~comment period.~~
- 13 (4) ~~After the public hearing and closure of the sixty-day public comment period,~~  
14 ~~the department will review the petition and comments. During this review,~~  
15 ~~the department may conduct additional research, including consultation with~~  
16 ~~additional experts.~~
- 17 (5) ~~The department of health will draft a written decision on whether to grant the~~  
18 ~~petition and add the debilitating medical condition for review and ultimate~~  
19 ~~decision by the state health officer. This written decision will be detailed~~  
20 ~~enough to provide the specific grounds and references to support the~~  
21 ~~decision. The state health officer will issue the final decision on the petition.~~
- 22 (6) ~~If the petition to add a debilitating medical condition is granted, draft~~  
23 ~~regulations adding the condition to subsection 7 of section 19-24-02 will be~~  
24 ~~drafted and published in response to the Administrative Agencies Practice~~  
25 ~~Act process.~~
- 26 5. ~~The approval or denial of any petition is a final decision of the department subject to~~  
27 ~~judicial review. Jurisdiction and venue are vested in the district court.~~
- 28 A registered qualifying patient or registered designated caregiver shall apply for a registry  
29 identification card renewal by submitting a complete application as provided under section  
30 19-24-03 or 19-24-04 no less than forty-five calendar days before the expiration date of the

1 existing registry identification card to prevent interruption of possession of a valid registry  
2 identification card.

3 **SECTION 7. AMENDMENT.** Section 19-24-07 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **19-24-07. ~~Registration and operation of compassion centers~~Registry identification**  
6 **card - Nontransferable.**

7 1. ~~Requirements for operation of a compassion center.~~

8 a. ~~General requirements:~~

9 (1) ~~No person shall operate a compassion center without a department issued~~  
10 ~~certificate of registration. The application and renewal requirements for a~~  
11 ~~certificate of registration are in subsections 6 and 10 of section 19-24-07 of~~  
12 ~~these regulations.~~

13 (2) ~~A compassion center shall be operated on a not-for-profit basis. A~~  
14 ~~compassion center need not be recognized as a tax-exempt organization by~~  
15 ~~the internal revenue service and is not required to incorporate in response~~  
16 ~~to title 8; however, a compassion center shall maintain appropriate~~  
17 ~~documentation of its not-for-profit status, and such documentation shall be~~  
18 ~~available for inspection in response to subdivision g of subsection 2 of~~  
19 ~~section 19-24-07 of these regulations.~~

20 (3) ~~A compassion center shall not acquire, possess, cultivate, manufacture,~~  
21 ~~deliver, transfer, transport, supply, or dispense marijuana for any purpose~~  
22 ~~except to assist registered qualifying patients with the medical use of~~  
23 ~~marijuana directly or through the qualifying patient's registered designated~~  
24 ~~caregiver.~~

25 (4) ~~Use of pesticides is prohibited:~~

26 (a) ~~There are no pesticides authorized for use on marijuana; as such, a~~  
27 ~~compassion center shall not apply pesticides in the cultivation of~~  
28 ~~marijuana.~~

29 (b) ~~Prohibited pesticides include but are not limited to the following:~~

30 {1} ~~Organochlorines;~~

31 {2} ~~Organophosphates;~~



- 1           (1) ~~A compassion center shall have a fully operational security alarm system at~~  
2           ~~each authorized physical address that will provide suitable protection~~  
3           ~~against theft and diversion. For the purpose of these regulations, a fully~~  
4           ~~operational security alarm system shall include:~~
- 5           ~~(a) Immediate automatic or electronic notification to alert local or~~  
6           ~~municipal law enforcement agencies to an unauthorized breach of~~  
7           ~~security at the compassion center or at any other authorized physical~~  
8           ~~address;~~
- 9           ~~(b) Immediate automatic or electronic notification to local or municipal~~  
10          ~~public safety personnel of a loss of electrical support backup system;~~  
11          ~~and~~
- 12          ~~(c) When appropriate, the security system shall provide protection~~  
13          ~~against theft or diversion that is facilitated or hidden by tampering with~~  
14          ~~computers or electronic records.~~
- 15          (2) ~~A compassion center shall conduct a maintenance inspection or test of the~~  
16          ~~alarm system for each authorized location at intervals not to exceed thirty~~  
17          ~~days from the previous inspection or test. A compassion center shall~~  
18          ~~promptly make all necessary repairs to ensure the proper operation of the~~  
19          ~~alarm system.~~
- 20          (3) ~~In the event of a failure of the security system, due to loss of electrical~~  
21          ~~support or mechanical malfunction, that is expected to exceed an eight-hour~~  
22          ~~period, a compassion center shall:~~
- 23          ~~(a) Within twenty-four hours of discovery of the event, notify the~~  
24          ~~department by telephone; and~~
- 25          ~~(b) Provide alternative security measures approved by the department or~~  
26          ~~close the authorized physical address impacted by the failure or~~  
27          ~~malfunction until the security alarm system has been restored to full~~  
28          ~~operation.~~
- 29          (4) ~~A compassion center shall maintain documentation in an auditable form for~~  
30          ~~a period of at least twenty-four months after the event for:~~

- 1                   (a) ~~All maintenance inspections and tests conducted in response to~~  
2                   ~~paragraph 2 of subdivision b of subsection 2 of section 19-24-07 of~~  
3                   ~~these regulations, and any servicing, modification, or upgrade~~  
4                   ~~performed on the security alarm system. The record shall include, as~~  
5                   ~~a minimum, the date of the action, a summary of the action~~  
6                   ~~performed, and the name, signature, and title of the individual who~~  
7                   ~~performed the action;~~
- 8                   (b) ~~Any alarm activation or other event which requires response by public~~  
9                   ~~safety personnel; and~~
- 10                  (c) ~~Any unauthorized breach of security.~~
- 11                  e. ~~Video surveillance: A compassion center shall provide an appropriate video~~  
12                  ~~surveillance system that includes the following areas and access to recorded~~  
13                  ~~surveillance:~~
- 14                  (1) ~~Video surveillance should record access areas, customer service areas,~~  
15                  ~~growing areas, and anywhere the marijuana is handled, to include~~  
16                  ~~processing and packaging areas.~~
- 17                  (2) ~~Video footage will be digitally recorded and held for an appropriate time~~  
18                  ~~period consistent with the state department of health records retention~~  
19                  ~~policy.~~
- 20                  d. ~~Inventory controls:~~
- 21                  (1) ~~Coding and computer interface: A compassion center shall:~~
- 22                  (a) ~~Employ a bar coding inventory control system to track batch, strain,~~  
23                  ~~and amounts of marijuana in inventory and amounts sold, to include~~  
24                  ~~patient's card registration numbers.~~
- 25                  (b) ~~Be responsible for developing and hosting a secure computer~~  
26                  ~~interface to receive patient card user data from the department.~~
- 27                  (2) ~~Storage of marijuana: A compassion center shall ensure that usable~~  
28                  ~~marijuana is stored in a locked area with adequate security. For purpose of~~  
29                  ~~these regulations "adequate security", at a minimum, should be assessed,~~  
30                  ~~established, and maintained based on:~~

- 1 (a) ~~The quantity of usable marijuana that will be kept on hand at each~~
- 2 ~~authorized location;~~
- 3 (b) ~~The compassion center's inventory system for tracking and dispensing~~
- 4 ~~usable marijuana;~~
- 5 (c) ~~The number of principal officers, board members, agents, volunteers,~~
- 6 ~~or employees who have or could have access to the usable~~
- 7 ~~marijuana;~~
- 8 (d) ~~The geographic location of the compassion center, i.e., high-crime or~~
- 9 ~~low-crime area;~~
- 10 (e) ~~The scope and sustainability of the alarm system; and~~
- 11 (f) ~~The root cause analysis of any breach of security or inventory~~
- 12 ~~discrepancy for usable marijuana at that location.~~
- 13 e. ~~Comprehensive and monthly inventories:~~
- 14 (1) ~~A compassion center shall:~~
- 15 (a) ~~Notify the department and local law enforcement within twenty-four~~
- 16 ~~hours any time there is a suspected loss of marijuana and shall~~
- 17 ~~cooperate fully with any investigation into the suspected loss.~~
- 18 (b) ~~Conduct an initial comprehensive inventory of all medical marijuana,~~
- 19 ~~including usable marijuana available for dispensing, mature marijuana~~
- 20 ~~plants, and unusable marijuana, at each authorized location on the~~
- 21 ~~date the compassion center first dispenses medical marijuana.~~
- 22 (c) ~~Conduct the comprehensive inventory required by subdivision e of~~
- 23 ~~subsection 2 of section 19-24-07 of these regulations at intervals not~~
- 24 ~~to exceed twenty-four months from the date of the previous~~
- 25 ~~comprehensive inventory.~~
- 26 (d) ~~Conduct a monthly inventory review of stored, usable marijuana.~~
- 27 (2) ~~If an inventory conducted in response to paragraph 1 of subdivision e of~~
- 28 ~~subsection 2 of section 19-24-07 of these regulations identifies a~~
- 29 ~~discrepancy, the department and appropriate local law enforcement~~
- 30 ~~authorities will be notified of the discrepancy within twenty-four hours of~~
- 31 ~~discovery of the event.~~

- 1                   (3) Documentation of all inventories conducted in response to paragraph 1 of  
2                   subdivision e of subsection 2 of section 19-24-07 of these regulations shall  
3                   include, as a minimum, the date of the inventory, a summary of the  
4                   inventory findings, and the name, signature, and title of the individual who  
5                   conducted the inventory.
- 6                   f. Maximum amount of compassion center inventory. A registered compassion  
7                   center:
- 8                   (1) Shall possess no more than one thousand marijuana plants irrespective of  
9                   the stages of growth.
- 10                  (2) Shall possess no more than three thousand five hundred ounces of usable  
11                  marijuana regardless of formulation.
- 12                  (3) May not purchase usable marijuana or mature marijuana plants from any  
13                  person other than another registered compassion center.
- 14                  g. Inspection. Compassion centers are subject to random inspection by the  
15                  department.
- 16                  (1) During an inspection, the department may review the compassion center's  
17                  confidential records, including its financial and dispensing records, which  
18                  may track transactions according to qualifying patient's registry identification  
19                  numbers to protect their confidentiality and its security protocols.
- 20                  (2) The department will review the facility to ensure compliance with  
21                  subsections 2 and 3 of section 19-24-07 of these regulations.
- 22                  (3) The department will inspect the facility for the presence of pesticides listed  
23                  in paragraph 4 of subdivision a of subsection 1 of section 19-24-07, fungus  
24                  and molds.
- 25                  (4) The department will collect samples for random quality sampling by a  
26                  laboratory selected by the department.
- 27                  (5) Sample results will be compared to compassion center test results.
- 28                  (6) The compassion center will be invoiced for the cost of random sampling  
29                  testing.
- 30                  h. Dispensing marijuana.
- 31                  (1) Design and security features of medical marijuana containers:

- 1 (a) ~~Marijuana shall be dispensed in sealed, tamper-proof containers-~~  
2 ~~clearly identified as having been issued by the compassion center and~~  
3 ~~that meet the requirements in paragraph 7 of subdivision j of~~  
4 ~~subsection 3 of section 19-24-07 of these regulations.~~
- 5 (b) ~~Patients and designated caregivers should receive written instruction-~~  
6 ~~that the marijuana shall remain in this container when it is not being~~  
7 ~~prepared for ingestion or being ingested.~~
- 8 (2) ~~No marijuana shall be dispensed unless or until the patient or caregiver-~~  
9 ~~identification card has been verified as valid in the computer system-~~  
10 ~~identified in paragraph 1 of subdivision d of subsection 2 of section 19-24-07-~~  
11 ~~of these regulations.~~
- 12 (3) ~~Maximum amount of usable marijuana to be dispensed.~~
- 13 (a) ~~A compassion center or principal officer, board member, agent,-~~  
14 ~~volunteer, or employee of a compassion center:~~
- 15 [1] ~~Shall not dispense, deliver, or otherwise transfer marijuana to a~~  
16 ~~person other than a qualifying patient who has designated the~~  
17 ~~compassion center as a primary caregiver or to such patient's~~  
18 ~~other primary caregiver.~~
- 19 [2] ~~Shall not dispense more than three ounces of usable marijuana-~~  
20 ~~to a qualifying patient directly or through a qualifying patient's~~  
21 ~~caregiver during a fourteen-day period.~~
- 22 [3] ~~Shall not dispense an amount of usable marijuana to a qualifying-~~  
23 ~~patient or a qualifying patient's caregiver that the compassion-~~  
24 ~~center principal officer, board member, agent, volunteer, or~~  
25 ~~employee knows would cause the recipient to possess more-~~  
26 ~~marijuana than is permitted under the Act or these regulations.~~
- 27 (b) ~~In addition to any other penalties that may be applicable under the Act-~~  
28 ~~or these regulations, any person found to have violated subdivision h-~~  
29 ~~of subsection 2 of section 19-24-07 of these regulations is not eligible-~~  
30 ~~to be an employee, agent, principal officer, or board member of any-~~



