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SENATE BILL 258

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

Cisco McSorley

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO THE MEDICAL USE OF CANNABIS; ENACTING THE LYNN  
PIERSON COMPASSIONATE USE ACT; AMENDING PROVISIONS OF THE  
CONTROLLED SUBSTANCES ACT; PROVIDING PENALTIES.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 6 of this act may be cited as the "Lynn Pierson  
Compassionate Use Act".

Section 2. [NEW MATERIAL] PURPOSE OF ACT.--The purpose of  
the Lynn Pierson Compassionate Use Act is to allow the  
beneficial use of medical cannabis in a regulated system for  
treating debilitating medical conditions.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the  
Lynn Pierson Compassionate Use Act:

A. "adequate supply" means an amount of cannabis

1 possessed by the qualified patient or collectively possessed  
2 between the qualified patient and the qualified patient's  
3 primary caregiver that is found by rule of the department after  
4 consulting with the advisory board pursuant to Section 6 of the  
5 Lynn Pierson Compassionate Use Act to be not more than is  
6 reasonably necessary to ensure the uninterrupted availability  
7 of cannabis for a period of three months for the purpose of  
8 alleviating the symptoms of a qualified patient's debilitating  
9 medical condition and is derived solely from an intrastate  
10 source;

11 B. "debilitating medical condition" means:

- 12 (1) cancer;
- 13 (2) glaucoma;
- 14 (3) multiple sclerosis;
- 15 (4) damage to the nervous tissue of the spinal  
16 cord, with objective neurological indication of intractable  
17 spasticity;
- 18 (5) epilepsy;
- 19 (6) positive status for human immunodeficiency  
20 virus or acquired immune deficiency syndrome; or
- 21 (7) any other medical condition or disease as  
22 approved by the advisory board;

23 C. "department" means the department of health;

24 D. "licensed producer" means any person or  
25 association of persons, other than qualified patients and

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1 primary caregivers, within New Mexico that has been determined  
2 to be qualified to produce, possess, distribute and dispense  
3 cannabis pursuant to the Lynn Pierson Compassionate Use Act and  
4 is licensed by the department;

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

8 F. "primary caregiver" means a resident of New  
9 Mexico who is at least eighteen years of age and who has been  
10 designated by the patient's practitioner as being necessary to  
11 take responsibility for managing the well-being of a qualified  
12 patient with respect to the medical use of cannabis pursuant to  
13 the provisions of the Lynn Pierson Compassionate Use Act;

14 G. "qualified patient" means a resident of New  
15 Mexico who has been diagnosed by a practitioner as having a  
16 debilitating medical condition and has received written  
17 certification and a registry identification card issued  
18 pursuant to the Lynn Pierson Compassionate Use Act; and

19 H. "written certification" means a statement in the  
20 qualified patient's medical records or a statement signed by a  
21 qualified patient's practitioner that, in the practitioner's  
22 professional opinion, the qualified patient has a debilitating  
23 medical condition and that the practitioner believes that the  
24 potential health benefits of the medical use of cannabis would  
25 likely outweigh the health risks for the qualified patient. A

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1 written certification is not valid for more than one year from  
2 the date of issuance.

3 Section 4. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
4 CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--

5 A. A qualified patient shall not be subject to  
6 arrest, prosecution or penalty in any manner for the possession  
7 of or the medical use of cannabis if the quantity of cannabis  
8 does not exceed an adequate supply.

9 B. A qualified patient's primary caregiver shall  
10 not be subject to arrest, prosecution or penalty in any manner  
11 for the possession of cannabis for medical use by the qualified  
12 patient if the quantity of cannabis does not exceed an adequate  
13 supply.

14 C. Subsection A of this section shall not apply to  
15 a qualified patient under the age of eighteen years, unless:

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

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

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

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

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

3 D. A practitioner shall not be subject to arrest or  
4 prosecution, penalized in any manner or denied any right or  
5 privilege for recommending the medical use of cannabis or  
6 providing written certification for the medical use of cannabis  
7 to qualified patients.

