

HOUSE BILL NO. 1283

Introduced by

Representatives Skroch, Becker, Ertelt, Fegley, Johnston, Jones, Roers Jones, M. Ruby,
Vetter

Senator O. Larsen

1 A BILL for an Act to ~~create and enact a new section to chapter 19-24.1 of the North Dakota~~
2 ~~Century Code, relating to medical marijuana written certifications; and to~~ amend and reenact
3 ~~subsections 3 and 40 of~~ section 19-24.1-01, subsection 2 of section 19-24.1-03, and
4 subsection 3 of section 19-24.1-11 of the North Dakota Century Code, relating to access to
5 medical marijuana; and to declare an emergency.

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

7 ~~SECTION 1. AMENDMENT.~~ Subsection 3 of section 19-24.1-01 of the North Dakota
8 ~~Century Code is amended and reenacted as follows:~~

9 ~~3. "Bona fide provider-patient relationship" means a treatment or counseling relationship~~
10 ~~between a health care provider and patient in which all the following are present:~~

11 ~~a. The health care provider has reviewed the patient's relevant medical records~~
12 ~~and completed a full assessment of the patient's medical history and current~~
13 ~~medical condition, including a relevant, in-person, medical evaluation of the~~
14 ~~patient.~~

15 ~~b. The health care provider has created and maintained records of the patient's~~
16 ~~condition in accordance with medically accepted standards.~~

17 ~~c. The patient is under the health care provider's continued care for the debilitating~~
18 ~~medical condition that qualifies the patient for the medical use of marijuana.~~

19 ~~d. The health care provider has a reasonable expectation that provider will continue~~
20 ~~to provide followup care to the patient to monitor the medical use of marijuana as~~
21 ~~a treatment of the patient's debilitating medical condition.~~

22 ~~e. The relationship is not for the sole purpose of providing written certification for the~~
23 ~~medical use of marijuana.~~

1 ~~— **SECTION 2. AMENDMENT.** Subsection 40 of section 19-24.1-01 of the North Dakota-~~
2 ~~Century Code is amended and reenacted as follows:~~

3 ~~— 40. — "Written certification" means a form established by the department which is executed,~~
4 ~~dated, and signed by a health care provider within ninety calendar days of the date of~~
5 ~~application, stating that in the health care provider's professional opinion the patient is~~
6 ~~likely to receive therapeutic or palliative benefit from the medical use of marijuana to~~
7 ~~treat or alleviate the patient's~~the patient has a debilitating medical condition. ~~A health-~~
8 ~~care provider may authorize the use of dried leaves or flowers of the plant of the~~
9 ~~genus cannabis in a combustible delivery form to treat or alleviate the patient's~~
10 ~~debilitating medical condition. A written certification may not be made except in the~~
11 ~~course of a bona fide provider-patient relationship.~~

12 **SECTION 1. AMENDMENT.** Section 19-24.1-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **19-24.1-01. Definitions.**

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

- 16 1. "Advanced practice registered nurse" means an advanced practice registered nurse
17 defined under section 43-12.1-02.
- 18 2. "Allowable amount of usable marijuana" means the amount of usable marijuana a
19 registered qualifying patient or registered designated caregiver may purchase in a
20 thirty-day period under this chapter.
 - 21 a. During a thirty-day period, a registered qualifying patient may not purchase or
22 have purchased by a registered designated caregiver more than two and one-half
23 ounces [70.87 grams] of dried leaves or flowers of the plant of genus cannabis in
24 a combustible delivery form. At any time a registered qualifying patient, or a
25 registered designated caregiver on behalf of a registered qualifying patient, may
26 not possess more than three ounces [85.05 grams] of dried leaves or flowers of
27 the plant of the genus cannabis in a combustible delivery form.
 - 28 b. A registered qualifying patient may not purchase or have purchased by a
29 registered designated caregiver more than the maximum concentration or
30 amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum
31 concentration or amount of tetrahydrocannabinol permitted in a thirty-day period

