

Introduced by

Senator O. Larsen

Representatives Becker, Jones, McWilliams, Vetter

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 cultivation of medical marijuana; and to amend and reenact sections
3 19-24.1-01, 19-24.1-03, 19-24.1-11, 19-24.1-32, and 19-24.1-35 of the North Dakota Century
4 Code, relating to purchase and cultivation of medical marijuana.

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

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

8 **19-24.1-01. Definitions.**

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

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

1 amount of tetrahydrocannabinol permitted in a thirty-day period. The maximum
2 concentration or amount of tetrahydrocannabinol permitted in a thirty-day period
3 for a cannabinoid concentrate or medical cannabinoid product, or the cumulative
4 total of both, is two thousand milligrams.

5 c. At any one time a registered qualifying patient may not possess more than:

6 (1) Three ounces [85.05 grams] of self-grown dried leaves or flowers of the
7 plant of the genus cannabis in a combustible delivery form; and

8 (2) Nine live plants of the genus cannabis.

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 and
12 completed a full assessment of the patient's medical history and current medical
13 condition, including a relevant, in-person, medical evaluation of the patient.

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

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

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

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

23 4. "Cannabinoid" means a chemical compound that is one of the active constituents of
24 marijuana.

25 5. "Cannabinoid capsule" means a small, soluble container, usually made of gelatin,
26 which encloses a dose of a cannabinoid product or a cannabinoid concentrate
27 intended for consumption. The maximum concentration of amount of
28 tetrahydrocannabinol permitted in a serving of a cannabinoid capsule is fifty
29 milligrams.

30 6. "Cannabinoid concentrate" means a concentrate or extract obtained by separating
31 cannabinoids from marijuana by a mechanical, chemical, or other process.

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

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

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

- 1 32. "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. "Processing" or "process" means the compounding or conversion of marijuana into a
5 medical marijuana product.
- 6 34. "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. "Qualifying patient" means an individual who has been diagnosed by a health care
10 provider as having a debilitating medical condition.
- 11 36. "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. "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. "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. "Verification system" means the system maintained by the department under section
28 19-24.1-31 for verification of registry identification cards.
- 29 40. "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 debilitating medical condition. ~~A health care provider may~~
3 ~~authorize the use of dried leaves or flowers of the plant of the genus cannabis in a~~
4 ~~combustible delivery form to treat or alleviate the patient's debilitating medical~~
5 ~~condition.~~ A written certification may not be made except in the course of a bona fide
6 provider-patient relationship.

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

9 **19-24.1-03. Qualifying patients - Registration.**

- 10 1. A qualifying patient is not eligible to cultivate a plant of the genus cannabis or
11 purchase, use, or possess usable marijuana under the medical marijuana program
12 unless the qualifying patient has a valid registry identification card.
- 13 2. A qualifying patient application for a registry identification card is complete and eligible
14 for review if an applicant submits to the department:
- 15 a. A nonrefundable annual application fee in the amount of fifty dollars, with a
16 personal check or cashier's check payable to "North Dakota State Department of
17 Health, Medical Marijuana Program".
- 18 b. An original written certification, which must include:
- 19 (1) The name, address, and telephone number of the practice location of the
20 applicant's health care provider;
- 21 (2) The health care provider's North Dakota license number;
- 22 (3) The health care provider's medical or nursing specialty;
- 23 (4) The applicant's name and date of birth;
- 24 (5) The applicant's debilitating medical condition and the medical justification
25 for the health care provider's certification of the patient's debilitating medical
26 condition;
- 27 (6) Attestation the written certification is made in the course of a bona fide
28 provider-patient relationship and that in the provider's professional opinion
29 the applicant is likely to receive therapeutic or palliative benefit from the
30 medical use of marijuana to treat or alleviate the applicant's debilitating
31 medical condition; and