8 E. A licensed producer shall not be subject to  
9 arrest, prosecution or penalty, in any manner, for the  
10 production, possession, distribution or dispensing of cannabis  
11 pursuant to the Lynn Pierson Compassionate Use Act.

12 F. Any property interest that is possessed, owned  
13 or used in connection with the medical use of cannabis, or acts  
14 incidental to such use, shall not be harmed, neglected, injured  
15 or destroyed while in the possession of state or local law  
16 enforcement officials. Any such property interest shall not be  
17 forfeited under any state or local law providing for the  
18 forfeiture of property except as provided in the Forfeiture  
19 Act. Cannabis, paraphernalia or other property seized from a  
20 qualified patient or primary caregiver in connection with the  
21 claimed medical use of cannabis shall be returned immediately  
22 upon the determination by a court or prosecutor that the  
23 qualified patient or primary caregiver is entitled to the  
24 protections of the provisions of the Lynn Pierson Compassionate  
25 Use Act, as may be evidenced by a failure to actively

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1 investigate the case, a decision not to prosecute, the  
2 dismissal of charges or acquittal.

3 G. A person shall not be subject to arrest or  
4 prosecution for a cannabis-related offense for simply being in  
5 the presence of the medical use of cannabis as permitted under  
6 the provisions of the Lynn Pierson Compassionate Use Act.

7 Section 5. [NEW MATERIAL] PROHIBITIONS, RESTRICTIONS AND  
8 LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTY  
9 FOR FRAUDULENT REPRESENTATION.--

10 A. Participation in a medical use of cannabis  
11 program by a qualified patient or primary caregiver does not  
12 relieve the qualified patient or primary caregiver from:

13 (1) criminal prosecution or civil penalties  
14 for activities not authorized in the Lynn Pierson Compassionate  
15 Use Act;

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

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

21 (a) in a school bus or public vehicle;

22 (b) on school grounds or property;

23 (c) in the workplace of the qualified  
24 patient's or primary caregiver's employment; or

25 (d) at a public park, recreation center,

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1 youth center or other public place.

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

8 C. If a licensed producer sells, distributes,  
9 dispenses or transfers cannabis to a person not approved by the  
10 department pursuant to the Lynn Pierson Compassionate Use Act  
11 or obtains or transports cannabis outside New Mexico in  
12 violation of federal law, the licensed producer shall be  
13 subject to arrest, prosecution and civil or criminal penalties  
14 pursuant to state law.

15 Section 6. [NEW MATERIAL] REGISTRY IDENTIFICATION CARDS--  
16 RULES--ADVISORY BOARD CREATED.--

17 A. A qualified patient or primary caregiver  
18 qualifies for the legal protections pursuant to Section 4 of  
19 the Lynn Pierson Compassionate Use Act only if the qualified  
20 patient or primary caregiver is in possession of a registry  
21 identification card.

22 B. No later than October 1, 2006, after consulting  
23 with the advisory board pursuant to Subsection I of this  
24 section, the department shall promulgate rules in accordance  
25 with the State Rules Act. The rules shall:

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1 (1) implement the purpose of the Lynn Pierson  
2 Compassionate Use Act;

3 (2) govern the manner in which it will  
4 consider applications for registry identification cards and for  
5 renewing registry identification cards for qualified patients  
6 and primary caregivers;

7 (3) define the amount of cannabis that is  
8 necessary to constitute an adequate supply;

9 (4) identify criteria for including additional  
10 medical conditions or diseases to the list of debilitating  
11 medical conditions as provided in Section 3 of the Lynn Pierson  
12 Compassionate Use Act;

13 (5) set forth procedures to add medical  
14 conditions or diseases to the list of debilitating medical  
15 conditions as provided in Section 3 of the Lynn Pierson  
16 Compassionate Use Act. Such procedures shall include a  
17 petition process and shall allow for public comment and public  
18 hearings before the advisory board;

19 (6) identify requirements for licensure of  
20 licensed producers and licensed cannabis production facilities  
21 and set forth procedures to obtain licenses;

22 (7) develop a distribution system for medical  
23 cannabis that provides for:

24 (a) licensed cannabis production  
25 facilities within New Mexico housed on secured grounds and

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1 operated by licensed producers; and

2 (b) distribution of medical cannabis to  
3 qualified patients or their primary caregivers to take place at  
4 locations designated by the department; and

5 (8) determine additional duties and  
6 responsibilities of the advisory board.