- 1 for a cannabinoid concentrate or medical cannabinoid product, or the cumulative
2 total of both, is two thousand milligrams.
- 3 3. "Bona fide provider-patient relationship" means a treatment or counseling relationship
4 between a health care provider and patient in which all the following are present:
- 5 a. The health care provider has reviewed the patient's relevant medical records and
6 completed a full assessment of the patient's medical history and current medical
7 condition, including a relevant, in-person, medical evaluation of the patient.
- 8 b. The health care provider has created and maintained records of the patient's
9 condition in accordance with medically accepted standards.
- 10 c. The patient is under the health care provider's continued care for the debilitating
11 medical condition that qualifies the patient for the medical use of marijuana.
- 12 d. The health care provider has a reasonable expectation that provider will continue
13 to provide followup care to the patient to monitor the medical use of marijuana as
14 a treatment of the patient's debilitating medical condition.
- 15 e. The relationship is not for the sole purpose of providing written certification for the
16 medical use of marijuana.
- 17 4. "Cannabinoid" means a chemical compound that is one of the active constituents of
18 marijuana.
- 19 5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin,
20 which encloses a dose of a cannabinoid product or a cannabinoid concentrate
21 intended for consumption. The maximum concentration of amount of
22 tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty
23 milligrams.
- 24 6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating
25 cannabinoids from marijuana by a mechanical, chemical, or other process.
- 26 7. "Cannabinoid edible product" means a food or potable liquid into which a cannabinoid
27 concentrate or the dried leaves or flowers of the plant of the genus cannabis is
28 incorporated.
- 29 8. "Cannabinoid tincture" means a solution of alcohol, cannabinoid concentrate, and
30 other ingredients intended for consumption.

- 1 9. "Cannabinoid topical" means a cannabinoid product intended to be applied to the skin
- 2 or hair. The maximum concentration or amount of tetrahydrocannabinol permitted in a
- 3 cannabinoid topical is six percent.
- 4 10. "Cannabinoid transdermal patch" means an adhesive substance applied to the skin
- 5 which contains a cannabinoid product or cannabinoid concentrate for absorption into
- 6 the bloodstream. The maximum concentration or amount of tetrahydrocannabinol
- 7 permitted in a serving of a cannabinoid transdermal patch is fifty milligrams.
- 8 11. "Cardholder" means a qualifying patient, designated caregiver, or compassion center
- 9 agent who has been issued and possesses a valid registry identification card.
- 10 12. "Compassion center" means a manufacturing facility or dispensary.
- 11 13. "Compassion center agent" means a principal officer, board member, member,
- 12 manager, governor, employee, volunteer, or agent of a compassion center.
- 13 14. "Contaminated" means made impure or inferior by extraneous substances.
- 14 15. "Debilitating medical condition" means one of the following:
- 15 a. Cancer;
- 16 b. Positive status for human immunodeficiency virus;
- 17 c. Acquired immune deficiency syndrome;
- 18 d. Decompensated cirrhosis caused by hepatitis C;
- 19 e. Amyotrophic lateral sclerosis;
- 20 f. Posttraumatic stress disorder;
- 21 g. Agitation of Alzheimer's disease or related dementia;
- 22 h. Crohn's disease;
- 23 i. Fibromyalgia;
- 24 j. Spinal stenosis or chronic back pain, including neuropathy or damage to the
- 25 nervous tissue of the spinal cord with objective neurological indication of
- 26 intractable spasticity;
- 27 k. Glaucoma;
- 28 l. Epilepsy;
- 29 m. A terminal illness; and
- 30 n. A chronic or debilitating disease or medical condition or treatment for such
- 31 disease or medical condition that produces one or more of the following:

