

**2023 HOUSE HUMAN SERVICES**

**HB 1164**

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1164  
1/18/2023

Relating to limitations on cannabinoid edible products, and to the definition of cannabinoid edible products.

Chairman Weisz called the meeting to order at 9:39 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. Rep. McLeod not present.

### **Discussion Topics:**

- Edible marijuana products
- Language of ND medical marijuana law
- Target dosage
- Benefits of edibles for patients
- Diversity of edible medical marijuana products

Rep. Steiner introduced HB 1164, speaking in favor of bill.

Kelsey Kuylen, nurse practitioner from Dickinson, ND, offered testimony in support of bill (#14226).

Casey Neumann, Chief Operating Officer for Pure Dakota, offered testimony in support of bill (#14110).

Stephanie Ensebretsen, on behalf of the Chiefs of Police Association, spoke in opposition.

Jacob Thomsen, Policy Analyst for North Dakota Family Alliance Legislative Action, offered testimony in opposition to bill (#14153).

Jason Wahl, Medical Marijuana Director for the North Dakota Department of Health and Human Services, offered testimony in opposition to bill (#14009).

Chris Nolden, North Dakota citizen, spoke in opposition to bill and verbally suggested an amendment. (Pg. 2, line 29, section E, remove language)

Chairman Weisz adjourned the meeting at 10:06 AM.

*Phillip Jacobs, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Human Services Committee Pioneer Room, State Capitol

HB 1164  
1/30/2023

Relating to limitations on cannabinoid edible products, and to the definition of cannabinoid edible products.

Chairman Weisz called the meeting to order at 11:25 AM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich. Rep. McLeod not present.

### Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on HB 1164.

Vice Chairman Ruby moved a do not pass on HB 1164.

Seconded by Rep. Porter.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 14-0-0.

Carried by Rep. Dobervich.

Chairman Weisz adjourned the meeting at 11:29 AM

*Phillip Jacobs, Committee Clerk*

**REPORT OF STANDING COMMITTEE**

**HB 1164: Human Services Committee (Rep. Weisz, Chairman)** recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1164 was placed on the Eleventh order on the calendar.

**TESTIMONY**

**HB 1164**

Good morning Chairman Weisz and members of the House Human Services Committee. My name is Jason Wahl, Medical Marijuana Director, within the Department of Health and Human Services (Department). I am here to provide information regarding House Bill 1164. The bill has three main topics. The Department is opposed to the edible addition to state law due to the lack of adequate requirements to ensure the health and safety of individuals in the state. The Department will provide information regarding the proposed change to eliminate the enhanced amount. The Department is opposed to eliminating language in state law that a bona fide provider-patient relationship must exist for a health care provider to sign a written certification. The Department did submit a fiscal note.

House Bill 1164 proposes adding a cannabinoid edible product to the list of eligible products registered qualifying patients may purchase. While the proposed language limits the amount of tetrahydrocannabinol (THC) permitted in a serving to 5 milligrams, there is no language regarding the maximum concentration or amount of THC permitted in a package, the maximum amount that may be purchased at one time, or a maximum amount an individual may possess of cannabinoid edible products. The Department suggests the committee consider additions for such items.

The addition of a cannabinoid edible product is a policy making decision. If passed, the Department would implement the introduction of a new product with the health and safety of individuals as the primary focus. The Department would attempt to reduce risks associated with the new product.

The 5 milligrams of THC per serving provides a more cautious approach to implementation of a new product. When reviewing information provided by the marijuana industry nationwide, materials reflect first time users should start at a 2.5 milligram amount. Having a 5 milligram serving makes cutting the product in half an easy method for getting to such a recommended starting

amount. In addition, the National Institute on Drug Abuse (NIDA), along with the National Cancer Institute; the National Heart, Lung, and Blood Institute; and the National Institute of Mental Health, published a notice in May 2021 directing researchers to measure and report findings from clinical research using a standard unit of 5 milligrams of THC.

There are two other changes the Department would bring forward for the committee to consider. On line 10 of Page 3, the definition for a cannabinoid edible product includes the term food. The Department suggests eliminating the term food as this will not be regulated under the Department's Food and Lodging area and it would not be covered under the North Dakota Food Code. The committee could consider calling it a soft or hard lozenge. Also, the Department suggests elimination of subsections 2 and 3 of Section 2 of the bill (Page 9) and replace with a statement requiring the Department to establish rules to regulate the form, manufacturing, packaging, labeling, and marketing of a cannabinoid edible product.