- 1           j. ~~A description of the packaging of the useable marijuana that the compassion-~~  
2           ~~center shall be utilizing, as a minimum, include:~~
- 3           ~~(1) Employee security policies;~~  
4           ~~(2) Safety and security procedures, including a disaster plan with procedures to~~  
5           ~~be followed in case of fire or other emergencies;~~  
6           ~~(3) Personal safety and crime prevention techniques;~~  
7           ~~(4) A job description or employment contract developed for all employees and a~~  
8           ~~volunteer agreement for all volunteers which includes duties,~~  
9           ~~responsibilities, authority, qualification, and supervision;~~  
10          ~~(5) The compassion center's alcohol and drug free workplace policy;~~  
11          ~~(6) A description of the compassion center's outreach activities to registered-~~  
12          ~~qualifying patients or their registered primary caregiver, which shall, as a~~  
13          ~~minimum, include:~~
- 14               ~~(a) Providing each new registered patient who visits the compassion-~~  
15               ~~center with frequently asked questions, designed by the department,~~  
16               ~~that explain the limitations on the right to use medical marijuana under~~  
17               ~~state law;~~
- 18               ~~(b) Ingestion options of usable marijuana provided by the compassion-~~  
19               ~~center;~~
- 20               ~~(c) Safe smoking techniques that shall be provided to registered-~~  
21               ~~qualifying patients; and~~
- 22               ~~(d) Potential side effects and how this information shall be communicated.~~
- 23          ~~(7) A description of the packaging of the useable marijuana that the-~~  
24          ~~compassion center shall be utilizing which shall, as a minimum, include:~~
- 25               ~~(a) The name of the strain, batch, and quantity;~~  
26               ~~(b) The statement "this product is for medical use only, not for resale";~~  
27               ~~and~~
- 28               ~~(c) Details indicating:~~
- 29                     ~~{1} The medical marijuana is free of contaminants; and~~  
30                     ~~{2} The levels of active ingredients in the product within plus or~~  
31                     ~~minus error of five percentage points.~~

- 1           (8) ~~A description of the documentation that will accompany a registered-~~  
2           ~~compassion center agent when transporting marijuana on behalf of the-~~  
3           ~~registered compassion center. The documentation must specify, at least, the-~~  
4           ~~amount of marijuana being transported, the date the marijuana is being-~~  
5           ~~transported, the registry identification number of the registered compassion-~~  
6           ~~center, and a contact number to verify that the marijuana is being-~~  
7           ~~transported on behalf of the registered compassion center.~~
- 8           (9) ~~Detailed procedures regarding the testing of medical marijuana. As part of-~~  
9           ~~its initial application, a compassion center shall provide to the department-~~  
10          ~~detailed procedures regarding the testing of medical marijuana and shall-~~  
11          ~~adhere to such procedures in connection with the operation of the-~~  
12          ~~compassion center. Such procedures shall include a description of how the-~~  
13          ~~marijuana will be tested, including:~~
- 14               (a) ~~Whether the testing will be conducted in house or through a-~~  
15               ~~contracted facility;~~
- 16               (b) ~~How marijuana will be transported securely in connection with such-~~  
17               ~~testing;~~
- 18               (c) ~~What tests are conducted, including what testing procedures are-~~  
19               ~~used;~~
- 20               (d) ~~How results are tracked and how samples are disposed; and~~
- 21               (e) ~~The selection process and the number of samples tested.~~
- 22          4. ~~Required training. Each compassion center shall develop, implement, and maintain on-~~  
23          ~~the premises an on-site training curriculum, or enter into contractual relationships with-~~  
24          ~~outside resources capable of meeting employee, agent, and volunteer training needs.-~~  
25          ~~Each employee, agent, or volunteer, at the time of initial appointment, shall receive, as-~~  
26          ~~a minimum, training in the following:~~
- 27               a. ~~Professional conduct, ethics, and state and federal laws regarding patient-~~  
28               ~~confidentiality;~~
- 29               b. ~~Informational developments in the field of medical use of marijuana;~~
- 30               c. ~~The proper use of security measures and controls that have been adopted; and~~

- 1           d. Specific procedural instructions for responding to an emergency, including  
2           robbery or violent accident.
- 3       5. Personnel:
- 4       a. Records: Each compassion center shall maintain:
- 5           (1) A personnel record for each employee, agent, or volunteer for a period of at  
6           least six months after termination of the individual's affiliation with the  
7           compassion center. The record shall include, as a minimum, the following:
- 8           (a) An application for employment or to volunteer;
- 9           (b) A record of any disciplinary action taken;
- 10          (c) Documentation of all required training. Documentation shall include a  
11          signed statement from the individual indicating the date, time, and  
12          place of said training and topics discussed, including the name and  
13          title of presenters;
- 14          (2) A record of the source of any funds that will be used to open or maintain the  
15          compassion center, including the name, address, and date of birth of any  
16          investor contributing more than five thousand dollars; and
- 17          (3) A record of any instances in which a business or not-for-profit that any of the  
18          prospective board members managed or served on the board was  
19          convicted, fined, censured, or had a registration or license suspended or  
20          revoked in any administrative or judicial proceeding.
- 21       b. Registry identification cards and background checks for principal officers, board  
22       members, agents, volunteers, or employees of a compassion center.
- 23           (1) In response to the requirements of this rule, and upon the approval of the  
24           submitted application, the department shall issue a registry photo-  
25           identification card to each principal officer, board member, agent, volunteer,  
26           or employee of a compassion center who is associated with the compassion  
27           center and meets the requirements under these regulations. In order for a  
28           registry identification card to be obtained, the following items shall be  
29           submitted to the medical marijuana program.
- 30           (a) A certified copy of a birth record verifying that the applicant is at least  
31           twenty-one years of age;

- 1                   (b) ~~A reasonable photographic copy of the applicant's North Dakota-~~  
2                   ~~driver's license or comparable state of North Dakota or federal issued~~  
3                   ~~photo identification card verifying North Dakota residence;~~  
4                   ~~identification card must be available for inspection and verification;~~  
5                   (e) ~~A written and signed statement from an officer or executive staff~~  
6                   ~~member of the compassion center stating that the applicant is~~  
7                   ~~associated with the compassion center and in what capacity;~~  
8                   (d) ~~The name, address, and telephone number of the applicant;~~  
9                   (e) ~~The name, address, and telephone number of the compassion center-~~  
10                  ~~with which the agent is associated;~~  
11                  (f) ~~The applicant's signature and date;~~  
12                  (g) ~~A nonrefundable, nonreturnable application or renewal fee of one-~~  
13                  ~~hundred twenty-five dollars in the form of a check made out to "North-~~  
14                  ~~Dakota department of health, compassionate care program".~~
- 15                  (2) ~~Each principal officer, board member, agent, volunteer, or employee of a~~  
16                  ~~compassion center shall consent to a full nationwide and statewide criminal~~  
17                  ~~history screening background check.~~
- 18                  (a) ~~Each applicant shall submit a full state of North Dakota criminal-~~  
19                  ~~history screening check and a full nationwide criminal history~~  
20                  ~~screening check to demonstrate compliance with the eligibility~~  
21                  ~~requirements of these regulations.~~
- 22                  (b) ~~All applicable fees associated with the required criminal history-~~  
23                  ~~screening background checks shall be paid by the compassion center-~~  
24                  ~~or the applicant.~~
- 25                  (e) ~~Individuals convicted of a felony offense, within five years from the~~  
26                  ~~date of application, are prohibited from being a compassion center-~~  
27                  ~~agent.~~
- 28                  (3) ~~The department may verify information on each application and the~~  
29                  ~~accompanying documentation as set forth in subsection 1 of section-~~  
30                  ~~19-24-04 of these regulations.~~

1           (4) The department shall notify the compassion center in writing of the purpose  
2           for denying the registry identification card. The state health officer or  
3           designee shall deny an application if the applicant fails to provide the  
4           information required or if the department determines that the information  
5           provided is false. Denial of an application or renewal is considered a final  
6           department action, subject to judicial review. Jurisdiction and venue for  
7           judicial review are vested in the district court.

8           (5) The department shall issue each principal officer, board member, agent,  
9           volunteer, or employee of a compassion center a registry identification card  
10          within thirty days of receipt of the information required by paragraphs 1 and  
11          2 of subdivision b of subsection 5 of section 19-24-07. The registry  
12          identification card shall contain such information as set forth in subdivision b  
13          of subsection 5 of section 19-24-07 of these regulations.

14          (6) Each compassion center shall notify the department in writing within ten  
15          days of when a principal officer, board member, agent, volunteer, or  
16          employee ceases to work at the compassion center. The individual's registry  
17          identification card shall be deemed null and void and the individual shall be  
18          liable for any other penalties that may apply to the individual's nonmedical  
19          use of marijuana.

20          e. Expiration date of registry identification cards. The registry identification card of a  
21          principal officer, board member, agent, volunteer, or employee shall expire one  
22          year after its issuance or upon the expiration of the compassion center's  
23          registration certificate, whichever comes first.

24          6. Application for operation of a compassion center. Applicants shall only be accepted  
25          during an open application period announced by the department and shall include the  
26          following items:

27          a. A nonrefundable application fee, made payable to the "North Dakota department  
28          of health, compassionate care program", in the amount of five thousand dollars;

29          b. The proposed legal name, articles of incorporation, and bylaws of the  
30          compassion center;

- 1           e. ~~The proposed physical address of the compassion center, including any~~  
2           ~~additional address to be used for the secure cultivation of medical marijuana, and~~  
3           ~~with the following details:~~
- 4           ~~(1) If precise addresses are known, evidence of compliance to the following~~  
5           ~~rules shall be included:~~
- 6           ~~(a) Compliance to the local zoning laws for each physical address to be~~  
7           ~~utilized as a compassion center or for the secure cultivation of medical~~  
8           ~~marijuana;~~
- 9           ~~(b) Evidence that all of the physical addresses identified in this section~~  
10           ~~are not located within one thousand feet of a property line of a pre-~~  
11           ~~existing public or private school.~~
- 12           ~~(2) If precise addresses have not been determined, identification of the general~~  
13           ~~location where it would be sited, and when it would be established;~~
- 14           d. ~~A description of the enclosed, locked facility, meeting all requirements of~~  
15           ~~subsection 2 of section 19-24-07 that would be used in the cultivation of~~  
16           ~~marijuana, including steps to ensure that the marijuana production shall not be~~  
17           ~~visible from the street or other public areas;~~
- 18           e. ~~Evidence of the compassion center's not for profit status, which can be:~~
- 19           ~~(1) Documentation of recognition as a tax-exempt organization by the United~~  
20           ~~States Internal Revenue Service; or~~
- 21           ~~(2) Other written materials which will allow the department to determine the~~  
22           ~~compassion center's ability to comply with the revenue criteria.~~
- 23           f. ~~The name, address, and date of birth of each principal officer and board member~~  
24           ~~of the compassion center;~~
- 25           g. ~~A description of proposed security and safety measures, which demonstrate~~  
26           ~~compliance with subsection 2 of section 19-24-07 of these regulations;~~
- 27           h. ~~A draft operations manual, which demonstrates compliance with subsection 3 of~~  
28           ~~section 19-24-07 of these regulations;~~
- 29           i. ~~An example of the design and security features of medical marijuana containers~~  
30           ~~which demonstrates compliance with subdivision h of subsection 2 of section~~  
31           ~~19-24-07 of these regulations;~~

- 1           j. ~~A list of all persons or business entities having direct or indirect authority over the~~  
2           ~~management or policies of the compassion center;~~
- 3           k. ~~A list of all persons or business entities having five percent or more ownership in~~  
4           ~~the compassion center, whether direct or indirect and whether the interest is in~~  
5           ~~profits, land, or building, including owners of any business entity which owns all~~  
6           ~~or part of the land or building; and~~
- 7           l. ~~The identities of all creditors holding a security interest in the premises, if any.~~
- 8       7. ~~Complete application required. Only applications, which the department has~~  
9       ~~determined to be complete, shall be eligible for review.~~
- 10       8. ~~Compassion center application review criteria. The department shall evaluate~~  
11       ~~applications for a compassion center registration certificate using an impartial and~~  
12       ~~numerically scored competitive bidding process developed by the department. The~~  
13       ~~department shall consider the following criteria:~~
- 14           a. ~~Documentation of not-for-profit status, consistent with subdivision e of~~  
15           ~~subsection 5 of section 19-24-07 of these regulations;~~
- 16           b. ~~The suitability of the proposed location or locations, including but not limited to~~  
17           ~~compliance with any local zoning laws and the geographic convenience to~~  
18           ~~patients from throughout the state of North Dakota to compassion centers if the~~  
19           ~~applicant were approved;~~
- 20           c. ~~The principal officer and board members' character and relevant experience,~~  
21           ~~including any training or professional licensing related to medicine,~~  
22           ~~pharmaceuticals, natural treatments, botany, food science, food safety, or~~  
23           ~~marijuana cultivation and preparation and their experience running business or~~  
24           ~~not-for-profit entities;~~
- 25           d. ~~The proposed compassion center's plan for operations and services, including its~~  
26           ~~staffing and training plans, whether it has sufficient capital to operate, and its~~  
27           ~~ability to provide an adequate supply and variety of medical marijuana and~~  
28           ~~medical marijuana-based products to the registered patients in the state;~~
- 29           e. ~~The sufficiency of the applicant's plans for recordkeeping;~~
- 30           f. ~~The sufficiency of the applicant's plans for safety, security, and the prevention of~~  
31           ~~diversion, including proposed locations and security devices employed;~~