- 1 (1) Cachexia or wasting syndrome;
- 2 (2) Severe debilitating pain that has not responded to previously prescribed
- 3 medication or surgical measures for more than three months or for which
- 4 other treatment options produced serious side effects;
- 5 (3) Intractable nausea;
- 6 (4) Seizures; or
- 7 (5) Severe and persistent muscle spasms, including those characteristic of
- 8 multiple sclerosis.
- 9 16. "Department" means the state department of health.
- 10 17. "Designated caregiver" means an individual who agrees to manage the well-being of a
- 11 registered qualifying patient with respect to the qualifying patient's medical use of
- 12 marijuana.
- 13 18. "Dispensary" means an entity registered by the department as a compassion center
- 14 authorized to dispense usable marijuana to a registered qualifying patient and a
- 15 registered designated caregiver.
- 16 19. "Enclosed, locked facility" means a closet, room, greenhouse, building, or other
- 17 enclosed area equipped with locks or other security devices that permit access limited
- 18 to individuals authorized under this chapter or rules adopted under this chapter.
- 19 20. "Health care provider" means a physician, a physician assistant, or an advanced
- 20 practice registered nurse.
- 21 21. "Manufacturing facility" means an entity registered by the department as a compassion
- 22 center authorized to produce and process and to sell usable marijuana to a
- 23 dispensary.
- 24 22. "Marijuana" means all parts of the plant of the genus cannabis; the seeds of the plant;
- 25 the resin extracted from any part of the plant; and every compound, manufacture, salt,
- 26 derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin
- 27 extracted from any part of the plant.
- 28 23. "Maximum concentration or amount of tetrahydrocannabinol" means the total amount
- 29 of tetrahydrocannabinol and tetrahydrocannabinolic acid in a medical cannabinoid
- 30 product or a cannabinoid concentrate.

- 1 24. "Medical cannabinoid product" means a product intended for human consumption or
2 use which contains cannabinoids.
- 3 a. Medical cannabinoid products are limited to the following forms:
4 (1) Cannabinoid tincture;
5 (2) Cannabinoid capsule;
6 (3) Cannabinoid transdermal patch; and
7 (4) Cannabinoid topical.
- 8 b. "Medical cannabinoid product" does not include:
9 (1) A cannabinoid edible product;
10 (2) A cannabinoid concentrate by itself; or
11 (3) The dried leaves or flowers of the plant of the genus cannabis by itself.
- 12 25. "Medical marijuana product" means a cannabinoid concentrate or a medical
13 cannabinoid product.
- 14 26. "Medical marijuana waste" means unused, surplus, returned, or out-of-date usable
15 marijuana; recalled usable marijuana; unused marijuana; or plant debris of the plant of
16 the genus cannabis, including dead plants and all unused plant parts and roots.
- 17 27. "Medical use of marijuana" means the acquisition, use, and possession of usable
18 marijuana to treat or alleviate a qualifying patient's debilitating medical condition.
- 19 28. "Minor" means an individual under the age of nineteen.
- 20 29. "North Dakota identification" means a North Dakota driver's license or comparable
21 state of North Dakota or federal issued photo identification card verifying North Dakota
22 residence.
- 23 30. "Pediatric medical marijuana" means a medical marijuana product containing
24 cannabidiol which may not contain a maximum concentration or amount of
25 tetrahydrocannabinol of more than six percent.
- 26 31. "Physician" means a physician licensed under chapter 43-17 to practice medicine in
27 the state of North Dakota.
- 28 32. "Physician assistant" means an individual licensed under chapter 43-17 to practice as
29 a physician assistant in the state.

- 1 | 33. "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).
- 4 | ~~33.~~34. "Processing" or "process" means the compounding or conversion of marijuana into a
5 | medical marijuana product.
- 6 | ~~34.~~35. "Producing", "produce", or "production" mean the planting, cultivating, growing,
7 | trimming, or harvesting of the plant of the genus cannabis or the drying of the leaves
8 | or flowers of the plant of the genus cannabis.
- 9 | ~~35.~~36. "Qualifying patient" means an individual who has been diagnosed by a health care
10 | provider as having a debilitating medical condition.
- 11 | ~~36.~~37. "Registry identification card" means a document issued by the department which
12 | identifies an individual as a registered qualifying patient, registered designated
13 | caregiver, or registered compassion center agent.
- 14 | ~~37.~~38. "Terminal illness" means a disease, illness, or condition of a patient:
15 | a. For which there is not a reasonable medical expectation of recovery;
16 | b. Which as a medical probability, will result in the death of the patient, regardless of
17 | the use or discontinuance of medical treatment implemented for the purpose of
18 | sustaining life or the life processes; and
19 | c. As a result of which, the patient's health care provider would not be surprised if
20 | death were to occur within six months.
- 21 | ~~38.~~39. "Usable marijuana" means a medical marijuana product or the dried leaves or flowers
22 | of the plant of the genus cannabis in a combustible delivery form. However, the term
23 | does not include the dried leaves or flowers unless authorized through a written
24 | certification and does not include a cannabinoid edible product. In the case of a
25 | registered qualifying patient who is a minor, "usable marijuana" is limited to pediatric
26 | medical marijuana.
- 27 | ~~39.~~40. "Verification system" means the system maintained by the department under section
28 | 19-24.1-31 for verification of registry identification cards.
- 29 | ~~40.~~41. "Written certification" means a form established by the department which is executed,
30 | dated, and signed by a health care provider within ninety calendar days of the date of
31 | application, stating ~~that in the health care provider's professional opinion the patient is~~

