

1 SENATE BILL 242

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Gerald Ortiz y Pino

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9  
10 AN ACT

11 RELATING TO HEALTH; AMENDING THE LYNN AND ERIN COMPASSIONATE  
12 USE ACT TO CHANGE THE PERIOD OF VALIDITY FOR A MEDICAL CANNABIS  
13 PATIENT REGISTRY IDENTIFICATION CARD AND TO CHANGE THE  
14 APPLICATION PERIOD FOR RENEWAL.

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 26-2B-7 NMSA 1978 (being Laws 2007,  
18 Chapter 210, Section 7, as amended) is amended to read:

19 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT  
20 RULES--DUTIES--RECIPROCITY.--

21 A. After consultation with the advisory board, the  
22 department shall promulgate rules in accordance with the State  
23 Rules Act to implement the purpose of the Lynn and Erin  
24 Compassionate Use Act. The rules shall:

25 (1) govern the manner in which the department

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

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

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

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

17 (5) determine additional duties and  
18 responsibilities of the advisory board; and

19 (6) be revised and updated as necessary.

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

24 (1) a written certification;

25 (2) the name, address and date of birth of the

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1 patient;

2 (3) the name, address and telephone number of  
3 the patient's practitioner; and

4 (4) the name, address and date of birth of the  
5 patient's primary caregiver, if any.

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

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

20 E. A registry identification card shall contain:

21 (1) the name and date of birth of the  
22 qualified patient and primary caregiver, if any;

23 (2) the date of issuance and expiration date  
24 of the registry identification card; and

25 (3) other information that the department may

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1 require by rule.

2 F. A person who possesses a registry identification  
3 card shall notify the department of any change in the person's  
4 name, qualified patient's practitioner, qualified patient's  
5 primary caregiver or change in status of the qualified  
6 patient's debilitating medical condition within ten days of the  
7 change.

8 G. Possession of or application for a registry  
9 identification card shall not constitute probable cause or give  
10 rise to reasonable suspicion for a governmental agency to  
11 search the person or property of the person possessing or  
12 applying for the card.

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

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

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

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1 (3) to the division; or

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

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

10 J. A reciprocal participant:

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

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

17 (3) shall at all times possess proof of  
18 authorization to participate in the medical cannabis program of  
19 another state, the District of Columbia, a territory or  
20 commonwealth of the United States or a New Mexico Indian  
21 nation, tribe or pueblo and shall present proof of that  
22 authorization when purchasing cannabis from a person licensed  
23 pursuant to the Cannabis Regulation Act; and

24 (4) shall register with a person licensed  
25 pursuant to the Cannabis Regulation Act for the purpose of

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1 tracking sales to the reciprocal participant in an electronic  
2 system that is accessible to the department."

3 SECTION 2. Section 26-2B-7.1 NMSA 1978 (being Laws 2019,  
4 Chapter 247, Section 9) is amended to read:

5 "26-2B-7.1. REGISTRY IDENTIFICATION CARD--REGISTRATION--  
6 RENEWAL--WRITTEN CERTIFICATION.--The department shall require a  
7 qualified patient to reapply for a registry identification card  
8 no sooner than [~~two years and eleven months from~~] thirty days  
9 before the date the patient's current registry identification  
10 card [~~is issued~~] expires; provided that, in order to remain  
11 eligible for participation in the medical cannabis program  
12 established pursuant to the Lynn and Erin Compassionate Use  
13 Act, a qualified patient shall submit [~~annually~~] to the  
14 department together with the qualified patient's application  
15 for a registry card a statement from a practitioner indicating  
16 that:

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

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

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