

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 406

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO HEALTH; SJC→ENACTING A SECTION OF THE PUBLIC SCHOOL
CODE TO ALLOW THE POSSESSION, STORAGE AND ADMINISTRATION OF
MEDICAL CANNABIS IN CERTAIN SCHOOL SETTINGS;←SJC AMENDING AND
ENACTING SECTIONS OF THE LYNN AND ERIN COMPASSIONATE USE ACT TO
EXPAND ELIGIBILITY, TO PROVIDE FOR A THREE-YEAR REGISTRY
IDENTIFICATION CARD AND TO ESTABLISH NEW QUALIFYING MEDICAL
CONDITIONS, CIVIL PROTECTIONS AND INTERSTATE AND TRIBAL
RECIPROCITY; AMENDING PENALTIES; AMENDING A SECTION OF THE
JONATHAN SPRADLING REVISED UNIFORM ANATOMICAL GIFT ACT;
ENACTING A NEW SECTION OF THE FAMILY SERVICES ACT TO REMOVE

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PARTICIPATION IN THE STATE'S MEDICAL CANNABIS PROGRAM AS
GROUNDS FOR CHILD PROTECTIVE SERVICES INTERVENTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SJC→SECTION 1. A new section of the Public School Code
is enacted to read:

"[NEW MATERIAL] MEDICAL CANNABIS--POSSESSION--STORAGE--
ADMINISTRATION--RESTRICTION--EXEMPTIONS.--

A. Except as provided pursuant to Subsection C of
this section, local school boards and the governing bodies of
charter schools shall authorize by rule the possession, storage
and administration of medical cannabis by parents and legal
guardians, or by designated school personnel, to qualified
students for use in school settings; provided that:

(1) a student shall not possess, store or
self-administer medical cannabis in a school setting;

(2) a parent, legal guardian or designated
school personnel shall not administer medical cannabis in a
manner that creates disruption to the educational environment
or causes other students to be exposed to medical cannabis;

(3) a written treatment plan for the
administration of the medical cannabis is agreed to and signed
by the principal or the principal's designee of the qualified
student's school and the qualified student's parent or legal
guardian; and

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(4) before the first administration of medical cannabis in a school setting, the qualified student's parent or legal guardian completes and submits documentation as required by local school board or charter school rules that includes a:

(a) copy of the qualified student's written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

(b) written statement from the qualified student's parent or legal guardian releasing the school and school personnel from liability, except in cases of willful or wanton misconduct or disregard of the qualified student's treatment plan.

B. A local school board or the governing body of a charter school may adopt policies that:

(1) restrict the types of designated school personnel who may administer medical cannabis to qualified students;

(2) establish reasonable parameters regarding the administration and use of medical cannabis and the school settings in which administration and use are authorized; and

(3) ban student possession, use, distribution, sale or being under the influence of a cannabis product in a manner that is inconsistent with the provisions of this subsection.

C. The provisions of Subsection A of this section shall not apply to a charter school or school district if:

(1) the charter school or school district reasonably determines that it would lose, or has lost, federal

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funding as a result of implementing the provisions of Subsection A of this section; and

(2) the determination is appealable by any parent to the secretary, based on rules established by the department.

D. A public school, charter school or school district shall not:

(1) discipline a student who is a qualified student on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school;

(2) deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or a school-sponsored activity; or

(3) discipline a school employee who refuses to administer medical cannabis.