On Page 9, lines 12 through 15, the bill proposes eliminating language regarding an enhanced amount of dried leaves and flowers for a qualifying patient who has a debilitating medical condition of cancer. Currently, when a health care provider is completing the written certification on the Department's online system, if they select the condition of cancer, an additional section populates requesting the health care provider to click on a box authorizing an enhanced amount or a box not authorizing an enhanced amount. The Department did review information in the medical marijuana registration system and identified less than 3% of the total number of registered qualifying patients have the enhanced amount authorized.

On Page 9, lines 15 and 16, the bill proposes eliminating language that a bona fide provider-patient relationship must exist for a health care provider to sign a written certification. The Department opposes this change to state law. Certain requirements of the bona fide relationship include a health care provider must conduct an in person medical evaluation, there is an expectation the health care provider is to provide follow-up care, and the relationship with the patient is not for the sole purpose of providing a written certification. Removing such requirements will result in an influx of health care providers who may simply sign a written certification with little, to no, medical evaluation or consultation

with an individual. This could allow a health care provider to establish a website to have individuals contact them, provide information, pay a fee, and obtain a written certification. Under this premise, the medical portion of a medical marijuana program is removed.

The fiscal note submitted for this bill identifies an increase in expenditures of approximately \$313,000 for the 2023-2025 biennium. The Department anticipates two additional full-time equivalent (FTE) positions being necessary for implementing the provisions of the bill. One position would be necessary to assist with additional monitoring and work associated with an edible product. The other position would be necessary to assist with the registration of what is anticipated to be an increase in the qualifying patient population due to the removal of the bona fide provider-patient relationship language. The fiscal note includes costs for salary and benefits as well as related operating costs anticipated with the positions. In the 2025-2027 biennium, one additional FTE is anticipated.

The fiscal noted submitted for this bill identifies an increase in revenue of approximately \$400,000 for the 2023-2025 biennium. The Department anticipates growth in the program due to the removal of the bona fide provider-patient relationship. This would result in additional qualifying patient application fees being collected and additional dispensaries being opened.

This concludes my testimony. I am happy to answer questions you may have.



January 18, 2023

RE: Testimony in support of HB 1164

Chairman Weisz & members of the committee:

My name is Casey Neumann, and I'm the Chief Operating Officer for Pure Dakota, which is the medical marijuana manufacturing facility located here in Bismarck. Pure Dakota was the first licensed medical marijuana compassion center in North Dakota.

I am here today to testify in favor of House Bill 1164 which relates to adding an edible product to the North Dakota Medical Marijuana program. The maximum dosage allowed in the proposed bill is 5 milligrams, which is the lowest maximum allowable dosage in the country. I would also propose adding a 2.5 milligram option for those patients with a lower tolerance to cannabis products.

Pure Dakota does currently have the resources that are necessary to manufacture, package, and deliver an edible product to all of the eight dispensaries in the state.

Please support House Bill 1164.

Respectfully,

Casey Neumann

Chief Operating Officer

Pure Dakota LLC

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### Testimony Opposing House Bill 1164

Jacob Thomsen, Policy Analyst  
 North Dakota Family Alliance Legislative Action  
 January 18, 2023

Good morning Chairman Weisz and honorable members of the House Human Services Committee. My name is Jacob Thomsen and I am a Policy Analyst with North Dakota Family Alliance Legislative Action. I am testifying on behalf of our organization in opposition to House Bill 1164 and respectfully request that you render a "DO NOT PASS" on this bill.

Our organization, and its constituents, are opposed to legalization of marijuana in all forms and do not support the expansion of marijuana consumption. This bill proposes an expansion of medical marijuana as edibles, and therefore we are opposed to it on principle. However, medical marijuana is legal, and we realize this.

If this bill was to move forward, our biggest concern would be that edibles could get in the hands of children. The statistics are sobering, even in states with safety measures in place. Calls to poison control centers for young children (5 and under) inadvertently consuming edibles containing THC rose 1,375% (207 cases to 3,054) over the years from 2017 to 2021. Further, 97% of these children found the edibles at home. Ingesting these marijuana edibles can clearly cause serious health problems for these young children.