- 1           g. ~~The applicant's plan for making medical marijuana available on an affordable-~~  
2           ~~basis to registered qualifying patients enrolled in medicaid or receiving-~~  
3           ~~supplemental security income or social security disability insurance;~~
- 4           h. ~~The applicant's plan for safe and accurate packaging and labeling of medical-~~  
5           ~~marijuana, which shall include, without limitations, these minimum requirements-~~  
6           ~~for packaging and labeling:~~
- 7                 (1) ~~The name of the strain, batch, and quantity of the medical marijuana;~~  
8                 (2) ~~A statement providing that "this product is for medical use only, not for-~~  
9                 ~~resale";~~
- 10              (3) ~~Details indicating the medical marijuana is free of contaminants; and~~  
11              (4) ~~Details indicating the levels of active ingredients in the product.~~
- 12           i. ~~The applicant's plan for testing medical marijuana for contaminants and potency-~~  
13           ~~of active ingredients; and~~
- 14           j. ~~The applicant's ability to grow marijuana without use of pesticides.~~
- 15         9. ~~Issuance of a registration certificate authorizing operation of a compassion center.-~~  
16         ~~When an applicant to operate a compassion center is notified that the department has-~~  
17         ~~approved its application, it shall submit the following additional items to the department~~  
18         ~~before the registration certificate authorizing operation of a compassion center will be-~~  
19         ~~issued.~~
- 20           a. ~~A certification fee, made payable to the "North Dakota department of health,-~~  
21           ~~compassion care program", in the amount of twenty-five thousand dollars;~~
- 22           b. ~~The legal name, articles of incorporation, and bylaws of the compassion center;~~
- 23           e. ~~The physical address of the compassion center and any additional address to be-~~  
24           ~~used for the secure cultivation of marijuana, including:~~
- 25                 (1) ~~Evidence demonstrating the following:~~
- 26                         (a) ~~Compliance with all local zoning laws for each physical address to be-~~  
27                         ~~utilized as a compassion center or for the secure cultivation of medical-~~  
28                         ~~marijuana; and~~
- 29                         (b) ~~That none of the physical addresses identified in subdivision c of~~  
30                         ~~subsection 9 of section 19-24-08 of these regulations are located~~



- 1           e. ~~Suspension: The department will suspend a registration certificate authorizing the~~  
2           ~~operation of a compassion center, with or without notice, for any violation of an~~  
3           ~~applicable law or regulation.~~
- 4           d. ~~Termination: Upon receipt of written notice that a registration certificate has been~~  
5           ~~terminated, the compassion center has thirty business days to request, in writing,~~  
6           ~~a hearing, for the purpose of review of such action. The hearing process shall~~  
7           ~~follow the procedures in subsection 8 through subsection 17 of section 19-24-09~~  
8           ~~of these regulations:~~
- 9           (1) ~~A written decision will be issued by the department within thirty days of the~~  
10           ~~completion of the hearing. The decision will lift the suspension or terminate~~  
11           ~~a registration certificate. The written decision will state with specificity the~~  
12           ~~reasons for the decision.~~
- 13           (2) ~~The termination of a registration certificate is a final decision of the~~  
14           ~~department, subject to judicial review. Jurisdiction and venue are vested in~~  
15           ~~the district court.~~
- 16        11. ~~Nontransferable registration certificate authorizing operation of a compassion center.~~
- 17           a. ~~A registration certificate authorizing operation of a compassion center shall not be~~  
18           ~~transferred by assignment or otherwise to other persons or locations. Unless the~~  
19           ~~compassion center applies for and receives an amended registration certificate~~  
20           ~~authorizing operation of a compassion center, the registration certificate shall be~~  
21           ~~void and returned to the department when one or more of the following situations~~  
22           ~~occur:~~
- 23           (1) ~~A change in ownership of the compassion center;~~  
24           (2) ~~A change in one or more authorized physical locations; or~~  
25           (3) ~~The compassion center discontinues its operation.~~
- 26           b. ~~A compassion center shall provide the department with a written notice of any~~  
27           ~~change described in subsection 11 of section 19-24-07 of these regulations at~~  
28           ~~least sixty days prior to the proposed effective date of the change. The~~  
29           ~~department may waive all or part of the required advance notice to address~~  
30           ~~emergent or emergency situations.~~

- 1 e. ~~Transactions which usually do not constitute a change of ownership include the~~  
2 ~~following:~~
- 3 ~~(1) Changes in the membership of the board of directors or board of trustees; or~~  
4 ~~(2) Two or more legal entities merge and the entity to whom the registration~~  
5 ~~certificate authorizing operation of a compassion center was issued~~  
6 ~~survives.~~
- 7 d. ~~Management agreements are generally not considered a change in ownership if~~  
8 ~~the entity to whom the registration certificate authorizing operation of a~~  
9 ~~compassion center was issued continues to retain ultimate authority for the~~  
10 ~~operation of the compassion center; however, if the ultimate authority is~~  
11 ~~surrendered and transferred from the entity to whom the registration certificate~~  
12 ~~authorizing operation of a compassion center was issued to a new manager, then~~  
13 ~~a change of ownership has occurred.~~

14 A registry identification card is not transferable, by assignment or otherwise, to another  
15 person. If a person attempts to transfer a card in violation of this section, the registry  
16 identification card is void and the person is prohibited from all privileges provided under this  
17 chapter.

18 **SECTION 8. AMENDMENT.** Section 19-24-08 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **19-24-08. Cultivation and growing of marijuanaRegistry identification card - Voluntary**  
21 **withdrawal.**

- 22 1. ~~If the qualifying patient's home is located more than forty miles from the nearest~~  
23 ~~compassionate care center, the qualified patient or designated caregiver may cultivate~~  
24 ~~up to eight marijuana plants in an enclosed, locked facility.~~
- 25 2. ~~The enclosed, locked facility shall not be within one thousand feet of a public school.~~
- 26 3. ~~The qualified patient or designated caregiver must give local law enforcement officials~~  
27 ~~a notice of intent to grow marijuana in an enclosed, locked facility. The notice must~~  
28 ~~include qualified patient name, a copy of the written certification from the physician,~~  
29 ~~and the address of the location where the marijuana will be cultivated.~~

30 A registered qualifying patient or registered designated caregiver may voluntarily withdraw  
31 from participation in the compassionate care program. A registered qualifying patient or

1 registered designated caregiver seeking to withdraw from the compassionate care program  
2 shall notify the department in writing no less than thirty calendar days before withdrawal.

3 **SECTION 9. AMENDMENT.** Section 19-24-09 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **19-24-09. Onsite visits and interviewsCardholders - Eligibility and compliance.**

- 6 1. ~~The department or its designee may perform onsite interviews of a qualified patient or~~  
7 ~~primary caregiver to determine eligibility for the program. The department may enter~~  
8 ~~the premises of a qualified patient or primary caregiver during business hours for~~  
9 ~~purposes of interviewing a program applicant. Twenty-four hours notice will be~~  
10 ~~provided to the qualified patient or primary caregiver prior to an onsite interview.~~
- 11 2. ~~All qualified patients or primary caregivers shall provide the department or the~~  
12 ~~department's designee immediate access to any material and information necessary~~  
13 ~~for determining eligibility with these requirements.~~
- 14 3. ~~Failure by the qualified patient or primary caregiver to provide the department access~~  
15 ~~to the premises or information may result in action up to and including the revocation~~  
16 ~~of the qualified patient or primary caregiver registry identification card and referral to~~  
17 ~~state law enforcement.~~
- 18 4. ~~Any failure to adhere to these rules, documented by the department during an~~  
19 ~~interview, may result in sanctions, including suspension, revocation, nonrenewal or~~  
20 ~~denial of licensure, and referral to state or local law enforcement.~~
- 21 5. ~~The department shall refer credible criminal complaints against a qualified patient or~~  
22 ~~primary caregiver to the appropriate North Dakota state or appropriate local~~  
23 ~~authorities.~~
- 24 6. ~~Corrective action:~~
- 25 a. ~~If violations of these requirements are cited as a result of monitoring, the qualified~~  
26 ~~patient or primary caregiver shall be provided with an official written report of the~~  
27 ~~findings following the monitoring visit.~~
- 28 b. ~~Unless otherwise specified by the department, the qualified patient or primary~~  
29 ~~caregiver shall correct the violation within five calendar days of receipt of the~~  
30 ~~official written report citing the violation.~~

- 1           e. ~~The violation shall not be deemed corrected until the department verifies in-~~  
2           ~~writing after receiving notice of the corrective action that the corrective action is~~  
3           ~~satisfactory.~~
- 4           d. ~~If the violation has not been corrected, the department may issue a notice of~~  
5           ~~contemplated action to revoke the qualified patient's or designated caregiver's~~  
6           ~~registry identification card.~~
- 7           e. ~~Suspension of registry identification card without prior hearing: If immediate~~  
8           ~~action is required to protect the health and safety of the general public, the~~  
9           ~~department may suspend the qualified patient or designated caregiver registry~~  
10          ~~identification card without notice.~~
- 11          (1) ~~A qualified patient or primary caregiver whose registry identification card has~~  
12          ~~been summarily suspended is entitled to a record review not later than thirty~~  
13          ~~calendar days after the registry identification card was summarily~~  
14          ~~suspended.~~
- 15          (2) ~~The record review requested subsequent to a summary suspension shall be~~  
16          ~~conducted by the department.~~
- 17          (3) ~~The department shall conduct the record review on the summary~~  
18          ~~suspension by reviewing all documents submitted by both the card holder~~  
19          ~~and the department.~~
- 20          (4) ~~The sole issue at a record review on a summary suspension is whether the~~  
21          ~~card holder's registry identification card shall remain suspended pending a~~  
22          ~~final adjudicatory hearing and ruling.~~
- 23          (5) ~~A card holder given notice of summary suspension by the department may~~  
24          ~~submit a written request for a record review. To be effective, the written~~  
25          ~~request shall:~~
- 26               (a) ~~Be made within thirty calendar days, as determined by the postmark,~~  
27               ~~from the date of the notice issued by the department;~~
- 28               (b) ~~Be properly addressed to the medical marijuana program;~~
- 29               (c) ~~State the applicant's name, address, and telephone number;~~
- 30               (d) ~~Provide a brief narrative rebutting the circumstances of the~~  
31               ~~suspension; and~~

1                                   (e) Additional documentation must be included with the request for a  
2                                   record review.

3       7. ~~Summary suspension. Revocation and appeal process:~~

4       a. ~~Participation in the medical marijuana program by a qualified patient or primary~~  
5       ~~caregiver does not relieve the qualified patient or primary caregiver from:~~

6                                   (1) ~~Criminal prosecution or civil penalties for activities not authorized in this rule~~  
7                                   ~~and Act;~~

8                                   (2) ~~Liability for damages or criminal prosecution arising out of the operation of a~~  
9                                   ~~vehicle while under the influence of marijuana; or~~

10                                  (3) ~~Criminal prosecution or civil penalty for possession, distribution, or transfers~~  
11                                  ~~of marijuana or use of marijuana:~~

12                                   (a) ~~In a school bus or public vehicle;~~

13                                   (b) ~~On school grounds or property;~~

14                                   (c) ~~In the workplace of the qualified patient's or primary caregiver's~~  
15                                   ~~employment;~~

16                                   (d) ~~At a public park, recreation center, youth center, or other public place;~~

17                                   (e) ~~To a person not approved by the department pursuant to this rule;~~

18                                   (f) ~~Outside North Dakota or attempts to obtain or transport marijuana~~  
19                                   ~~from outside North Dakota; or~~

20                                   (g) ~~That exceeds the allotted amount of usable medical use marijuana.~~

21       b. ~~Revocation of registry identification card: Violation of any provision of this rule~~  
22       ~~may result in either the summary suspension of the qualified patient's or primary~~  
23       ~~caregiver's registry identification card, or a notice of contemplated action to~~  
24       ~~suspend or revoke the qualified patient's or primary caregiver's registry~~  
25       ~~identification card, and all lawful privileges under the Act.~~

26       e. ~~Grounds for revocation or suspension of registry identification card, denial of~~  
27       ~~renewal application for registry identification card. A registry identification card~~  
28       ~~may be revoked or suspended, and a renewal application may be denied for:~~

29                                   (1) ~~Failure to comply with any provisions of these requirements;~~

30                                   (2) ~~Failure to allow a monitoring visit by authorized representatives of the~~  
31                                   ~~department;~~

1                   (3) ~~The discovery of repeated violations of these requirements during~~  
2                   ~~monitoring visits.~~

3       8. ~~Request for hearing: A qualified patient or primary caregiver whose registry~~  
4       ~~identification card has been summarily suspended, or who has received a notice of~~  
5       ~~contemplated action to suspend or revoke, may request a hearing, in addition to a~~  
6       ~~request for a record review, for the purpose of review of such action. The request for~~  
7       ~~hearing shall be filed within thirty calendar days of the date the action is taken or the~~  
8       ~~notice of contemplated action is received. The request shall include the following:~~