E. As used in this section:

(1) "certifying practitioner" means a health care practitioner who issues a written certification to a qualified student;

(2) "designated school personnel" means a school employee whom a public school, charter school or school district authorizes to possess, store and administer medical

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cannabis to a qualified student in accordance with the provisions of this section;

(3) "medical cannabis" means cannabis that is:

(a) authorized for use by qualified patients in accordance with the provisions of the Lynn and Erin Compassionate Use Act; and

(b) is in a form that is not an aerosol and cannot be smoked or inhaled in particulate form as a vapor or by burning;

(4) "qualified student" means a student who demonstrates evidence to the school district that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis in accordance with the provisions of that act;

(5) "school" means a public school or a charter school;

(6) "school setting" means any of the following locations during a school day:

(a) a school building;

(b) a school bus used within the state during, in transit to or in transit from a school-sponsored activity;

(c) a public vehicle used within the state during, in transit to or in transit from a school-sponsored activity in the state; or

(d) a public site in the state where a school-sponsored activity takes place; and

(7) "written certification" means a statement

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in a qualified student's medical records or a statement signed by a qualified student's certifying practitioner that, in the certifying practitioner's professional opinion, the qualified student has a debilitating medical condition and the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student. A written certification is not valid for more than one year from the date of issuance."←SJC

SECTION SJC→1. 2.←SJC Section 26-2B-1 NMSA 1978 (being Laws 2007, Chapter 210, Section 1) is amended to read:

"26-2B-1. SHORT TITLE.--[Sections 1 through 7 of this act] Chapter 26, Article 2B NMSA 1978 may be cited as the "Lynn and Erin Compassionate Use Act" in honor of Lynn Pierson and Erin Armstrong."

SECTION SJC→2. 3.←SJC Section 26-2B-3 NMSA 1978 (being Laws 2007, Chapter 210, Section 3) is amended to read:

"26-2B-3. DEFINITIONS.--As used in the Lynn and Erin Compassionate Use Act:

A. "adequate supply" means an amount of cannabis, in any form approved by the department, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived

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solely from an intrastate source;

B. "cannabis":

(1) means all parts of the plant Cannabis sativa L. containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product; or hemp;

C. "cannabis consumption area" means an area within a SJC→producer's←SJC licensed premises SJC→approved by the department←SJC where cannabis may be consumed that complies with rule as established by the department;

D. "cannabis courier" means a person that is licensed by the department to transport usable cannabis and cannabis products within the state from a cannabis establishment to:

- (1) a qualified patient;
- (2) a primary caregiver; or
- (3) another cannabis establishment;

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E. "cannabis establishment" means:

- (1) a licensed cannabis courier;
- (2) a licensed cannabis testing facility;
- (3) a licensed cannabis manufacturer;
- (4) a licensed cannabis producer; or
- (5) such other person that the department may

by rule approve for participation in the medical cannabis program;

F. "cannabis manufacturer" means a person that is licensed by the department to:

- (1) manufacture cannabis products;
- (2) package, transport or courier cannabis products;
- (3) have cannabis products tested by a cannabis testing facility;
- (4) Hf1→purchase, obtain,←Hf1 sell and transport cannabis products to other cannabis establishments; and
- (5) prepare products for personal production license holders;

G. "cannabis producer" means a person that is licensed by the department to possess, produce, dispense, distribute and manufacture cannabis and cannabis products SJC→and sell←SJC wholesale or by direct sale to qualified patients and primary caregivers;

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H. "cannabis product":

(1) means a product that contains cannabis, including edible or topical products that may also contain other ingredients; and

(2) does not include the weight of any other ingredient combined with cannabis or cannabis extract to prepare topical or oral administrations, food, drink or another product;

I. "cannabis testing facility" means a person that is licensed by the department to perform tests of cannabis products to analyze the strength or purity of the items and to collect cannabis samples and transport cannabis products to the cannabis testing facility from cannabis establishments;

~~[B.]~~ J. "debilitating medical condition" means:

(1) cancer;

(2) glaucoma;

(3) multiple sclerosis;

(4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;

(5) seizure disorder, including epilepsy;

(6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

(7) admitted into hospice care in accordance with rules promulgated by the department; ~~[or]~~

(8) amyotrophic lateral sclerosis;

(9) Crohn's disease;

(10) hepatitis C infection;