- 1 (7) ~~Whether the health care provider authorizes the patient to use the dried-~~
2 ~~leaves or flowers of the plant of the genus cannabis in a combustible-~~
3 ~~delivery form; and~~
- 4 (8) The health care provider's signature and the date.
- 5 c. An original qualifying patient application for a registry identification card form
6 established by the department which must include all of the following:
- 7 (1) The applicant's name, address, and date of birth.
8 (2) The applicant's social security number.
9 (3) The name, address, and date of birth of the applicant's proposed
10 designated caregiver, if any.
11 (4) A photographic copy of the applicant's North Dakota identification. The
12 North Dakota identification must be available for inspection and verification
13 upon request of the department. If the applicant is a minor, a certificated
14 copy of a birth record is required.
15 (5) The applicant's or guardian's signature and the date, or in the case of a
16 minor, the signature of the minor's parent or legal guardian with
17 responsibility for health care decisions and the date.
- 18 d. A signed consent for release of medical information related to the applicant's
19 debilitating medical condition, on a form provided by the department.
- 20 e. A recent two-by-two inch [5.08-by-5.08 centimeter] photograph of the applicant.
21 f. Any other information or material required by rule adopted under this chapter.
- 22 3. If the applicant is unable to submit the required application information due to age or
23 medical condition, the individual responsible for making medical decisions for the
24 applicant may submit the application on behalf of the applicant. The individual
25 responsible for making medical decisions:
- 26 a. Must be identified on the qualifying patient application for a registry identification
27 card; and
28 b. Shall provide a copy of the individual's North Dakota identification. The North
29 Dakota identification must be available for inspection and verification upon the
30 request of the department.
- 31 4. If the applicant is a minor, the department may waive the application or renewal fee if:

- 1 a. The parent or legal guardian of the applicant is the applicant's registered
- 2 designated caregiver; and
- 3 b. The applicant resides with the applicant's registered designated caregiver.

4 **SECTION 3. AMENDMENT.** Section 19-24.1-11 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **19-24.1-11. Registry identification cards.**

- 7 1. The contents of a registry identification card must include:
 - 8 a. The name of the cardholder;
 - 9 b. A designation as to whether the cardholder is a qualifying patient, designated
10 caregiver, or compassion center agent;
 - 11 c. A designation as to whether a qualifying patient is a minor;
 - 12 d. ~~A designation as to whether a qualifying patient or a designated caregiver's-~~
13 ~~qualifying patient is authorized to use the dried leaves or flowers of the plant of~~
14 ~~the genus cannabis;~~
 - 15 e. The date of issuance and expiration date;
 - 16 f.e. A random ten-digit alphanumeric identification number containing at least four
17 numbers and at least four letters which is unique to the cardholder;
 - 18 g-f. If the cardholder is a designated caregiver, the random identification number of
19 the qualifying patient the designated caregiver is authorized to assist;
 - 20 h-g. A photograph of the cardholder; and
 - 21 i-h. The phone number or website address at which the card can be verified.
- 22 2. Except as otherwise provided in this section or rule adopted under this chapter, a
23 registry identification card expiration date must be one year after the date of issuance.
- 24 3. If a health care provider states in the written certification that the qualifying patient
25 would benefit from the medical use of marijuana until a specified date, less than one
26 year, the registry identification card expires on that date.

27 **SECTION 4. AMENDMENT.** Section 19-24.1-32 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **19-24.1-32. Protections.**

30 Except as provided in sections 19-24.1-20 and 19-24.1-33:

- 1 1. A registered qualifying patient is not subject to arrest or prosecution or the denial of
2 any right or privilege, including a civil penalty or disciplinary action by a court or
3 occupational or professional regulating entity for the cultivation of the plant of the
4 genus cannabis or the acquisition, use, or possession of usable marijuana or related
5 supplies under this chapter.
- 6 2. A registered designated caregiver is not subject to arrest or prosecution or the denial
7 of any right or privilege, including a civil penalty or disciplinary action by a court or
8 occupational or professional regulating entity:
 - 9 a. For assisting a registered qualifying patient with the acquisition, use, or
10 possession of usable marijuana or related supplies under this chapter, if the
11 registered designated caregiver is connected to the registered qualifying patient
12 through the department's registration process.
 - 13 b. For receiving compensation for costs associated with assisting a registered
14 qualifying patient with the acquisition, use, or possession of usable marijuana or
15 related supplies under this chapter, if the registered designated caregiver is
16 connected to the registered qualifying patient through the department's
17 registration process.
- 18 3. It is presumed a registered qualifying patient is engaged in, or a registered designated
19 caregiver is assisting with, the cultivation of the plant of the genus cannabis or the
20 acquisition, use, or possession of usable marijuana or related supplies in accordance
21 with this chapter if the registered qualifying patient or registered designated caregiver
22 is in possession of a valid registry identification card and is not in possession of usable
23 marijuana in an amount that exceeds what is authorized under this chapter. This
24 presumption may be rebutted by evidence the conduct related to the cultivation or
25 acquisition, use, or possession of usable marijuana or related supplies was not for the
26 purpose of treating or alleviating the registered qualifying patient's debilitating medical
27 condition under this chapter.
- 28 4. A person is not subject to arrest or prosecution or the denial of any right or privilege,
29 including a civil penalty or disciplinary action by a court or occupational or professional
30 regulating entity, for being in the presence or vicinity of the medical use of marijuana
31 authorized under this chapter.