- 9       a. ~~A statement of the facts relevant to the review of the action;~~  
10       b. ~~A statement of the provision of the Act and the rules promulgated under the Act~~  
11       ~~that are relevant to the review of the action;~~  
12       c. ~~A statement of the arguments that the qualified patient and primary caregiver~~  
13       ~~considers relevant to the review of the action; and~~  
14       d. ~~Any other evidence considered relevant.~~

15       9. ~~Hearing process:~~  
16       a. ~~All formal adjudicatory hearings held in response to these regulations shall be~~  
17       ~~conducted by a hearing officer duly appointed by the state health officer.~~  
18       b. ~~Except for telephonic hearings, hearings shall be conducted in Bismarck at the~~  
19       ~~state department of health or, upon written request by an aggrieved person, in~~  
20       ~~the place or area affected.~~  
21       c. ~~All hearings held pursuant to this section shall be open to the public.~~  
22       d. ~~The hearing shall be recorded on audiotape or other means of sound~~  
23       ~~reproduction, or by a certified court reporter. The decision as to the type of~~  
24       ~~recording shall be at the discretion of the department.~~  
25       e. ~~Any hearing provided for in this rule may be held telephonically, in the interest of~~  
26       ~~a speedy resolution.~~  
27       f. ~~The department shall schedule and hold the hearing as soon as practicable;~~  
28       ~~however, in any event no later than sixty calendar days from the date the~~  
29       ~~department receives the request for hearing. The hearing officer shall extend the~~  
30       ~~sixty-day time period upon motion for good cause shown or the parties shall~~  
31       ~~extend the sixty-day time period by mutual agreement. The department shall~~

- 1 issue notice of hearing, not less than twenty days prior to the hearing, which shall  
2 include:
- 3 (1) A statement of the time, place, and nature of the hearing;  
4 (2) A statement of the legal authority and jurisdiction under which the hearing is  
5 to be held;  
6 (3) A short and plain statement of the matters of fact and law asserted;  
7 (4) Notice to any other parties to give prompt notice of issues controverted in  
8 fact or law; and  
9 (5) All necessary telephone numbers if a telephonic hearing shall be conducted.
- 10 10. All parties shall be given the opportunity to respond and present evidence and  
11 argument on all relevant issues.
- 12 11. Record of proceeding: The record of the proceeding shall include the following:
- 13 a. All pleadings, motions, and intermediate rulings;  
14 b. Evidence received or considered;  
15 c. A statement of matters officially noticed;  
16 d. Questions and offers of proof, objections, and rulings thereon;  
17 e. Proposed findings and conclusions; and  
18 f. Any action recommended by the hearing officer.
- 19 12. A party may request a transcription of the proceedings. The party requesting the  
20 transcript shall bear the cost of transcription.
- 21 13. Procedures and evidence:
- 22 a. Any party shall be represented by a person licensed to practice law in North  
23 Dakota or an individual may represent him or herself.  
24 b. The rules of evidence as applied in the courts do not apply in these proceedings.  
25 Any relevant evidence shall be admitted and such evidence shall be sufficient in  
26 itself to support a finding if the evidence is reliable, regardless of the existence of  
27 any statutory or common law rule that shall make admission of such evidence  
28 improper in a civil action. Irrelevant, immaterial, or unduly repetitious evidence  
29 shall be excluded at a party's request or on the hearing officer's own initiative.  
30 c. Documentary evidence shall be received in evidence in the form of true copies of  
31 the original.

- 1           d. ~~Documentary and other physical evidence shall be authenticated or identified by~~  
2           ~~any reasonable means that shows that the matter in question is what the~~  
3           ~~proponent claims it to be.~~
- 4           e. ~~The experience, technical competence, and specialized knowledge of the hearing~~  
5           ~~officer, the department, or the department's staff shall be used in the evaluation~~  
6           ~~of evidence.~~
- 7           f. ~~Evidence on which the hearing officer shall base his or her decision is limited to~~  
8           ~~the following:~~
- 9           (1) ~~All evidence, including any records, investigation reports, and documents in~~  
10           ~~the department's possession of which the department desires to avail itself~~  
11           ~~as evidence in making a decision that is offered and made a part of the~~  
12           ~~record of the proceeding; and~~
- 13           (2) ~~Testimony and exhibits introduced by the parties.~~
- 14           g. ~~The record shall include all briefs, proposed findings, and exceptions and shall~~  
15           ~~show the ruling on each finding, exception, or conclusion presented.~~
- 16           h. ~~A party to a hearing shall submit to the hearing officer, and to all other parties to~~  
17           ~~the hearing, all documents to be introduced at the hearing no later than five~~  
18           ~~business days from the scheduled hearing date to ensure the hearing officer and~~  
19           ~~other parties receive the documents prior to the hearing.~~
- 20           i. ~~The department may choose to:~~
- 21           (1) ~~Issue subpoenas for witnesses and other sources of evidence, either on the~~  
22           ~~agency's initiative or at the request of any party; and~~
- 23           (2) ~~Administer oaths to witnesses; limit unduly repetitive proof, rebuttal, and~~  
24           ~~cross-examination.~~
- 25        14. ~~Conduct of proceeding: Unless the hearing officer reasonably determines a different~~  
26        ~~procedure is appropriate, the hearing shall be conducted in accordance with the~~  
27        ~~procedures set forth in this rule. The following procedures shall apply:~~
- 28        a. ~~The department shall present an opening statement on the merits and the~~  
29        ~~cardholder shall make a statement of the defense or reserve the statement until~~  
30        ~~presentation of that party's case;~~

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- 1           b. ~~After the opening statements, if made, the department shall present its case in-~~  
2           ~~chief in support of the department's petition;~~
- 3           e. ~~Upon the conclusion of the department's case, the cardholder shall present its-~~  
4           ~~case in defense;~~
- 5           d. ~~Upon conclusion of the cardholder's case, the department shall present rebuttal-~~  
6           ~~evidence;~~
- 7           e. ~~After presentation of the evidence by the parties, the department shall present a-~~  
8           ~~closing argument; the cardholder then shall present its closing argument and the~~  
9           ~~department shall present a rebuttal argument; and~~
- 10          f. ~~Thereafter, the matter shall be submitted for recommendation by the hearing-~~  
11          ~~officer.~~
- 12          15. ~~Continuances: The hearing officer shall not grant a continuance except for good cause-~~  
13          ~~shown. A motion to continue a hearing shall be made at least ten calendar days before~~  
14          ~~the hearing date.~~
- 15          16. ~~Telephonic hearings:~~
- 16          a. ~~Any party requesting a telephonic hearing shall do so within ten business days of~~  
17          ~~the date of the notice. Immediately after the parties agree to conduct the hearing~~  
18          ~~by telephone, notice of the telephonic hearing shall be made to all parties and~~  
19          ~~shall include all necessary telephone numbers.~~
- 20          b. ~~Any party that has agreed to a telephonic hearing, but subsequently requests an~~  
21          ~~in-person hearing shall do so in writing to the hearing officer no later than ten~~  
22          ~~calendar days before the scheduled date of the hearing. The decision to grant or~~  
23          ~~deny the request for an in-person hearing shall be at the discretion of the hearing~~  
24          ~~officer for good cause shown. The hearing officer's decision to grant or deny the~~  
25          ~~hearing shall be issued in writing and shall include the specific reasons for~~  
26          ~~granting or denying the request. Should the hearing officer grant the request, the~~  
27          ~~hearing shall be rescheduled to a time convenient for all parties. Should the~~  
28          ~~hearing officer deny the request, the telephonic hearing shall proceed as~~  
29          ~~scheduled.~~

- 1           e. ~~The location or locations of the parties during the hearing shall have a speaker-~~  
2           ~~telephone and facsimile machine available so that all shall hear the proceedings-~~  
3           ~~and documents shall be transmitted between witnesses and the hearing officer.~~
- 4           d. ~~The cardholder shall initiate the telephone call. The department is responsible for~~  
5           ~~ensuring the telephone number to the department's location for the telephonic~~  
6           ~~hearing is accurate and the department representative is available at said~~  
7           ~~telephone number at the time the hearing is to commence. Failure to provide the~~  
8           ~~correct telephone number or failure to be available at the commencement of the~~  
9           ~~hearing shall be treated as a failure to appear and shall subject the petitioner to a~~  
10          ~~default judgment.~~
- 11          e. ~~The in-person presence of some parties or witnesses at the hearing does not~~  
12          ~~prevent the participation of other parties or witnesses by telephone with prior~~  
13          ~~approval of the hearing officer.~~
- 14          17. ~~Recommended action and final decision:~~
- 15          a. ~~At the request of the hearing officer or upon motion by either party granted by the~~  
16          ~~hearing officer, and before the hearing officer recommends action by the~~  
17          ~~secretary, the parties shall submit briefs including findings of fact and conclusions~~  
18          ~~of law for consideration by the hearing officer. The hearing officer holds the~~  
19          ~~discretion to request briefs or grant a motion to submit briefs on any point of law~~  
20          ~~deemed appropriate by the hearing officer. Briefs submitted shall include~~  
21          ~~supporting reasons for any findings or legal conclusions and citations to the~~  
22          ~~record and to relevant law. Should the hearing officer request briefs or grant a~~  
23          ~~party's motion to submit briefs, the hearing shall be continued until the hearing~~  
24          ~~officer has given the briefs sufficient consideration and brings the hearing to a~~  
25          ~~close. The hearing, however, shall be completed no later than forty-five calendar~~  
26          ~~days from the date of continuance.~~
- 27          b. ~~No more than thirty calendar days after completion of the hearing, the hearing~~  
28          ~~officer shall prepare a written decision containing recommendation of action to be~~  
29          ~~taken by the secretary. The recommendation shall propose to sustain, modify, or~~  
30          ~~reverse the initial decision of the department or the department's agent.~~

- 1           e. ~~The secretary shall accept, reject, or modify the hearing officer's recommendation-~~  
2           ~~no later than ten calendar days after receipt of the hearing officer's-~~  
3           ~~recommendation. The final decision or order shall be issued in writing and shall-~~  
4           ~~include:~~
- 5           (1) ~~A brief summary of the evidence;~~  
6           (2) ~~A statement of findings of fact based upon the evidence;~~  
7           (3) ~~Conclusions and the reasons thereof, on all material issues of fact, law, or-~~  
8           ~~discretion involved;~~  
9           (4) ~~Any other conclusions required by law of the department; and~~  
10          (5) ~~A concise statement of the department's specific determination or action-~~  
11          ~~taken to sustain, modify, or reverse the initial decision of the department or-~~  
12          ~~the department's agent.~~
- 13          d. ~~Service shall be made by registered or certified mail.~~
- 14          e. ~~The final decision or order shall be public information and shall become a part of-~~  
15          ~~the record.~~
- 16          1. The department or the department's designee may conduct an onsite interview of a  
17          cardholder or registry identification card applicant to determine application or renewal  
18          eligibility under this chapter. The department may enter the premises of a qualifying  
19          patient, designated caregiver, or compassion center agent for purposes of interviewing  
20          the cardholder or applicant. Before conducting an onsite interview, the department  
21          shall provide the cardholder or applicant at least twenty-four hours' notice.
- 22          2. The department or the department's designee may conduct an onsite assessment of a  
23          cardholder based on the department's reasonable suspicion the cardholder is violating  
24          this chapter. The cardholder shall provide the department with immediate access to  
25          determine compliance with this chapter.
- 26          3. A registered qualifying patient or registered designated caregiver shall provide the  
27          department or the department's designee immediate access to any material and  
28          information necessary for determining eligibility and compliance with this chapter.
- 29          4. Failure of the registered qualifying patient or registered designated caregiver to  
30          provide the department access to the premises, material, or information as provided  
31          under this section may result in the department taking action, which may include the

- 1           revocation of the registered qualifying patient or registered designated caregiver  
2           registry identification card and referral to state or local law enforcement.
- 3        5. Failure of a registered qualifying patient or registered designated caregiver to comply  
4           with the requirements under this section which is documented by the department, may  
5           result in sanctions, including suspension, revocation, nonrenewal, or denial of  
6           registration, and referral to state or local law enforcement.
- 7        6. The department shall refer credible criminal complaints against a registered qualifying  
8           patient or registered designated caregiver to appropriate state or local law  
9           enforcement authorities.
- 10       7. a. If a violation of the requirements under this section is cited as a result of  
11           compliance monitoring, the department shall provide the registered qualifying  
12           patient or registered designated caregiver with written notice of the findings  
13           following the compliance monitoring visit.
- 14        b. Unless otherwise specified by the department, the registered qualifying patient or  
15           registered designated caregiver shall correct the violation within five calendar  
16           days of receipt of the notice citing the violation.
- 17        c. The department shall verify whether the registered qualifying patient or registered  
18           designated caregiver corrected the violation.
- 19        d. The violation is not deemed corrected until the department provides written  
20           verification the corrective action is satisfactory.
- 21        e. If the violation is not corrected within the required time, the department may  
22           revoke the registry identification card of the registered qualifying patient or  
23           registered designated caregiver.