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(11) Huntington's disease;
(12) inclusion body myositis;
(13) inflammatory autoimmune-mediated
arthritis;

(14) intractable nausea or vomiting;
(15) obstructive sleep apnea;
(16) painful peripheral neuropathy;
(17) Parkinson's disease;
(18) posttraumatic stress disorder;
(19) severe chronic pain;
(20) severe anorexia or cachexia;
(21) spasmodic torticollis;
(22) ulcerative colitis; or

~~[F.]~~ (23) any other medical condition,
medical treatment or disease as approved by the department;

~~[G.]~~ K. "department" means the department of
health;

~~[D. "licensed producer" means any person or~~
~~association of persons within New Mexico that the department~~
~~determines to be qualified to produce, possess, distribute and~~
~~dispense cannabis pursuant to the Lynn and Erin Compassionate~~
~~Use Act and that is licensed by the department;]~~

L. "hemp" means the plant cannabis sativa L. and
any part of the plant, whether growing or not, containing a
delta-9-tetrahydrocannabinol concentration of no more than

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three-tenths percent on a dry weight basis;

M. "license" means a license issued pursuant to the Lynn and Erin Compassionate Use Act;

N. "licensee" means a person that holds a license;

O. "licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that person acts in a representative capacity;

P. "manufacture" means to prepare a cannabis product;

Q. "medical cannabis program" means the program established pursuant to the Lynn and Erin Compassionate Use Act for authorization and regulation of the medical use of cannabis in the state;

R. "personal production license" means a license issued to a qualified patient or to a qualified patient's primary caregiver participating in the medical cannabis program to permit the qualified patient or the qualified patient's primary caregiver to produce cannabis for the qualified patient's use at an address approved by the department;

[E.] S. "practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act;

[F.] T. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to

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the provisions of the Lynn and Erin Compassionate Use Act;

U. "produce" means to engage in any activity related to the planting or cultivation of cannabis;

~~[G.]~~ V. "qualified patient" means a ~~[resident of New Mexico]~~ person who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card ~~[issued]~~ pursuant to the Lynn and Erin Compassionate Use Act ~~[and]~~ on the basis of having been diagnosed, in person or via telemedicine, by a practitioner as having a debilitating medical condition; provided that a practitioner may only issue a written certification on the basis of an evaluation conducted via telemedicine if the practitioner has previously examined the patient in person;

W. "reciprocal participant" means an individual who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo;

X. "registry identification card" means a document that the department issues:

(1) to a qualified patient that identifies the bearer as a qualified patient and authorizes the qualified patient to use cannabis for a debilitating medical condition;

or

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(2) to a primary caregiver that identifies the bearer as a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of a qualified patient who is identified on the document;

Y. "safety-sensitive position" means a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another;

Z. "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a site apart from the site where the patient is located, in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or off-site patient monitoring and telecommunications in order to deliver health care services;

AA. "THC" means delta-9-tetrahydrocannabinol, a substance that is the primary psychoactive ingredient in cannabis; and

[H.] BB. "written certification" means a statement [in a patient's medical records or a statement] made on a department-approved form and signed by a patient's practitioner that indicates, in the practitioner's professional opinion, that the patient has a debilitating medical condition and the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient [A written certification is not valid for more

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~~than one year from the date of issuance]."~~

SECTION SJC→3. 4.←SJC Section 26-2B-4 NMSA 1978 (being Laws 2007, Chapter 210, Section 4) is amended to read:

"26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--

A. A qualified patient or a qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply;

~~[B. A qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of cannabis for medical use by the qualified patient if the quantity of cannabis does not exceed an adequate supply]~~ provided that a qualified patient or the qualified patient's primary caregiver may possess that qualified patient's harvest of cannabis.

B. A reciprocal participant shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed the limit identified by department rule.