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

11 (1) written certification that the person is a  
12 qualified patient;

13 (2) the name, address and date of birth of the  
14 qualified patient;

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

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

19 D. The department shall verify the information  
20 contained in an application submitted pursuant to Subsection C  
21 of this section and shall approve or deny an application within  
22 thirty days of receipt. The department may deny an application  
23 only if the applicant did not provide the information required  
24 pursuant to Subsection C of this section or if the department  
25 determines that the information provided is false. A person

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1 whose application has been denied shall not reapply for six  
2 months from the date of the denial unless otherwise authorized  
3 by the department.

4 E. The department shall issue a registry  
5 identification card within five days of approving an  
6 application, and a card shall expire one year after the date of  
7 issuance. A registry identification card shall contain:

8 (1) the name, address and date of birth of the  
9 qualified patient and primary caregiver, if any;

10 (2) the date of issuance and expiration date  
11 of the registry identification card; and

12 (3) other information that the department may  
13 require by rule.

14 F. A person who possesses a registry identification  
15 card shall notify the department of any change in the person's  
16 name, address, qualified patient's practitioner, qualified  
17 patient's primary caregiver or change in status of the  
18 qualified patient's debilitating medical condition within ten  
19 days of the change.

20 G. Possession of, or application for, a registry  
21 identification card shall not constitute probable cause or give  
22 rise to reasonable suspicion for a governmental agency to  
23 search the person or property of the person possessing, or  
24 applying for, the card.

25 H. The department shall maintain a confidential

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1 file containing the names and addresses of the persons who have  
2 either applied for or received a registry identification card.  
3 Individual names on the list shall be confidential and not  
4 subject to disclosure, except:

5 (1) to authorized employees or agents of the  
6 department as necessary to perform the duties of the department  
7 pursuant to the provisions of the Lynn Pierson Compassionate  
8 Use Act;

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

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

15 I. The secretary of health shall establish an  
16 advisory board consisting of eight practitioners representing  
17 the fields of neurology, pain management, medical oncology,  
18 psychiatry, infectious disease, family medicine and gynecology.  
19 The practitioners shall be nationally board-certified in their  
20 area of specialty and knowledgeable about the medical use of  
21 cannabis. The members shall be chosen for appointment by the  
22 secretary from a list proposed by the New Mexico medical  
23 society. A quorum of the advisory board shall consist of three  
24 members. The advisory board shall:

25 (1) review and recommend to the department for

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1 approval additional debilitating medical conditions for  
2 inclusion as debilitating medical conditions as provided in  
3 Section 3 of the Lynn Pierson Compassionate Use Act;

4 (2) accept and review petitions to add medical  
5 conditions or diseases to the list of debilitating medical  
6 conditions as provided in Section 3 of the Lynn Pierson  
7 Compassionate Use Act;

8 (3) convene at least twice per year to conduct  
9 public hearings and to evaluate petitions, which shall be  
10 maintained as confidential personal health information, to add  
11 medical conditions or diseases to the list of debilitating  
12 medical conditions as provided in Section 3 of the Lynn Pierson  
13 Compassionate Use Act;

14 (4) issue recommendations concerning rules to  
15 be promulgated for the issuance of the registry identification  
16 cards; and

17 (5) recommend quantities of cannabis that are  
18 necessary to constitute an adequate supply for qualified  
19 patients and primary caregivers.