24        **SECTION 10. AMENDMENT.** Section 19-24-10 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26        **19-24-10. Severability**~~Change notifications - Responses.~~

27        ~~In the event any particular clause or section of these regulations should be declared invalid~~  
28 ~~or unconstitutional by any court of competent jurisdiction, the remaining portions shall remain in~~  
29 ~~full effect.~~

- 1       1. Within ten calendar days of the change, in a manner prescribed by the department, a  
2       registered qualifying patient or registered designated caregiver shall notify the  
3       department of any of the following:
  - 4       a. A change in the cardholder's name or address;
  - 5       b. Knowledge of a change that would render the registered qualifying patient no  
6       longer eligible to participate in the compassionate care program;
  - 7       c. Knowledge of a change that results in the registered qualifying patient's physician  
8       no longer meeting the definition of the term "physician" as defined in section  
9       19-24-02; or
  - 10      d. Knowledge of a change that renders the registered qualifying patient's registered  
11      designated caregiver no longer eligible to participate in the compassionate care  
12      program.
- 13      2. If a registered qualifying patient seeks to change the patient's designated caregiver,  
14      the registered qualifying patient shall notify the department in writing of this change.
- 15      3. If a cardholder loses the cardholder's registry identification card, the cardholder shall  
16      notify the department in writing within twenty-four hours of becoming aware of the loss.
- 17      4. If a registered qualifying patient is unable to make a notification required under this  
18      section due to age or medical condition, that patient's registered designated caregiver  
19      or the individual responsible for making medical decisions for that patient shall provide  
20      the notification.
- 21      5. If the department receives notification of an item listed in this section and the nature of  
22      the item reported does not affect a cardholder's eligibility, the department shall issue  
23      the cardholder a new registry identification card with a new random ten-digit  
24      alphanumeric identification number within twenty calendar days of approving the  
25      updated information and the cardholder shall pay a twenty-five dollar fee. If a  
26      cardholder notifying the department is a registered qualifying patient who has a  
27      registered designated caregiver, the department shall issue the patient's registered  
28      designated caregiver a new registry identification card within twenty calendar days of  
29      approving the updated information.
- 30      6. If the department receives notification of an item listed in this section and the nature of  
31      the item reported makes the cardholder ineligible, the cardholder's registry

1           identification card becomes void immediately upon notification of the department and  
2           the registered cardholder shall dispose of any usable marijuana in the cardholder's  
3           possession within fifteen calendar days, in accordance with rules adopted under this  
4           chapter.

5           7. A registered qualifying patient's certifying physician shall notify the department in  
6           writing if the physician's registered qualifying patient no longer suffers from a  
7           debilitating medical condition or if the physician no longer believes the patient will  
8           receive therapeutic or palliative benefit from the medical use of marijuana. The  
9           qualifying patient's registry identification card becomes void immediately upon the  
10           physician's notification of the department and the registered qualifying patient shall  
11           dispose of any usable marijuana in the cardholder's possession within fifteen calendar  
12           days, in accordance with rules adopted under this chapter.

13           **SECTION 11. AMENDMENT.** Section 19-24-11 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **19-24-11. Privacy of the ~~compassionate care Act records and paperwork~~ Debilitating**  
16 **medical condition - Petition.**

17           ~~The department cannot release any records, paperwork, or details of any applicant, card-~~  
18 ~~holder, compassionate care agent, or registered designated caregiver without their written-~~  
19 ~~permission except as necessary for authorized employees of the department to perform official-~~  
20 ~~duties of the department. In the event written permission is given to the department, the-~~  
21 ~~department is only allowed to give out the information requested for a thirty-day period.~~

- 22           1. ~~Annual report. The department shall submit to the legislature an annual report that~~  
23           ~~does not disclose any identifying information about cardholders, compassionate care-~~  
24           ~~centers, or physicians but contains at least all of the following information:~~
- 25           a. ~~The number of registry identification card applications and renewals.~~
  - 26           b. ~~The number of qualifying patients and designated caregivers approved in each~~  
27           ~~county.~~
  - 28           c. ~~The nature of the debilitating medical conditions of the qualifying patients.~~
  - 29           d. ~~The number of registry identification cards revoked.~~
  - 30           e. ~~The number of physicians providing written certifications for qualifying patients.~~
  - 31           f. ~~The number of registered nonprofit, compassionate care centers.~~

1 A resident of this state may submit a petition to the department to add a medical condition  
2 or a treatment of a medical condition to the list of debilitating medical conditions listed under  
3 section 19-24-02. The department shall consider a petition in the manner required by rules  
4 adopted under this chapter. Within one hundred eighty days of submission of a petition under  
5 this section, the department shall approve or deny the petition. The approval or denial of a  
6 petition is a final decision of the department, subject to judicial review. Jurisdiction and venue  
7 are vested in Burleigh County district court.

8 **SECTION 12. AMENDMENT.** Section 19-24-12 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **19-24-12. Facility restrictions**~~Cultivation, manufacturing, and dispensing -~~  
11 **Compassion centers - Prohibition - Registration.**

- 12 1. ~~Any nursing care institution, hospice, assisted living center, assisted living facility,~~  
13 ~~assisted living home, residential care institution, adult day health care facility, or adult~~  
14 ~~foster care home licensed in the state of North Dakota may adopt reasonable~~  
15 ~~restrictions on the use of marijuana by their residents or persons receiving inpatient~~  
16 ~~services, including:~~
- 17 a. ~~That the facility will not store or maintain the patient's supply of marijuana.~~
  - 18 b. ~~That the facility, caregivers, or hospice agencies serving the facility's residents~~  
19 ~~are not responsible for providing the marijuana for qualifying patients.~~
  - 20 c. ~~That marijuana can be consumed by a method other than smoking.~~
  - 21 d. ~~That marijuana is consumed only in a place specified by the facility.~~
- 22 2. ~~Nothing in the section requires a facility listed in subsection 1 to adopt restrictions on~~  
23 ~~the medical use of marijuana.~~
- 24 3. ~~A facility listed in subsection 1 may not unreasonably limit a registered, qualifying~~  
25 ~~patient's access to or use of marijuana authorized under this chapter unless failing to~~  
26 ~~do so would cause the facility to lose a monetary or licensing-related benefit under~~  
27 ~~federal law or regulations.~~
- 28 1. A person may not cultivate, manufacture, or dispense marijuana or otherwise act as a  
29 compassion center in this state unless the person is registered as a dispensary or a  
30 manufacturing facility.

- 1       2. Except as otherwise provided under this section, the department shall register no  
2       more than:
  - 3       a. Four compassion centers with the sole purpose of operating as a manufacturing  
4       facility; and
  - 5       b. Eight compassion centers with the sole purpose of operating as a dispensary.
- 6       3. The department shall establish an open application period for the submission of  
7       compassion center applications. At the completion of the open application period, the  
8       department shall review each complete application using a competitive process  
9       established in accordance with rules adopted under this chapter and shall determine  
10       which applicants to register as compassion centers.
- 11       4. The department may register additional dispensaries if the department determines  
12       additional dispensaries are necessary to increase access to usable marijuana by  
13       registered qualifying patients and registered designated caregivers.
- 14       5. If the department revokes or does not renew a compassion center registration  
15       certificate, the department may establish an open application period for the  
16       submission of compassion center applications.

17       **SECTION 13. AMENDMENT.** Section 19-24-13 of the North Dakota Century Code is  
18       amended and reenacted as follows:

19       **19-24-13. Compassionate care fund -- Private donations**  
20       **Compassion centers -**  
21       **Dispensaries - Manufacturing facilities - Authority.**

- 21       1. ~~The compassionate care fund is established consisting of fees collected, civil penalties~~  
22       ~~imposed, and private donations received under this chapter. The department shall~~  
23       ~~administer the fund. Monies in the fund are continuously appropriated.~~
- 24       2. ~~The state health officer may accept and spend private grants, gifts, donations,~~  
25       ~~contributions, and devises to assist in carrying out the provisions of this chapter,~~  
26       ~~including but not limited to providing funds for the individuals who are financially~~  
27       ~~distressed for purchase of medical cannabis products.~~
- 28       3. ~~Monies in the compassionate care fund do not revert to the state of North Dakota's~~  
29       ~~general fund at the end of the fiscal year.~~

- 1       1. The activities of a manufacturing facility are limited to acquiring, possessing,  
2       cultivating, and transporting marijuana for the sole purpose of manufacturing usable  
3       marijuana for delivery, supply, or sale of usable marijuana to a dispensary.
- 4       2. The activities of a dispensary are limited to acquiring, possessing, storing, delivering,  
5       transferring, transporting, selling, supplying, and dispensing usable marijuana or  
6       related supplies and educational materials to a registered qualifying patient directly or  
7       through the registered qualifying patient's registered designated caregiver.

8       **SECTION 14.** Section 19-24-14 of the North Dakota Century Code is created and enacted  
9 as follows:

10       **19-24-14. Compassion centers - Application.**

- 11       1. The department shall establish forms for an application to be registered as a  
12       compassion center. For a compassion center registration application to be complete  
13       and eligible for review, the applicant shall submit to the department:
  - 14       a. A nonrefundable application fee, made payable to the "North Dakota State  
15       Department of Health, Compassionate Care Program", in the amount set by the  
16       department, not to exceed five thousand dollars;
  - 17       b. The legal name, articles of incorporation, and bylaws of the proposed  
18       compassion center applicant;
  - 19       c. Evidence of the proposed compassion center applicant's registration with the  
20       secretary of state and certificate of good standing;
  - 21       d. The physical address of the proposed location of the proposed compassion  
22       center and:
    - 23       (1) Evidence of approval from local officials as to the proposed compassion  
24       center applicant's compliance with local zoning laws for the physical  
25       address to be used by the proposed compassion center; and
    - 26       (2) Evidence the physical address of the proposed compassion center is not  
27       located within one thousand feet [604.80 meters] of a property line of a  
28       pre-existing public or private school;
  - 29       e. For a manufacturing facility applicant, a description of the enclosed, locked  
30       facility that would be used in the cultivation of marijuana, including steps that will

- 1                   be taken to ensure the marijuana cultivation and production is not visible from the  
2                   street or other public areas;
- 3           f.   The name, address, and date of birth of each principal officer and board member  
4                   of the proposed compassion center applicant and verification each officer and  
5                   board member has consented to a criminal history record check conducted under  
6                   section 12-60-24;
- 7           g.   For each of the proposed compassion center applicant's principal officers and  
8                   board members, a description of that individual's relevant experience, including  
9                   training or professional licensing related to medicine, pharmaceuticals, natural  
10                  treatments, botany, food science, food safety, and marijuana cultivation and  
11                  preparation and the individual's experience running a business entity;
- 12           h.   A description of proposed security and safety measures, which demonstrate  
13                  compliance with the security and safety requirements under section 19-24-24;
- 14           i.   An example of the design and security features of usable marijuana containers  
15                  which demonstrates compliance with section 19-24-20;
- 16           j.   A complete operations manual, which demonstrates compliance with section  
17                  19-24-26;
- 18           k.   A description of the plans for making usable marijuana available on an affordable  
19                  basis to registered qualifying patients enrolled in medical assistance or receiving  
20                  supplemental security income or social security disability insurance;
- 21           l.   A list of all individuals and business entities having direct or indirect authority over  
22                  the management or policies of the proposed compassion center applicant;
- 23           m.   A list of all individuals and business entities having an ownership interest in the  
24                  proposed compassion center applicant, whether direct or indirect, and whether  
25                  the interest is in profits, land, or building, including owners of any business entity  
26                  that owns all or part of the land or building; and
- 27           n.   The identity of any creditor holding a security interest in the proposed  
28                  compassion center premises.
- 29        2.   The department is not required to review an application submitted under this section  
30                  unless the department determines the application is complete. The criteria considered  
31                  by the department in reviewing an application must include:

- 1           a. The suitability of the proposed compassion center location, including compliance  
2           with any local zoning laws, and the geographic convenience to access  
3           compassion centers for registered qualifying patients and registered designated  
4           caregivers from throughout the state;
- 5           b. The character and relevant experience of the principal officers and board  
6           members, including training or professional licensing and business experience;
- 7           c. The applicant's plan for operations and services, including staffing and training  
8           plans, whether the applicant has sufficient capital to operate, and the applicant's  
9           ability to provide an adequate supply of usable marijuana to registered qualifying  
10          patients and registered designated caregivers;
- 11          d. The sufficiency of the applicant's plans for recordkeeping;
- 12          e. The sufficiency of the applicant's plans for safety, security, and the prevention of  
13          diversion, including the proposed location and security devices employed;
- 14          f. The applicant's plan for making usable marijuana available on an affordable basis  
15          to registered qualifying patients with limited financial resources;
- 16          g. The applicant's plan for safe and accurate packaging and labeling of usable  
17          marijuana; and
- 18          h. The applicant's plans for testing medical marijuana.
- 19          3. Following completion of the review under subsection 2, the department shall select the  
20          applicants eligible for registration under section 19-24-15.