C. The following conduct is lawful and shall not constitute grounds for detention, search or arrest of a person or for a violation of probation or parole, and cannabis products that relate to the conduct are not contraband or

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subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act:

(1) a qualified patient or primary caregiver possessing or transporting not more than an adequate supply or a reciprocal participant possessing or transporting not more than the limit identified by department rule;

(2) a qualified patient or primary caregiver purchasing or obtaining not more than an adequate supply from a lawful source or a reciprocal participant purchasing or obtaining not more than the limit identified by department rule;

(3) a qualified patient using or being under the influence of cannabis; provided that the qualified patient is acting consistent with law;

(4) a qualified patient or primary caregiver transferring, without financial consideration, to a qualified patient or primary caregiver not more than two ounces of cannabis; or

(5) with respect to cannabis cultivated under a personal production license, a qualified patient or primary caregiver possessing, planting, cultivating, harvesting, drying, manufacturing or transporting SJC→~~not more than six mature cannabis plants and twelve immature cannabis plants and possessing no more than an adequate supply of that qualified patient's harvest~~ cannabis plants or cannabis products as allowed by department rule←SJC; provided that a qualified patient or primary caregiver who possesses a personal production license shall not manufacture cannabis products

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using an oil extractor solvent that is stored under pressure unless the qualified patient or primary caregiver holds a separate license from the department permitting the person to manufacture cannabis products using an oil extractor solvent that is under pressure.

[G.] D. Subsection A of this section shall not apply to a qualified patient under the age of eighteen years, unless:

(1) the qualified patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the qualified patient and to a parent, guardian or person having legal custody of the qualified patient; and

(2) a parent, guardian or person having legal custody consents in writing to:

(a) allow the qualified patient's medical use of cannabis;

(b) serve as the qualified patient's primary caregiver; and

(c) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

[D.] E. A qualified patient or a primary caregiver shall be granted the full legal protections provided in this section if the qualified patient or primary caregiver is in possession of a registry identification card. If the qualified patient or primary caregiver is not in possession of a registry

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identification card, the qualified patient or primary caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

[E.] F. A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

[F.] G. A [~~licensed producer~~] licensee or licensee representative shall not be subject to arrest, prosecution or penalty, in any manner, for the production, possession, manufacture, distribution, [~~or~~] dispensing or testing of cannabis pursuant to the Lynn and Erin Compassionate Use Act. Conduct by a licensee or a licensee representative that is allowed pursuant to a license and conduct by a person that allows property to be used by a licensee or a licensee representative for conduct allowed pursuant to a license is lawful, is not a violation of state or local law and is not a basis for seizure or forfeiture of property or assets under state or local law.

[G.] H. Any property interest that is possessed, owned or used in connection with the medical use of cannabis, or acts incidental to such use, shall not be harmed, neglected, injured or destroyed while in the possession of state or local law enforcement officials. Any such property interest shall not be forfeited under any state or local law providing for the forfeiture of property except as provided in the Forfeiture

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Act. Cannabis, paraphernalia or other property seized from a qualified patient or primary caregiver in connection with the claimed medical use of cannabis shall be returned immediately upon the determination by a court or prosecutor that the qualified patient or primary caregiver is entitled to the protections of the provisions of the Lynn and Erin Compassionate Use Act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges or acquittal.

I. A state or local government shall not impose a criminal, civil or administrative penalty on a licensee or a licensee representative, or on a person that allows property to be used by a licensee or a licensee representative pursuant to a license, solely for conduct that is allowed pursuant to a license.

[H.] J. A person shall not be subject to arrest or prosecution for a cannabis-related offense for simply being in the presence of the medical use of cannabis as permitted under the provisions of the Lynn and Erin Compassionate Use Act."