- 1 5. A manufacturing facility is not subject to prosecution, search or inspection, or seizure,
2 except by the department or a department designee, under this chapter for acting
3 under this chapter to:
 - 4 a. Produce or process or to conduct related activities for the sole purpose of selling
5 usable marijuana to a dispensary; or
 - 6 b. Transfer, transport, or deliver marijuana or usable marijuana to and from a
7 department designee or manufacturing facility in accordance with this chapter.
- 8 6. A dispensary is not subject to prosecution, search or inspection, or seizure, except by
9 the department or a department designee, under this chapter for acting under this
10 chapter to:
 - 11 a. Purchase usable marijuana from a manufacturing facility and conducting related
12 activities for the sole purpose of dispensing usable marijuana, selling related
13 supplies, and providing educational materials to registered qualifying patients and
14 designated caregivers; or
 - 15 b. Transfer usable marijuana to and from a department designee or related
16 marijuana facility in accordance with this chapter.
- 17 7. A registered compassion center agent is not subject to arrest or prosecution or the
18 denial of any right or privilege, including a civil penalty or disciplinary action by a court
19 or occupational or professional regulating entity, for working or volunteering for a
20 compassion center if the action performed by the compassion center agent on behalf
21 of the compassion center is authorized under this chapter.
- 22 8. The sale and possession of marijuana paraphernalia by a dispensary is lawful if in
23 accordance with this chapter.
- 24 9. The cultivation of a plant of the genus cannabis or the medical use of marijuana by a
25 registered cardholder or the producing and processing and the dispensing of usable
26 marijuana by a compassion center is lawful if in accordance with this chapter.
- 27 10. A health care provider is not subject to arrest or prosecution or the denial of any right
28 or privilege, including a civil penalty or disciplinary action by a court or occupational or
29 professional regulating entity, solely for providing a written certification or for otherwise
30 stating in the health care provider's professional opinion a patient is likely to receive
31 therapeutic or palliative benefit from the medical use of usable marijuana to treat or

1 alleviate the patient's debilitating medical condition or for refusing to provide written
2 certification or a statement. This chapter does not release a health care provider from
3 the duty to exercise a professional standard of care for evaluating or treating a
4 patient's medical condition.

5 11. A cardholder or registered compassion center is not subject to arrest or prosecution for
6 use of drug paraphernalia or possession with intent to use drug paraphernalia in a
7 manner consistent with this chapter.

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

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

14 **SECTION 5. AMENDMENT.** Section 19-24.1-35 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **19-24.1-35. Facility restrictions.**

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

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

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

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

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 medical use of marijuana as authorized under this chapter unless failing to do

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

3 **SECTION 6.** A new section to chapter 19-24.1 of the North Dakota Century Code is created
4 and enacted as follows:

5 **Cardholders - Personal cultivation.**

6 1. A registered qualifying patient may not cultivate a plant of the genus cannabis unless
7 the patient:

8 a. Cultivates the plant in an enclosed, locked facility that is not within one thousand
9 feet [604.80 meters] of a property line of a pre-existing public or private school;
10 and

11 b. Before cultivation, provides local law enforcement a department-approved notice
12 of intent to cultivate a plant of the genus cannabis.

13 2. A registered designated caregiver may not cultivate a plant of the genus cannabis for
14 use by another registered qualifying patient.