21          **SECTION 15.** Section 19-24-15 of the North Dakota Century Code is created and enacted  
22 as follows:

23          **19-24-15. Compassion centers - Registration certification.**

- 24          1. Upon receipt of notification by the department a compassion center application is  
25          eligible for registration, the applicant shall submit the following additional items to the  
26          department to qualify for registration:
  - 27               a. A certification fee, made payable to the "North Dakota State Department of  
28               Health, Compassionate Care Program", in the amount established by the  
29               department, not to exceed one hundred thousand dollars;

- 1           b. A financial assurance or security bond to ensure the protection of the public  
2           health and safety and the environment in the event of abandonment, default, or  
3           other inability or unwillingness to meet the requirements of this chapter;  
4           c. The legal name, articles of incorporation, and bylaws of the proposed  
5           compassion center applicant;  
6           d. The physical address of the proposed compassion center; confirmation the  
7           information in the application regarding the physical location of the proposed  
8           compassion center has not changed, and if the information has changed the  
9           department shall determine whether the new information meets the requirements  
10           of this chapter; and a current certificate of occupancy, or equivalent document, to  
11           demonstrate compliance with the provisions of state and local fire code for the  
12           physical address of the proposed compassion center. It is not necessary for an  
13           applicant to resubmit any information provided in the initial application unless  
14           there has been a change in that information; and  
15           e. An update to previously submitted information, including information about  
16           compassion center agents and compliance with section 19-24-28.

- 17           2. If an applicant complies with subsection 1, the department shall issue the applicant a  
18           registration certificate.

19           **SECTION 16.** Section 19-24-16 of the North Dakota Century Code is created and enacted  
20 as follows:

21           **19-24-16. Compassion centers - Registration certificate - Renewal.**

- 22           1. A compassion center's registration expires two years after issuance. A compassion  
23           center may submit a renewal application at any time beginning ninety calendar days  
24           before the expiration of the registration certificate. A compassion center shall submit a  
25           renewal application a minimum of sixty calendar days before the expiration of the  
26           registration certificate to avoid suspension of the certificate.  
27           2. The department shall approve a compassion center's renewal application within sixty  
28           calendar days of submission if the following conditions are satisfied:  
29           a. The compassion center submits a renewal fee in an amount established by the  
30           department, not to exceed one hundred thousand dollars, which the department  
31           shall refund if the department rejects the renewal application;

- 1           b. The compassion center submits a complete renewal application;
- 2           c. The department has at no time suspended the compassion center's registration
- 3                 for violation of this chapter;
- 4           d. Inspections conducted under this chapter do not raise any serious concerns
- 5                 about the continued operation of the compassion center; and
- 6           e. The compassion center continues to meet all the requirements for the operation
- 7                 of a compassion center as set forth in this chapter.
- 8         3. If a compassion center does not meet the requirements for renewal, the department
- 9                 may not issue a registration certificate and the department shall provide the
- 10                 compassion center with written notice of the determination. If a compassion center's
- 11                 certificate is not renewed, the compassion center shall dispose all marijuana and
- 12                 usable marijuana in accordance with rules adopted under this chapter.

13         **SECTION 17.** Section 19-24-17 of the North Dakota Century Code is created and enacted  
14 as follows:

15         **19-24-17. Compassion centers - Registration certificate - Nontransferable.**

- 16         1. A registration certificate authorizing operation of a compassion center may not be
- 17                 transferred to another person. Unless a compassion center applies for and receives an
- 18                 amended registration certificate authorizing operation of a compassion center, the
- 19                 registration certificate is void if there is a change in ownership of the compassion
- 20                 center, there is a change in the authorized physical location of the compassion center,
- 21                 or if the compassion center discontinues operation.
- 22         2. A compassion center shall provide the department a written notice of any change
- 23                 described under this section at least sixty calendar days before the proposed effective
- 24                 date of the change. The department may waive all or part of the required advance
- 25                 notice to address emergent or emergency situations.

26         **SECTION 18.** Section 19-24-18 of the North Dakota Century Code is created and enacted  
27 as follows:

28         **19-24-18. Compassion centers - Bylaws.**

29         As part of a proposed compassion center's initial application, the applicant shall provide to  
30 the department a current copy of the applicant's bylaws. Upon receipt of a registration  
31 certificate, a compassion center shall maintain the bylaws in accordance with this chapter. In

1 addition to any other requirements, the bylaws must include the ownership structure of the  
2 compassion center, the composition of the board of directors, and provisions relative to the  
3 disposition of revenues and earnings.

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

6 **19-24-19. Compassion centers - Financial reports.**

7 A compassion center shall keep detailed financial reports of proceeds and expenses. A  
8 compassion center shall maintain all inventory, sales, and financial records in accordance with  
9 generally accepted accounting principles. The compassion center shall maintain for a period of  
10 seven years all reports and records required under this section. A compassion center shall allow  
11 the department, or an audit firm contracted by the department, access at all times to all books  
12 and records kept by the compassion center.

13 **SECTION 20.** Section 19-24-20 of the North Dakota Century Code is created and enacted  
14 as follows:

15 **19-24-20. Compassion centers - Dispensing.**

- 16 1. A compassion center shall comply with the dispensing requirements of this section.  
17 2. Design and security features of usable marijuana containers must be in accordance  
18 with rules adopted under this section.  
19 3. A manufacturing facility or agent of the manufacturing facility may not dispense  
20 marijuana, except the manufacturing facility or agent may dispense usable marijuana  
21 to a dispensary.  
22 4. A dispensary or agent of the dispensary may not dispense usable marijuana unless  
23 the dispensary first uses the verification system to confirm the registered qualifying  
24 patient or registered designated caregiver identification card is valid. A dispensary or  
25 agent of the dispensary:  
26 a. May not dispense usable marijuana to a person other than a registered qualifying  
27 patient or a registered qualifying patient's registered designated caregiver. If a  
28 registered qualifying patient is a minor:  
29 (1) The dispensary or agent of the dispensary may not dispense usable  
30 marijuana to a minor; and

1                   (2) The usable marijuana dispensed to the minor's designated caregiver must  
2                                   be in the form of pediatric medical marijuana oil.

3                   b. May not dispense to a registered qualifying patient or registered caregiver more  
4                                   than the allowable amount of usable marijuana for medical use and may not  
5                                   dispense an amount if it is known that amount would cause the recipient to  
6                                   possess more marijuana than is permitted as usable marijuana.

7                   **SECTION 21.** Section 19-24-21 of the North Dakota Century Code is created and enacted  
8 as follows:

9                   **19-24-21. Compassion centers - Inspections.**

- 10                  1. A compassion center is subject to random inspection by the department. During an  
11                                   inspection, the department may review the compassion center's records, including the  
12                                   compassion center's financial and dispensing records, which may track transactions  
13                                   according to registered qualifying patient and registered designated caregiver registry  
14                                   identification numbers.
- 15                  2. The department shall conduct inspections of compassion centers to ensure  
16                                   compliance with this chapter.
- 17                  3. The department shall conduct inspections of manufacturing facilities for the presence  
18                                   of pesticides, fungi, and molds.
- 19                  4. The department shall select a certified laboratory to conduct random quality sampling  
20                                   testing, in accordance with rules adopted under this chapter. A compassion center  
21                                   shall pay the cost of all random quality sampling testing.

22                  **SECTION 22.** Section 19-24-22 of the North Dakota Century Code is created and enacted  
23 as follows:

24                  **19-24-22. Compassion centers - Pesticide testing.**

25                  A manufacturing facility shall test marijuana at a manufacturing facility for the presence of  
26                                   pesticides. If a marijuana pesticide test or a random quality sampling test under section  
27                                   19-24-21 indicates the presence of a pesticide, the manufacturing facility shall report the test  
28                                   result immediately to the department and to the agriculture commissioner. Upon the order of the  
29                                   department or agriculture commissioner, the manufacturing facility immediately shall destroy all  
30                                   affected or contaminated marijuana inventory in accordance with rules adopted under this

1 chapter, and shall certify to the department and to the agriculture commissioner that all affected  
2 or contaminated marijuana inventory has been destroyed.

3 **SECTION 23.** Section 19-24-23 of the North Dakota Century Code is created and enacted  
4 as follows:

5 **19-24-23. Compassion centers - Marijuana plants.**

6 The department shall adopt rules establishing the maximum amount of marijuana a  
7 compassion center may possess. The rules may not allow a manufacturing facility to possess  
8 more than one thousand marijuana plants, regardless of the stage of growth, and may not allow  
9 a dispensary to possess more than three thousand five hundred ounces [99.22 kilograms] of  
10 usable marijuana at any time, regardless of formulation.

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

13 **19-24-24. Compassion centers - Security and safety measures.**

- 14 1. A compassion center shall implement appropriate security and safety measures to  
15 deter and prevent the unauthorized entrance to areas containing marijuana and the  
16 theft of marijuana. The measures must comply with this section and rules adopted  
17 under this chapter.
- 18 2. The compassion center shall keep access from outside the compassion center  
19 premises to the minimum required by local fire or building regulations and access must  
20 be controlled. The outside perimeter of the premises must be lighted as provided by  
21 rules adopted under this chapter and in a manner determined appropriate by local  
22 ordinance to ensure public safety and security. The compassion center shall limit to  
23 authorized personnel the entry to any areas in which marijuana is cultivated or  
24 manufactured or in which usable marijuana is held.
- 25 3. A compassion center must have a fully operational security alarm system at the  
26 authorized physical address which includes an electrical support backup system for  
27 the alarm system to provide suitable protection against theft and diversion. For the  
28 purpose of this subsection, a fully operational security alarm system must include:
  - 29 a. Immediate automatic or electronic notification sent directly to local or municipal  
30 law enforcement agencies to alert such entities of an unauthorized breach of  
31 security;

- 1           b. Immediate automatic or electronic notification sent directly to local or municipal  
2           public safety personnel to alert such entities of a loss of electrical support backup  
3           system; and
- 4           c. Protection against theft or diversion facilitated or hidden by tampering with  
5           computers or electronic records.
- 6           4. A compassion center shall conduct a maintenance inspection and test of the security  
7           alarm system for the compassion center's authorized location at intervals not to  
8           exceed thirty calendar days from the previous inspection and test. The compassion  
9           center shall make all necessary repairs in a timely manner to ensure the proper  
10           operation of the security alarm system.
- 11           5. In the event of a failure of the security alarm system due to loss of electrical support or  
12           mechanical malfunction, the compassion center shall:
- 13           a. Immediately upon discovery of the event, notify the department and local or  
14           municipal law enforcement by telephone; and
- 15           b. Provide alternative security measures approved by the department or close the  
16           compassion center until the security alarm system is restored to full operation.
- 17           6. The compassion center shall maintain documentation in an auditable form for:
- 18           a. All maintenance inspections and tests conducted under this section, and any  
19           servicing, modification, or upgrade performed on the security alarm system. The  
20           documentation must include the date of the action, a summary of each action  
21           performed, and the name, signature, and title of the individual who performed the  
22           actions;
- 23           b. An alarm activation or other event that requires response by public safety  
24           personnel; and
- 25           c. Any breach of security.
- 26           7. A compassion center shall use a video surveillance system that includes access to  
27           recorded surveillance and meets the requirements of this subsection and rules  
28           adopted under this chapter.
- 29           a. Video surveillance quality must be a minimum of seven hundred twenty  
30           progressive scan;
- 31           b. Video surveillance must record:

- 1           (1) All access areas;
- 2           (2) Any customer service and dispensing areas;
- 3           (3) Any growing areas and manufacturing areas, including processing and
- 4                 packaging areas; and
- 5           (4) All areas marijuana or usable marijuana is handled;
- 6           c. Video footage must be digitally recorded and the compassion center shall hold
- 7                 the recordings for at least one hundred twenty calendar days; and
- 8           d. The compassion center shall allow the department access to the video
- 9                 surveillance footage at all times. A search warrant or consent from the
- 10                compassion center is not required for the department to obtain access to video
- 11                surveillance footage.

12           **SECTION 25.** Section 19-24-25 of the North Dakota Century Code is created and enacted  
13 as follows:

14           **19-24-25. Compassion centers - Inventory controls.**

- 15           1. A compassion center shall comply with the inventory control requirements provided
- 16                 under this section and rules adopted under this chapter.
- 17           2. A manufacturing facility shall:
  - 18                 a. Employ a bar coding inventory control system to track batch, strain, and amounts
  - 19                     of marijuana and usable marijuana in inventory and to track amounts of usable
  - 20                     marijuana sold to dispensaries; and
  - 21                 b. Host a secure computer interface to transfer inventory amounts and dispensary
  - 22                     purchase information to the department.
- 23           3. A dispensary shall:
  - 24                 a. Employ a bar coding inventory control system to track batch, strain, and amounts
  - 25                     of usable marijuana in inventory and to track amounts sold to registered
  - 26                     qualifying patients and registered designated caregivers; and
  - 27                 b. Host a secure computer interface to transfer inventory amounts and registered
  - 28                     qualifying patient and registered designated caregiver purchase information to
  - 29                     the department.