SECTION SJC→4. 5.←SJC Section 26-2B-5 NMSA 1978 (being Laws 2007, Chapter 210, Section 5) is amended to read:

"26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

A. Participation in a medical use of cannabis program by a qualified patient or primary caregiver does not

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relieve the qualified patient or primary caregiver from:

(1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;

(2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or

(3) criminal prosecution or civil penalty for possession or use of cannabis:

SJC→(a) ~~in a school bus or public vehicle;~~

~~(b) on school grounds or property;~~←SJC

SJC→(e) (a)←SJC in the workplace of the qualified patient's or primary caregiver's employment; or

SJC→(d) (b)←SJC at a public park, recreation center, youth center or other public place.

B. A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. If a [~~licensed producer~~] licensee or the licensee's representative sells, distributes, dispenses or transfers cannabis to a person not approved by the department pursuant to the Lynn and Erin Compassionate Use Act or obtains or transports cannabis outside New Mexico, [~~in violation of federal law, the licensed producer~~] the licensee or the

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licensee's representative shall be subject to arrest, prosecution and civil or criminal penalties pursuant to state law."

SECTION SJC→5. 6.←SJC Section 26-2B-6 NMSA 1978 (being Laws 2007, Chapter 210, Section 6) is amended to read:

"26-2B-6. ADVISORY BOARD CREATED--DUTIES.--The secretary of health shall establish an advisory board consisting of [~~eight~~] nine practitioners [~~representing the fields of neurology, pain management, medical oncology, psychiatry, infectious disease, family medicine and gynecology. The practitioners shall be nationally board-certified in their area of specialty and~~] knowledgeable about the medical use of cannabis. The members shall be chosen for appointment by the secretary from a list proposed by the New Mexico medical society, the New Mexico nurses association, the New Mexico academy of family physicians, the New Mexico academy of physician assistants, the New Mexico pharmacists association or the New Mexico Hispanic medical association. A quorum of the advisory board shall consist of [~~three~~] five members. The advisory board shall:

A. review and recommend to the department for approval additional debilitating medical conditions that would benefit from the medical use of cannabis;

B. accept and review petitions to add medical conditions, medical treatments or diseases to the list of

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debilitating medical conditions that qualify for the medical use of cannabis;

C. convene at least twice per year to conduct public hearings and to evaluate petitions, which shall be maintained as confidential personal health information, to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

D. issue recommendations concerning rules to be promulgated for the issuance of the registry identification cards; ~~and~~

E. recommend quantities of cannabis that are necessary to constitute an adequate supply for qualified patients and primary caregivers;

F. recommend formulation or preparations of cannabis or cannabis products; and

G. recommend quantities of cannabis that a reciprocal participant may obtain and possess."

SECTION SJC→6. 7.←SJC Section 26-2B-7 NMSA 1978 (being Laws 2007, Chapter 210, Section 7) is amended to read:

"26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT RULES--DUTIES--RECIPROCITY.--

A. [~~No later than October 1, 2007, and~~] After consultation with the advisory board, the department shall promulgate rules in accordance with the State Rules Act to implement the purpose of the Lynn and Erin Compassionate Use Act. The rules shall:

(1) govern the manner in which the department

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will consider applications for registry identification cards and for the renewal of identification cards for qualified patients and primary caregivers;

(2) define the amount of cannabis that is necessary to constitute an adequate supply, including amounts for topical treatments;

(3) identify criteria and set forth procedures for including additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis. Procedures shall include a petition process and shall allow for public comment and public hearings before the advisory board;

(4) set forth additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis as recommended by the advisory board;

(5) identify requirements for the licensure of cannabis producers and cannabis production facilities, cannabis couriers, cannabis manufacturers, cannabis testing facilities and any other cannabis establishments that the department may license and set forth procedures to obtain licenses;

(6) develop a distribution system for the medical cannabis program that provides for:

(a) cannabis production facilities within New Mexico housed on secured grounds and operated by

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~~[licensed producers]~~ licensees; and

(b) distribution of ~~[medical]~~ cannabis to qualified patients or their primary caregivers to take place at locations that are designated by the department and that are not within three hundred feet of any school, church or daycare center that were in existence in that location before the licensee distributing medical cannabis nearby was licensed; provided that this distance requirement shall not apply to distribution at the home of the qualified patient or primary caregiver;

(7) identify requirements for testing and labeling of cannabis and cannabis products for quality assurance. The department shall adopt and promulgate rules pursuant to this paragraph by December 20, 2019;

~~[-7]~~ (8) determine additional duties and responsibilities of the advisory board; and

~~[-8]~~ (9) be revised and updated as necessary.