1 ~~likely to receive therapeutic or palliative benefit from the medical use of marijuana to~~
2 ~~treat or alleviate the patient's~~ the patient has a debilitating medical condition. A health
3 care provider may authorize the use of dried leaves or flowers of the plant of the
4 genus cannabis in a combustible delivery form to treat or alleviate the patient's
5 debilitating medical condition. A written certification may not be made except in the
6 course of a bona fide provider-patient relationship.

7 **SECTION 2. AMENDMENT.** Subsection 2 of section 19-24.1-03 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 2. A qualifying patient application for a registry identification card is complete and eligible
10 for review if an applicant submits to the department:
- 11 a. A nonrefundable annual application fee in the amount of fifty dollars, with a
12 personal check or cashier's check payable to "North Dakota State Department of
13 Health, Medical Marijuana Program".
 - 14 b. An original written certification, which must include:
 - 15 (1) The name, address, and telephone number of the practice location of the
16 applicant's health care provider;
 - 17 (2) The health care provider's North Dakota license number;
 - 18 (3) The health care provider's medical or nursing specialty;
 - 19 (4) The applicant's name and date of birth;
 - 20 (5) The applicant's debilitating medical condition and the medical justification
21 for the health care provider's certification of the patient's debilitating medical
22 condition;
 - 23 (6) Attestation the written certification is made in the course of a bona fide
24 provider-patient relationship ~~and that in the provider's professional opinion~~
25 ~~the applicant is likely to receive therapeutic or palliative benefit from the~~
26 ~~medical use of marijuana to treat or alleviate the applicant's debilitating~~
27 ~~medical condition;~~
 - 28 (7) Whether the health care provider authorizes the patient to use the dried
29 leaves or flowers of the plant of the genus cannabis in a combustible
30 delivery form; and
 - 31 (8) The health care provider's signature and the date.

- 1 c. An original qualifying patient application for a registry identification card form
2 established by the department which must include all of the following:
3 (1) The applicant's name, address, and date of birth.
4 (2) The applicant's social security number.
5 (3) The name, address, and date of birth of the applicant's proposed
6 designated caregiver, if any.
7 (4) A photographic copy of the applicant's North Dakota identification. The
8 North Dakota identification must be available for inspection and verification
9 upon request of the department. If the applicant is a minor, a certificated
10 copy of a birth record is required.
11 (5) The applicant's or guardian's signature and the date, or in the case of a
12 minor, the signature of the minor's parent or legal guardian with
13 responsibility for health care decisions and the date.
- 14 d. A signed consent for release of medical information related to the applicant's
15 debilitating medical condition, on a form provided by the department.
- 16 e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
- 17 f. Any other information or material required by rule adopted under this chapter.

18 **SECTION 3. AMENDMENT.** Subsection 3 of section 19-24.1-11 of the North Dakota
19 Century Code is amended and reenacted as follows:

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

23 ~~SECTION 5. A new section to chapter 19-24.1 of the North Dakota Century Code is created~~
24 ~~and enacted as follows:~~

25 ~~Written certification.~~

26 ~~The department shall establish a written certification form and make this form available to~~
27 ~~physicians and members of the public. A written certification may not be made except in the~~
28 ~~course of a bona fide provider-patient relationship.~~

29 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.