- 1       4. A compassion center shall store the compassion center's marijuana and usable  
2           marijuana in an enclosed locked facility with adequate security, in accordance with  
3           rules adopted under this chapter.
- 4       5. A compassion center shall:
  - 5           a. Conduct an initial comprehensive inventory of any marijuana and usable  
6           marijuana at the authorized location before the date the compassion center first  
7           sells or dispenses usable marijuana;
  - 8           b. Conduct a comprehensive inventory at intervals not to exceed twelve months  
9           from the date of the previous comprehensive inventory;
  - 10          c. Conduct a monthly inventory review of any marijuana and usable marijuana at  
11          the authorized location; and
  - 12          d. Conduct each inventory in a manner that includes two individuals. One of the two  
13          individuals may not be involved in the manufacturing of marijuana, the dispensing  
14          of usable marijuana, or the preparation of the compassion center financial  
15          records.
- 16       6. If an inventory results in the identification of a discrepancy, the compassion center  
17       shall notify the department and appropriate law enforcement authorities immediately.
- 18       7. Inventory documentation must include:
  - 19           a. The date of the inventory;
  - 20           b. A summary of the inventory findings;
  - 21           c. The name, signature, and title of the individuals who conducted the inventory and  
22           an attestation by both individuals as to the accuracy of the inventory; and
  - 23           d. The name, signature, and title of the individual who conducted the independent  
24           review.

25       **SECTION 26.** Section 19-24-26 of the North Dakota Century Code is created and enacted  
26 as follows:

27       **19-24-26. Compassion centers - Operation manual.**

- 28       1. A compassion center shall maintain a current copy of the compassion center's  
29       operating manual that meets the requirements of this section and rules adopted under  
30       this chapter. The operating manual must include:

- 1           a. Procedures for the oversight of the compassion center, including documentation
- 2           of the reporting and management structure of the compassion center.
- 3           b. Procedures to ensure accurate recordkeeping, including protocols to ensure
- 4           quantities purchased do not suggest redistribution.
- 5           c. Employee security policies.
- 6           d. Safety and security procedures, including a disaster plan with procedures to be
- 7           followed in case of fire or other emergency.
- 8           e. Personal safety and crime prevention techniques.
- 9           f. An overview of inventory control provisions consistent with section 19-24-25.
- 10          g. A job description or employment contract developed for all employees and a
- 11          volunteer agreement for all volunteers which includes duties, responsibilities,
- 12          authority, qualification, and supervision.
- 13          h. The compassion center's alcohol-free and drug-free workplace policy;
- 14          i. A description of the usable marijuana packaging the compassion center utilizes,
- 15          in accordance with section 19-24-20 and rules adopted under this chapter.
- 16          j. A description of the documentation required to accompany a registered
- 17          compassion center agent while transporting usable marijuana on behalf of the
- 18          compassion center. The documentation must be in accordance with any rules
- 19          adopted under this chapter.
- 20         2. A manufacturing facility's operating manual must include detailed procedures
- 21         regarding the growing, manufacturing, and testing of marijuana and usable marijuana.
- 22         The procedures must include a description of how the marijuana will be sampled and
- 23         tested in accordance with rules adopted under this chapter.
- 24         3. A dispensary's operating manual must include:
- 25           a. Procedures for safely dispensing usable marijuana to a registered qualifying
- 26           patient and registered designated caregiver;
- 27           b. A distribution plan to provide registered qualifying patients and designated
- 28           registered caregivers access to usable marijuana;
- 29           c. A description of the dispensary's outreach activities to registered qualifying
- 30           patients and registered designated caregivers which must include:

- 1           (1) Providing each new registered qualifying patient who visits the dispensary
- 2                     with a department-designed document of frequently asked questions which
- 3                     explains the state and federal law limitations on the right to use medical
- 4                     marijuana;
- 5           (2) Providing information regarding forms of usable marijuana provided by the
- 6                     dispensary;
- 7           (3) Providing information regarding potential side effects of marijuana; and
- 8           (4) A plan on how the outreach activities will be implemented.

9           **SECTION 27.** Section 19-24-27 of the North Dakota Century Code is created and enacted  
10 as follows:

11           **19-24-27. Compassion centers - Training curriculum.**

- 12           1. A compassion center shall develop, implement, and maintain on the premises an
- 13                     onsite training curriculum or shall enter contractual relationships with outside
- 14                     resources capable of meeting compassion center agent training needs.
- 15           2. A compassion center shall ensure each compassion center agent receives training
- 16                     that includes:
  - 17                     a. Education regarding professional conduct, ethics, and state and federal laws
  - 18                     regarding patient confidentiality;
  - 19                     b. Informational developments in the field of medical use of marijuana;
  - 20                     c. All safety and security measures required as part of section 19-24-24;
  - 21                     d. Specific procedural instructions for responding to an emergency, including
  - 22                     robbery or violent accident; and
  - 23                     e. The compassion center's operations manual and all requirements related to
  - 24                     recordkeeping.

25           **SECTION 28.** Section 19-24-28 of the North Dakota Century Code is created and enacted  
26 as follows:

27           **19-24-28. Compassion centers - Records - Agents.**

- 28           1. Each compassion center shall maintain:
  - 29                     a. A personnel record for each compassion center agent for a period of at least
  - 30                     three years following termination of the individual's affiliation with the compassion
  - 31                     center. The personnel record must include:

- 1           (1) An application for employment or to volunteer;
- 2           (2) A record of each disciplinary action;
- 3           (3) Documentation of completion of all required training. Documentation must  
4           include a signed statement from the agent indicating the date, time, and  
5           place of the training, the topics discussed, and the name and title of  
6           presenters; and
- 7           (4) Documentation of the agent's registry identification card.
- 8        b. A record of the source of funds that will be used to open or maintain the  
9           compassion center, including the name, address, and date of birth of any  
10           investor.
- 11       c. A record of each instance in which a current or prospective board member who  
12           managed or served on the board of a business or not-for-profit entity and in the  
13           course of that service was convicted, fined, or censured or had a registration or  
14           license suspended or revoked in any administrative or judicial proceeding.
- 15       2. A compassion center agent must hold a valid registry identification card. Upon  
16           issuance of a compassion center registry certificate, the department shall issue a  
17           registry identification card to each qualified compassion center agent associated with  
18           the compassion center. To qualify to be issued a registry identification card, each  
19           compassion center agent shall submit the following registry identification card  
20           application material to the department:
- 21       a. A certified copy of a birth record verifying the agent is at least twenty-one years of  
22           age;
- 23       b. A photographic copy of the agent's North Dakota identification verifying North  
24           Dakota residence. The agent shall make the license or identification card  
25           available for inspection and verification by the department;
- 26       c. A recent two-by-two inch [5.08 by 5.08 centimeter] photograph of the agent;
- 27       d. A written and signed statement from an officer or executive staff member of the  
28           compassion center stating the applicant is associated with the compassion center  
29           and the capacity of the association;
- 30       e. The name, address, and telephone number of the agent;
- 31       f. The agent's social security number;

- 1           g. The name, address, and telephone number of the compassion center with which  
2           the agent is associated;
- 3           h. The agent's signature and the date; and
- 4           i. A nonrefundable application or renewal fee established by the department in an  
5           amount not to exceed three hundred dollars in the form of a check made out to  
6           "North Dakota State Department of Health, Compassionate Care Program".
- 7        3. Each compassion center agent shall consent to a criminal history record check  
8        conducted under section 12-60-24 to demonstrate compliance with the eligibility  
9        requirements.
- 10       a. All applicable fees associated with the required criminal history record checks  
11       must be paid by the compassion center or the agent.
- 12       b. A criminal history record check must be performed upon initial application and  
13       biennially upon renewal. A compassion center agent shall consent to a criminal  
14       history record check at any time the department determines necessary.
- 15       c. An Individual convicted of a drug-related misdemeanor offense within the five-  
16       year period before the date of application or a felony offense is prohibited from  
17       being a compassion center agent.
- 18       4. The department may conduct an onsite assessment to verify information in a  
19       compassion center agent application and the accompanying documentation as  
20       authorized under section 19-24-09.
- 21       5. The department shall notify the compassion center in writing of the purpose for  
22       denying a compassion center agent application for a registry identification card. The  
23       department shall deny an application if the agent fails to meet the registration  
24       requirements or to provide the information required, or if the department determines  
25       the information provided is false. Denial of an application or renewal is considered a  
26       final department action, subject to judicial review. Jurisdiction and venue for judicial  
27       review are vested in the Burleigh County district court.
- 28       6. The department shall issue a compassion center agent a registry identification card  
29       within thirty calendar days of approval of an application.

- 1        7. A compassion center agent with a registry identification card shall notify the  
2        department of any of the following within ten calendar days of the change, in a manner  
3        prescribed by the department:
- 4        a. A change in the cardholder's name or address; and  
5        b. Knowledge of a change that would render the compassion center agent no longer  
6        eligible to be a cardholder.
- 7        8. If a compassion center agent loses the agent's registry identification card, that agent  
8        shall notify the department in writing within twenty-four hours of becoming aware the  
9        card has been lost.
- 10       9. If a cardholder notifies the department of items listed in this section but the nature of  
11       the item reported results in the cardholder remaining eligible, the department shall  
12       issue the cardholder a new registry identification card with a new random ten-digit  
13       alphanumeric identification number within twenty calendar days of approving the  
14       updated information and the cardholder shall pay a twenty-five dollar fee. If a  
15       cardholder notifies the department of an item that results in the cardholder being  
16       ineligible, the registration card immediately becomes void.
- 17       10. A compassion center shall notify the department in writing within two calendar days of  
18       the date a compassion center agent ceases to work for or be associated with the  
19       compassion center. That individual's registry identification card becomes void.
- 20       11. The registry identification card of a compassion center agent expires one year after  
21       issuance or upon the termination of the compassion center's registration certificate,  
22       whichever occurs first. A compassion center agent shall renew a registry identification  
23       card by submitting a complete renewal application no less than forty-five calendar  
24       days before the expiration date of the existing registry identification card to prevent  
25       interruption of possession of a valid registry identification card.

26       **SECTION 29.** Section 19-24-29 of the North Dakota Century Code is created and enacted  
27 as follows:

28       **19-24-29. Cardholders - Compassion centers - Revocation.**

- 29       1. The department may suspend or revoke a cardholder's registry identification card or a  
30       compassion center's registration certificate for a material misstatement by an applicant  
31       in an application or renewal.

- 1       2. The department may suspend or revoke a registry identification card or registration  
2       certificate for a violation of this chapter or rules adopted under this chapter.
- 3       3. If a compassion center agent or a compassion center sells or otherwise transfers  
4       marijuana or usable marijuana to a person not authorized to possess marijuana under  
5       this chapter, the department shall revoke the cardholder's registry identification card or  
6       the compassion center's registration certificate, or both. If the department revokes a  
7       cardholder's registry identification card under this subsection, the cardholder is  
8       disqualified from further participation under this chapter.
- 9       4. The department shall provide written notice of suspension or revocation of a registry  
10      identification card or registration certificate.
- 11      a. A suspension may not be for a period longer than six months.
- 12      b. A manufacturing facility may continue to cultivate and possess marijuana during a  
13      suspension, but may not dispense, transfer, or sell usable marijuana.
- 14      c. A dispensary may continue to possess usable marijuana during a suspension,  
15      but may not purchase, dispense, transfer, or sell usable marijuana.
- 16      d. Revocation is a final decision of the department and may be subject to judicial  
17      review. Jurisdiction and venue of an appeal is vested in Burleigh County district  
18      court.

19       **SECTION 30.** Section 19-24-30 of the North Dakota Century Code is created and enacted  
20 as follows:

21       **19-24-30. Violations - Penalties.**

- 22      1. A cardholder or compassion center that fails to provide a notice as required under this  
23      chapter shall pay to the department a fee in the amount of one hundred fifty dollars.
- 24      2. In addition to any other penalty applicable in law, a manufacturing facility or a  
25      manufacturing facility agent is guilty of a class C felony for intentionally selling or  
26      otherwise transferring marijuana in any form, in exchange for anything of value, to a  
27      person other than a dispensary or for internationally selling or otherwise transferring  
28      marijuana in any form other than usable marijuana, in exchange for anything of value  
29      to a dispensary. A person convicted under this subsection may not continue to be  
30      affiliated with a compassion center and is disqualified from further participation under  
31      this chapter.

- 1       3. In addition to any other penalty applicable in law, a dispensary or a dispensary agent  
2       is guilty of a class C felony for intentionally selling or otherwise transferring usable  
3       marijuana, in exchange for anything of value, to a person other than a registered  
4       qualifying patient or a registered designated caregiver, to a registered qualifying  
5       patient who is a minor, or in a form not allowed under this chapter. A person convicted  
6       under this subsection may not continue to be affiliated with a compassion center and  
7       is disqualified from further participation under this chapter.
- 8       4. In addition to any other penalty applicable in law, a dispensary or a dispensary agent  
9       is guilty of a class C felony for intentionally selling or otherwise transferring usable  
10       marijuana, in exchange for anything of value, in a form other than pediatric medical  
11       marijuana oil, to a registered designated caregiver, for use by a registered qualifying  
12       patient who is a minor. A person convicted under this subsection may not continue to  
13       be affiliated with a compassion center and is disqualified from further participation  
14       under this chapter.
- 15       5. A compassion center or compassion center agent that knowingly submits false records  
16       or documentation required by the department to certify a compassion center under this  
17       chapter is guilty of a class C felony. A person convicted under this subsection may not  
18       continue to be affiliated with a compassion center and is disqualified from further  
19       participation under this chapter.
- 20       6. A compassion center must be fined up to one thousand dollars for a violation of this  
21       chapter if no penalty has been specified. This penalty is in addition to any other  
22       penalties applicable in law.
- 23       7. In addition to any other penalty applicable in law, a registered qualifying patient who  
24       intentionally sells or otherwise transfers usable marijuana, in exchange for anything of  
25       value, to another person, is guilty of a class C felony. An individual convicted under  
26       this subsection is disqualified from further participation under this chapter.
- 27       8. In addition to any other penalty applicable in law, a registered designated caregiver  
28       who intentionally sells or otherwise transfers usable marijuana, in exchange for  
29       anything of value, to a person other than a registered qualifying patient to which the  
30       caregiver is associated with registration, is guilty of a class C felony. A person

1 convicted under this subsection is disqualified from further participation under this  
2 chapter.