B. The department shall issue registry identification cards to a patient and to the primary caregiver for that patient, if any, who submit the following, in accordance with the department's rules:

- (1) a written certification;
- (2) the name, address and date of birth of the patient;
- (3) the name, address and telephone number of the patient's practitioner; and
- (4) the name, address and date of birth of the patient's primary caregiver, if any.

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C. The department shall verify the information contained in an application submitted pursuant to Subsection B of this section and shall approve or deny an application within thirty days of receipt. The department may deny an application only if the applicant did not provide the information required pursuant to Subsection B of this section or if the department determines that the information provided is false. A person whose application has been denied shall not reapply for six months from the date of the denial unless otherwise authorized by the department.

D. The department shall issue a registry identification card within five days of approving an application, and a card shall expire [~~one year~~] three years after the date of issuance.

E. A registry identification card shall contain:

- (1) the name [~~address~~] and date of birth of the qualified patient and primary caregiver, if any;
- (2) the date of issuance and expiration date of the registry identification card; and
- (3) other information that the department may require by rule.

[~~E.~~] F. A person who possesses a registry identification card shall notify the department of any change in the person's name, [~~address~~] qualified patient's practitioner, qualified patient's primary caregiver or change

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in status of the qualified patient's debilitating medical condition within ten days of the change.

[F-] G. Possession of or application for a registry identification card shall not constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

[G-] H. The department shall maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list shall be confidential and not subject to disclosure, except:

(1) to authorized employees or agents of the department as necessary to perform the duties of the department pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

(2) to authorized employees of state or local law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a registry identification card; or

(3) as provided in the federal Health Insurance Portability and Accountability Act of 1996.

I. By March 1, 2020, the secretary of health shall adopt and promulgate rules relating to medical cannabis program reciprocity. The department may identify requirements for the granting of reciprocity, including provisions limiting the period of time in which a reciprocal participant may participate in the medical cannabis program.

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J. A reciprocal participant:

(1) may participate in the medical cannabis program in accordance with department rules;

(2) shall not be required to comply with the registry identification card application and renewal requirements established pursuant to this section and department rules;

(3) shall at all times possess proof of authorization to participate in the medical cannabis program of another state, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo and shall present proof of that authorization when purchasing cannabis from a licensee; and

(4) shall register with a licensee for the purpose of tracking sales to the reciprocal participant in an electronic system that is accessible to the department."

SECTION SJC→7. 8.←SJC A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"[NEW MATERIAL] PROGRAM REGULATION AND ADMINISTRATION-- FEES--LIMITATIONS--RULEMAKING--LICENSURE--ISSUANCE-- REPORTING.--

A. The department shall:

(1) regulate and administer the medical cannabis program; and

(2) collect fees from licensees; provided that

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the department shall not charge a fee relating to the medical cannabis registry.

B. By December 20, 2019, the secretary of health shall adopt and promulgate rules to establish fees for licenses for cannabis producers, cannabis manufacturers, cannabis couriers, cannabis testing facilities or any other cannabis establishments whose operations are authorized pursuant to the Lynn and Erin Compassionate Use Act.

C. The department shall establish application and licensing fees applicable to licenses for activity related to the medical cannabis program.

D. The department shall administer licensure for medical cannabis program activity provided for in the Lynn and Erin Compassionate Use Act, which shall include personal production licenses and licenses for:

- (1) cannabis couriers;
- (2) cannabis manufacturers;
- (3) cannabis producers;
- (4) cannabis testing facilities; and
- (5) any other activity or person as deemed

necessary by the department.