"Confusion, hallucinations, fast heart rate and vomiting, experts said.

In severe cases, children can experience trouble breathing or even comas.

The severity usually depends on children's size and age and how much cannabis they've consumed." – NBC NEWS

I understand that the sponsors have put in certain safety measures to prevent this from happening, such as child proof containers and unenticing shapes and colors. While we maintain that the safest course of action would be to not pass this bill, we would like to thank the sponsor for being amenable to discussing some additional ideas that our organization put forward.

There are already plenty of ways that medical marijuana is administered. Smoking is obviously

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Commented [JT1]: <https://www.nbcnews.com/health/health-news/reports-young-children-accidentally-eating-marijuana-edibles-soar-rcna63501>

not the healthiest way to do this. It is our understanding that this is part of the reason that this bill exists. However, there are other options. Cannabinoid solution, cannabinoid capsule, cannabinoid transdermal patch, and cannabinoid topical are all solutions that currently exist for the distribution of medical marijuana.

Another argument for production of edibles is that the solutions that currently exist for medical marijuana “don’t taste good” However, this actually minimizes the chance of accidental ingestion by children. Unfortunately, the reverse is also true. If they taste good, and a child gets ahold of them, the child will very likely eat them, leading to any number of the previously stated side effects. The child is also more likely to eat the entire package of edibles if they taste good, leading to more severe side effects. We greatly appreciate that the sponsor indicated a willingness to add to the bill the requirement of making the edibles “unsweetened” or “not sweetened” to avoid this potentially dangerous situation.

In addition to the possible harm to children, this bill concerns us due to the removal of the written certification from a bona fide provider-patient relationship. This could create much greater demand for cannabinoid products, as is indicated in the fiscal note.

Bringing cannabinoid edible products into a home poses a threat to the safety of any children that may live there or visit. Our organization and its constituents feel that this issue is best taken care of by not allowing the products to legally exist in the state. For these reasons, North Dakota Family Alliance Legislative Action respectfully requests that you render a “DO NOT PASS” on House Bill 1164.

Thank you for the opportunity to testify and I am happy to stand for any questions.

Good morning Chairman and Members of the committee,

I am Kelsey Kuylen and I am a Nurse Practitioner in Dickinson, ND. I am here today to ask you all for your support on HB 1164.

In my practice, I have been managing medical marijuana patients for 17 months and personally medically manage 219 patients for a variety of different approved medical diagnoses. Some of the Medical Marijuana patients that I manage, as well as many others throughout the state, are struggling with accurate dosing of their current available options. A pre-formed edible option would be a stress-free way for these patients to properly administer their target dosage.

To date, current routes such as tincture, inhaling, oil wax, topicals, or capsules offer a variable dosing with limited control for the patient. Edibles would be an improvement because the patient would have access to their medication without having to inhale an irritant, take a capsule that may exceed their targeted dosage, and reduce the large variability on what dose was truly ingested with the tincture (oil drop). Offering an edible would decrease the physical limitations or barriers on administration of Medical Marijuana for some individuals allowing them to alleviate their associated symptoms and have better control of their medical diagnosis or disease. Currently, some of the available routes have limitations on who can benefit from Medical Marijuana, such as those patients who have respiratory comorbidities and are not able to use the inhalation forms currently available. Individuals who have other limitations such as glaucoma and have restricted vision fields are reduced to forms that do not require visual acuity to ensure they are taking the proper amount. Individuals who are dealing with physical/structure deformities or limitations associated with Rheumatoid Arthritis are restricted to forms that are offered with dexterity ease. While Rheumatoid Arthritis can be juvenile in origin, it most commonly affects the elderly population, who by in large are also associated with loss of visual acuity. It is not uncommon for more than one physical limitation to be present for an individual, making their selection of Medical Marijuana very narrow or taking a big chance each time they take their Medical Marijuana in hopes that they do not intake too much or not enough to manage their symptoms.

Representative Steiner has been working with Jason Wahl at the Department of Health & Human Services to ensure the state can regulate this. I hope you consider this bill. Medical Marijuana has been beneficial, and I have medically seen the improvement regarding the quality of life, decreased associated symptoms of patient ailments, as well as patients being able to get off controlled narcotics, that some have been on for years, negating the overdose of such medications.

Thank you for your consideration. This concludes my testimony, and I can take any questions at this time.