3 9. An individual who knowingly submits false records or documentation required by the  
4 department to receive a registration card under this chapter is guilty of a class C  
5 felony. A person convicted under this subsection may not continue to be affiliated with  
6 a compassion center and is disqualified from further participation under this chapter.

7 10. An individual who intentionally makes a false statement to a law enforcement official  
8 about any fact or circumstance relating to the medical use of marijuana to avoid arrest  
9 or prosecution is guilty of a class B misdemeanor. This penalty is in addition to any  
10 other penalty that may apply for making a false statement or for the possession,  
11 cultivation, or sale of marijuana not protected by this chapter. If an individual convicted  
12 of violating this section is a cardholder, the individual is disqualified from further  
13 participation under this chapter.

14 11. A physician who holds a financial interest in a compassion center may not knowingly  
15 refer a patient to a compassion center or to a registered designated caregiver,  
16 advertise in a compassion center, or issue a written certification. A physician who  
17 violates this subsection must be fined up to one thousand dollars.

18 **SECTION 31.** Section 19-24-31 of the North Dakota Century Code is created and enacted  
19 as follows:

20 **19-24-31. Protections.**

21 Except as provided in sections 19-24-30 and 19-24-32:

22 1. A registered qualifying patient is not subject to arrest or prosecution for the acquisition,  
23 use, or possession of usable marijuana under this chapter.

24 2. A registered designated caregiver is not subject to arrest or prosecution:

25 a. For assisting a registered qualifying patient with the acquisition, use, or  
26 possession of usable marijuana under this chapter, if the registered designated  
27 caregiver is connected to the registered qualifying patient through the  
28 department's registration process.

29 b. For receiving compensation for costs associated with assisting a registered  
30 qualifying patient with the acquisition, use, or possession of usable marijuana

1                   under this chapter, if the registered designated caregiver is connected to the  
2                   registered qualifying patient through the department's registration process.

3           3. It is presumed a registered qualifying patient is engaged in, or a registered designated  
4           caregiver is assisting with, the acquisition, use, or possession in accordance with this  
5           chapter if the registered qualifying patient or registered designated caregiver is in  
6           possession of a valid registry identification card and is in possession of usable  
7           marijuana in an amount that does not exceed what is authorized under this chapter.

8           This presumption may be rebutted by evidence the conduct related to acquisition, use,  
9           or possession of usable marijuana was not for the purpose of treating or alleviating the  
10          registered qualifying patient's debilitating medical condition under this chapter.

11          4. A person is not subject to arrest or prosecution, for being in the presence or vicinity of  
12          the medical use of marijuana under this chapter.

13          5. A manufacturing facility is not subject to prosecution, search or inspection, or seizure,  
14          except by the department or a department designee under this chapter for acting  
15          under this chapter to:

16          a. Acquire, possess, cultivate, or transport marijuana for purposes of manufacturing  
17          usable marijuana;

18          b. Transfer, transport, supply, or sell usable marijuana to a dispensary; or

19          c. Transfer marijuana and usable marijuana to and from a department designee or  
20          manufacturing facility in accordance with this chapter.

21          6. A dispensary is not subject to prosecution, search or inspection, or seizure, except by  
22          the department or a department designee under this chapter for acting under this  
23          chapter to:

24          a. Acquire, possess, deliver, transfer, transport, supply, sell, or dispense usable  
25          marijuana or related supplies and educational materials to registered qualifying  
26          patients and designated caregivers; or

27          b. Transfer usable marijuana to and from a department designee or related  
28          marijuana facility in accordance with this chapter.

29          7. A registered compassion center agent is not subject to arrest or prosecution for  
30          working or volunteering for a compassion center if the action performed by the

1 compassion center agent on behalf of the compassion center is authorized under this  
2 chapter.

3 8. The medical use of marijuana by a registered cardholder or the manufacturing and  
4 dispensing of marijuana by a compassion center is lawful if in accordance with this  
5 chapter.

6 9. A person in possession of medical marijuana waste in the course of transporting or  
7 disposing of the waste under this chapter and rules adopted under this chapter may  
8 not be subject to arrest or prosecution for that possession.

9 10. A person in possession of marijuana or medical marijuana in the course of performing  
10 laboratory tests as provided under this chapter and rules adopted under this chapter  
11 may not be subject to arrest or prosecution for that possession.

12 **SECTION 32.** Section 19-24-32 of the North Dakota Century Code is created and enacted  
13 as follows:

14 **19-24-32. Limitation.**

15 This chapter does not authorize a person to engage in, and does not prevent the imposition  
16 of any civil liability or criminal liability or other penalties for engaging in the following conduct:

17 1. Undertaking an activity under the influence of marijuana if doing so would constitute  
18 negligence or professional malpractice.

19 2. Possessing or consuming usable marijuana:

20 a. On a school bus or school van that is used for school purposes;

21 b. On the grounds of any public or private school;

22 c. In any correctional facility; or

23 d. On the grounds of a child care facility or home daycare.

24 3. Undertaking any activity prohibited by sections 23-12-09, 23-12-10, 23-12-10.2,  
25 23-12-10.4, 23-12-10.5, or 23-12-11.

26 4. Vaporizing usable marijuana under this chapter if the vapor would be inhaled by a  
27 nonpatient minor child.

28 5. Operating, navigating, or being in actual physical control of a motor vehicle, aircraft,  
29 train, or motorboat, while under the influence of marijuana. However, a registered  
30 qualifying patient may not be considered to be under the influence of marijuana solely

1           because of the presence of metabolites or components of marijuana that appear in  
2           insufficient concentration to cause impairment.

3           **SECTION 33.** Section 19-24-33 of the North Dakota Century Code is created and enacted  
4 as follows:

5           **19-24-33. Acts not required - Acts not prohibited.**

6           1. This chapter does not require:

7           a. A government medical assistance program or private insurer to reimburse a  
8           person for costs associated with the medical use of marijuana;

9           b. A person in lawful possession of property to allow a guest, client, customer, or  
10           other visitor to possess or consume usable marijuana on or in that property; or

11           c. A landlord to allow the cultivation of marijuana for medical use on rental property.

12           2. This chapter does not prohibit an employer from disciplining an employee for  
13           possessing or consuming usable marijuana in the workplace or for working while  
14           under the influence of marijuana.

15           **SECTION 34.** Section 19-24-34 of the North Dakota Century Code is created and enacted  
16 as follows:

17           **19-24-34. Facility restrictions.**

18           1. A basic care facility, nursing facility, assisted living facility, adult day care facility, or  
19           adult foster care home licensed in the state may adopt reasonable restrictions on the  
20           medical use of marijuana by residents or individuals receiving inpatient services,  
21           including:

22           a. The facility will not store or maintain the registered qualifying patient's supply of  
23           usable marijuana.

24           b. The facility, caregivers, or hospice agencies serving the facility's residents are not  
25           responsible for providing the usable marijuana for registered qualifying patients  
26           or assisting with the medical use of marijuana.

27           c. Usable marijuana can be consumed by a method other than vaporizing.

28           d. Consumption of usable marijuana is limited to a place specified by the facility.

29           2. A facility listed in subsection 1 may not unreasonably limit a registered qualifying  
30           patient's access to or use of marijuana as authorized under this chapter unless failing

1           to do so would cause the facility to lose a monetary or licensing-related benefit under  
2           federal law or regulations.

3           **SECTION 35.** Section 19-24-35 of the North Dakota Century Code is created and enacted  
4 as follows:

5           **19-24-35. Registry identification cards.**

6           1. Registry identification cards must contain:

7           a. The name of the cardholder;

8           b. A designation as to whether the cardholder is a qualifying patient, designated  
9           caregiver, or compassion center agent;

10          c. A designation as to whether a qualifying patient is a minor;

11          d. The date of issuance and expiration date;

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

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

16          g. A photograph of the cardholder; and

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

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

20          3. If a physician states in the written certification that the qualifying patient would benefit  
21          from the medical use of marijuana until a specified date, less than one year, the  
22          registry identification card expires on that date.

23          **SECTION 36.** Section 19-24-36 of the North Dakota Century Code is created and enacted  
24 as follows:

25          **19-24-36. Verification system.**

26          1. The department shall maintain a confidential list of cardholders and each cardholder's  
27          address, phone number, and registry identification number.

28          2. The department shall establish a secure verification system. The verification system  
29          must allow law enforcement personnel, physicians, pharmacists, compassion centers,  
30          and compassion center agents twenty-four-hour access to enter a registry

- 1           identification number to determine whether the number corresponds with a current  
2           valid registry identification card. The system may disclose:  
3           a.   Whether an identification card is valid;  
4           b.   The name of the cardholder;  
5           c.   Whether the cardholder is a registered qualifying patient, registered designated  
6           caregiver, or registered compassion center agent;  
7           d.   Whether a registered qualifying patient is a minor; and  
8           e.   The registry identification number of any affiliated registered qualifying patient,  
9           registered designated caregiver, or compassion center.

10           **SECTION 37.** Section 19-24-37 of the North Dakota Century Code is created and enacted  
11 as follows:

12           **19-24-37. Confidentiality.**

- 13           1.   Data in a registration application or renewal and supporting data submitted by a  
14           qualifying patient, designated caregiver, compassion center, proposed compassion  
15           center, or compassion center agent, including data on designated caregivers and  
16           physicians, is confidential.  
17           2.   Data kept or maintained by the department may be disclosed for:  
18           a.   The verification of registration certificates and registry identification cards under  
19           this chapter;  
20           b.   Submission of the annual report required by this chapter;  
21           c.   Submission to the North Dakota prescription drug monitoring program;  
22           d.   Notification of state or local law enforcement of apparent criminal violation of this  
23           chapter;  
24           e.   Notification of state and local law enforcement about falsified or fraudulent  
25           information submitted for purposes of obtaining or renewing a registry  
26           identification card; or  
27           f.   Notification of the North Dakota board of medicine if there is a reason to believe a  
28           physician provided a written certification and the department has reason to  
29           believe the physician otherwise violated this chapter.

- 1       3. Upon a cardholder's written request, the department may confirm the cardholder's  
2           status as a registered qualifying patient or a registered designated caregiver to a third  
3           party, such as a landlord, school, medical professional, or court.

4       **SECTION 38.** Section 19-24-38 of the North Dakota Century Code is created and enacted  
5 as follows:

6       **19-24-38. Advisory board.**

- 7       1. The governor shall appoint four members to serve on an advisory board that:  
8           a. Shall advise the department in implementation of the compassionate care  
9           program.  
10          b. May receive reports from the department on the status and activities of the  
11          compassionate care program.  
12          c. May provide recommendations to the department and the legislative  
13          management on the compassionate care program.  
14       2. The state health officer shall serve as an ex officio voting member and as chairman of  
15          the advisory board.

16       **SECTION 39.** Section 19-24-39 of the North Dakota Century Code is created and enacted  
17 as follows:

18       **19-24-39. Annual report - Report to legislative management.**

19       Annually, the department shall submit to the legislative management a report that does not  
20 disclose any identifying information about registered cardholders, compassion centers, or  
21 physicians, but contains the following information:

- 22       1. The number of registry identification card applications and renewals;  
23       2. The number of registered qualifying patients and registered designated caregivers;  
24       3. The nature of the debilitating medical conditions of the registered qualifying patients;  
25       4. The number of registry identification cards revoked;  
26       5. The number of physicians providing written certifications for qualifying patients;  
27       6. The number of compassionate care centers; and  
28       7. Any expenses incurred and revenues generated by the department from the  
29          compassionate care program.

30       **SECTION 40.** Section 19-24-40 of the North Dakota Century Code is created and enacted  
31 as follows:

1        **19-24-40. Rules.**

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

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

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

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

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

17       **19-24-41. Compassionate care fund - Private donations - Continuing appropriation.**

18       1. The compassionate care fund is established in the state treasury. The department  
19       shall deposit in the fund all fees collected and private donations received under this  
20       chapter. The department shall administer the fund. Moneys in the fund are  
21       appropriated to the department on a continuing basis for use in administering this  
22       chapter.

23       2. The state health officer may accept and shall deposit in the fund private grants, gifts,  
24       donations, contributions, and devises to assist in carrying out the provisions of this  
25       chapter.

26       **SECTION 42.** Section 19-24-42 of the North Dakota Century Code is created and enacted  
27 as follows:

28       **19-24-42. Funding.**

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

31       **SECTION 43. EMERGENCY.** This Act is declared to be an emergency measure.