E. The department shall not issue any other license provided for in this section to a cannabis testing facility licensee.

F. In consultation with qualified patients and primary caregivers, the department shall produce an assessment report annually, which shall be published to the public and that includes at a minimum an evaluation of:

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(1) the affordability of and accessibility to medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

(2) the needs of qualified patients who live in rural areas, federal subsidized housing or New Mexico Indian nations, tribes or pueblos.

G. The department shall allow for the smoking, vaporizing and ingesting of cannabis products within a cannabis consumption area on the premises if:

(1) access is restricted to qualified patients and their primary caregivers;

(2) cannabis consumption is not visible from any public place or from outside the cannabis consumption area; and

(3) qualified patients who consume cannabis on the premises have a designated driver or other means of transportation consistent with current law."

SECTION SJC→~~8.~~ 9.←SJC A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"[NEW MATERIAL] REGISTRY IDENTIFICATION CARD-- REGISTRATION--RENEWAL--WRITTEN CERTIFICATION.--The department shall require a qualified patient to reapply for a registry identification card no sooner than two years and eleven months from the date the patient's current registry identification card is issued; provided that, in order to remain eligible for

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participation in the medical cannabis program established pursuant to the Lynn and Erin Compassionate Use Act, a qualified patient shall submit annually to the department a statement from a practitioner indicating that:

A. the practitioner has examined the qualified patient during the preceding twelve months;

B. the qualified patient continues to have a debilitating medical condition; and

C. the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified patient."

SECTION SJC→9. 10.←SJC A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"[NEW MATERIAL] THC CONTENT--NO LIMITATION.--The department shall not limit the amount of THC concentration in a cannabis product; provided that the department may by rule adopt requirements for apportionment and packaging of cannabis products."

SECTION SJC→10. 11.←SJC A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"[NEW MATERIAL] EMPLOYMENT PROTECTIONS.--

Hf2→~~A. Unless a failure to do so would cause the employer to lose a monetary or licensing-related benefit under federal law or federal regulations, it is unlawful to take an adverse employment action against the employee based on any of the following:~~←Hf2

Hf2→A. Unless a failure to do so would cause the employer to lose a monetary or licensing-related benefit under

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federal law or federal regulations, it is unlawful to take an adverse employment action against an applicant or an employee based on conduct allowed under the Lynn and Erin Compassionate Use Act. ←Hf2

(1) conduct allowed under the Lynn and Erin Compassionate Use Act; or

(2) the employee's positive drug test for cannabis components or metabolites.

B. Nothing in this section shall:

(1) restrict an employer's ability to prohibit or take adverse employment action against an employee for use of Hf2 → ~~intoxicating substances~~ , or being impaired by, medical cannabis ←Hf2 on the premises of the place of employment or during the hours of employment; or

(2) apply to an employee Hf2 → ~~who~~ whose employer deems that the employee ←Hf2 works in a safety-sensitive position. Hf2 → " ←Hf2

Hf2 → ~~C. As used in this section, "adverse employment action" means:~~

~~(1) refusing to hire or employ a person;~~

~~(2) barring or discharging a person from employment;~~

~~(3) requiring a person to retire from employment; or~~

~~(4) discriminating against an employee in~~

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~~compensation or in terms, conditions or privileges of employment."~~←Hf2

SECTION SJC→11. 12.←SJC A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"[NEW MATERIAL] PERSONS UNDER STATE SUPERVISION-- PROTECTIONS.--A person who is serving a period of probation or parole or who is in the custody or under the supervision of the state or a local government pending trial as part of a community supervision program shall not be penalized for conduct allowed under the Lynn and Erin Compassionate Use Act."