20 Section 7. Section 30-31-6 NMSA 1978 (being Laws 1972,  
21 Chapter 84, Section 6, as amended) is amended to read:

22 "30-31-6. SCHEDULE I.--The following controlled  
23 substances are included in Schedule I:

24 A. any of the following opiates, including their  
25 isomers, esters, ethers, salts, and salts of isomers, esters

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1 and ethers, unless specifically exempted, whenever the  
2 existence of these isomers, esters, ethers and salts is  
3 possible within the specific chemical designation:

- 4 (1) acetylmethadol;
- 5 (2) allylprodine;
- 6 (3) alphacetylmethadol;
- 7 (4) alphameprodine;
- 8 (5) alphamethadol;
- 9 (6) benzethidine;
- 10 (7) betacetylmethadol;
- 11 (8) betameprodine;
- 12 (9) betamethadol;
- 13 (10) betaprodine;
- 14 (11) clonitazene;
- 15 (12) dextromoramide;
- 16 (13) dextrorphan;
- 17 (14) diampromide;
- 18 (15) diethylthiambutene;
- 19 (16) dimenoxadol;
- 20 (17) dimepheptanol;
- 21 (18) dimethylthiambutene;
- 22 (19) dioxaphetyl butyrate;
- 23 (20) dipipanone;
- 24 (21) ethylmethylthiambutene;
- 25 (22) etonitazene;

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- 1 (23) etoxeridine;
- 2 (24) furethidine;
- 3 (25) hydroxypethidine;
- 4 (26) ketobemidone;
- 5 (27) levomoramide;
- 6 (28) levophenacymorphan;
- 7 (29) morpheridine;
- 8 (30) noracymethadol;
- 9 (31) norlevorphanol;
- 10 (32) normethadone;
- 11 (33) norpipanone;
- 12 (34) phenadoxone;
- 13 (35) phenampromide;
- 14 (36) phenomorphan;
- 15 (37) phenoperidine;
- 16 (38) piritramide;
- 17 (39) proheptazine;
- 18 (40) properidine;
- 19 (41) racemoramide; and
- 20 (42) trimeperidine;

21 B. any of the following opium derivatives, their  
22 salts, isomers and salts of isomers, unless specifically  
23 exempted, whenever the existence of these salts, isomers and  
24 salts of isomers is possible within the specific chemical  
25 designation:

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- 1 (1) acetorphine;
- 2 (2) acetyldihydrocodeine;
- 3 (3) benzylmorphine;
- 4 (4) codeine methylbromide;
- 5 (5) codeine-N-oxide;
- 6 (6) cyprenorphine;
- 7 (7) desomorphine;
- 8 (8) dihydromorphine;
- 9 (9) etorphine;
- 10 (10) heroin;
- 11 (11) hydromorphinol;
- 12 (12) methyldesorphine;
- 13 (13) methyldihydromorphine;
- 14 (14) morphine methylbromide;
- 15 (15) morphine methylsulfonate;
- 16 (16) morphine-N-oxide;
- 17 (17) myrophine;
- 18 (18) nicocodeine;
- 19 (19) nicomorphine;
- 20 (20) normorphine;
- 21 (21) pholcodine; and
- 22 (22) thebacon;

23 C. any material, compound, mixture or preparation  
24 ~~[which]~~ that contains any quantity of the following  
25 hallucinogenic substances, their salts, isomers and salts of

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1 isomers, unless specifically exempted, whenever the existence  
2 of these salts, isomers and salts of isomers is possible within  
3 the specific chemical designation:

- 4 (1) 3,4-methylenedioxy amphetamine;
- 5 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 6 (3) 3,4,5-trimethoxy amphetamine;
- 7 (4) bufotenine;
- 8 (5) diethyltryptamine;
- 9 (6) dimethyltryptamine;
- 10 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 11 (8) ibogaine;
- 12 (9) lysergic acid diethylamide;
- 13 (10) marijuana;
- 14 (11) mescaline;
- 15 (12) peyote, except as otherwise provided in  
16 the Controlled Substances Act;
- 17 (13) N-ethyl-3-piperidyl benzilate;
- 18 (14) N-methyl-3-piperidyl benzilate;
- 19 (15) psilocybin;
- 20 (16) psilocyn;
- 21 (17) tetrahydrocannabinols; and
- 22 (18) hashish;

23 D. the enumeration of peyote as a controlled  
24 substance does not apply to the use of peyote in bona fide  
25 religious ceremonies by a bona fide religious organization, and