SECTION SJC→12. 13.←SJC Section 24-6B-11 NMSA 1978 (being Laws 2007, Chapter 323, Section 11) is amended to read:

"24-6B-11. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT-- PURPOSE OF ANATOMICAL GIFT.--

A. An anatomical gift may be made to the following persons named in the document of gift:

(1) a hospital; accredited medical school, dental school, college or university; organ procurement organization; or other appropriate person, for research or education;

(2) subject to the provisions of Subsection B of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; and

(3) an eye bank or tissue bank.

B. If an anatomical gift to an individual pursuant to Paragraph (2) of Subsection A of this section cannot be transplanted into the individual, the part passes in accordance

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with Subsection G of this section in the absence of an express, contrary indication by the person making the anatomical gift.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection A of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; and

(4) if the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

D. For the purpose of Subsection C of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be

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used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection A of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection G of this section.

F. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor" or "body donor", or by a symbol or statement of similar import, the gift may be used only for transplantation or therapy and the gift passes in accordance with Subsection G of this section.

G. For purposes of Subsections B, E and F of this section, the following rules apply:

(1) if the part is an eye, the gift passes to the appropriate eye bank;

(2) if the part is tissue, the gift passes to the appropriate tissue bank; and

(3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift pursuant to Paragraph (2) of Subsection A of this section, passes to the organ procurement organization as custodian of the organ.

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I. If an anatomical gift does not pass pursuant to Subsections A through H of this section or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

J. A person may not accept an anatomical gift if the person knows that the gift was not effectively made pursuant to Section [~~5 or 10 of the Jonathan Spradling Revised Uniform Anatomical Gift Act~~] 24-6B-5 or 24-6B-10 NMSA 1978 or if the person knows that the decedent made a refusal pursuant to Section [~~7 of that act~~] 24-6B-7 NMSA 1978 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

K. Except as otherwise provided in Paragraph (2) of Subsection A of this section, nothing in the Jonathan Spradling Revised Uniform Anatomical Gift Act affects the allocation of organs for transplantation or therapy.

L. An individual's participation in the state's medical cannabis program established pursuant to the Lynn and Erin Compassionate Use Act shall not in itself constitute grounds for refusing to allow that individual to receive an anatomical gift."

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SECTION SJC→13. 14.←SJC A new section of the Family

Services Act is enacted to read:

"[NEW MATERIAL] MEDICAL CANNABIS PROGRAM--REMOVAL OF CHILDREN--FAMILY SERVICES INTERVENTION--SCHOOL ENROLLMENT--MEDICAL CARE.--

A. An individual's participation in the state's medical cannabis program established pursuant to the Lynn and Erin Compassionate Use Act shall not in itself constitute grounds for:

(1) intervention, removal or placement into state custody of a child in that individual's care pursuant to the Abuse and Neglect Act; or

(2) the provision of state prevention, diversion or intervention services to that individual's family pursuant to the Family Services Act.

B. A person shall not be denied custody of or visitation or parenting time with a child, and there is no presumption of neglect or child endangerment, for conduct allowed under the Lynn and Erin Compassionate Use Act.

C. A school shall not refuse to enroll or otherwise penalize a person solely for conduct allowed pursuant to the Lynn and Erin Compassionate Use Act, unless failing to do so would cause the school to lose a monetary or licensing-related benefit under federal law or regulation.

D. For the purposes of medical care, including an organ transplant, a qualified patient's use of cannabis pursuant to the Lynn and Erin Compassionate Use Act shall be considered the equivalent of the use of any other medication

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under the direction of a physician and shall not be considered to constitute the use of an illicit substance or otherwise disqualify a qualified patient from medical care."

SJC→SECTION 15. TEMPORARY PROVISION--LICENSED

PRODUCERS.--A licensed producer, as defined in the Lynn and Erin Compassionate Use Act prior to the enactment of this 2019 act, that is licensed as of the effective date of this 2019 act shall be considered to be a cannabis producer, as defined by this 2019 act.←SJC

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