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1 members of the organization so using peyote are exempt from  
2 registration. Any person who manufactures peyote for or  
3 distributes peyote to the organization or its members shall  
4 comply with the federal Comprehensive Drug Abuse Prevention and  
5 Control Act of 1970 and all other requirements of law;

6 E. the enumeration of marijuana,  
7 tetrahydrocannabinols or chemical derivatives of  
8 tetrahydrocannabinol as Schedule I controlled substances does  
9 not apply to the use of marijuana, tetrahydrocannabinols or  
10 chemical derivatives of tetrahydrocannabinol by certified  
11 patients pursuant to the Controlled Substances Therapeutic  
12 Research Act or by qualified patients pursuant to the  
13 provisions of the Lynn Pierson Compassionate Use Act; and

14 F. controlled substances added to Schedule I by  
15 rule adopted by the board pursuant to Section 30-31-3 NMSA  
16 1978."

17 Section 8. Section 30-31-7 NMSA 1978 (being Laws 1972,  
18 Chapter 84, Section 7, as amended) is amended to read:

19 "30-31-7. SCHEDULE II.--

20 A. The following controlled substances are included  
21 in Schedule II:

22 (1) any of the following substances, except  
23 those narcotic drugs listed in other schedules, whether  
24 produced directly or indirectly by extraction from substances  
25 of vegetable origin, or independently by means of chemical

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1 synthesis, or by combination of extraction and chemical  
2 synthesis:

3 (a) opium and opiate, and any salt,  
4 compound, derivative or preparation of opium or opiate;

5 (b) any salt, compound, isomer,  
6 derivative or preparation thereof ~~[which]~~ that is chemically  
7 equivalent or identical with any of the substances referred to  
8 in Subparagraph (a) of this paragraph, but not including the  
9 isoquinoline alkaloids of opium;

10 (c) opium poppy and poppy straw;

11 (d) coca leaves and any salt, compound,  
12 derivative or preparation of coca leaves, and any salt,  
13 compound, derivative or preparation thereof ~~[which]~~ that is  
14 chemically equivalent or identical with any of these  
15 substances, but not including decocainized coca leaves or  
16 extractions ~~[which]~~ that do not contain cocaine or ecgonine;

17 (e) marijuana, but only for the use by  
18 certified patients pursuant to the Controlled Substances  
19 Therapeutic Research Act or by qualified patients pursuant to  
20 the provisions of the Lynn Pierson Compassionate Use Act; and

21 (f) tetrahydrocannabinols or chemical  
22 derivatives of tetrahydrocannabinol, but only for the use ~~[of]~~  
23 by certified patients pursuant to the Controlled Substances  
24 Therapeutic Research Act or by qualified patients pursuant to  
25 the provisions of the Lynn Pierson Compassionate Use Act.

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1           Marijuana, tetrahydrocannabinols or chemical derivatives  
2 of tetrahydrocannabinol shall be considered Schedule II  
3 controlled substances only for the purposes enumerated in the  
4 Controlled Substances Therapeutic Research Act or the Lynn  
5 Pierson Compassionate Use Act;

6                       (2) any of the following opiates, including  
7 their isomers, esters, ethers, salts and salts of isomers,  
8 whenever the existence of these isomers, esters, ethers and  
9 salts is possible within the specific chemical designation:

- 10                               (a) alphaprodine;
- 11                               (b) anileridine;
- 12                               (c) bezitramide;
- 13                               (d) dihydrocodeine;
- 14                               (e) diphenoxylate;
- 15                               (f) fentanyl;
- 16                               (g) hydromorphone;
- 17                               (h) isomethadone;
- 18                               (i) levomethorphan;
- 19                               (j) levorphanol;
- 20                               (k) meperidine;
- 21                               (l) metazocine;
- 22                               (m) methadone;
- 23                               (n) methadone--intermediate, 4-cyano-2-  
24 dimethylamino-4, 4-diphenyl butane;
- 25                               (o) moramide--intermediate, 2-methyl-3-

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1 morpholino-1, 1-diphenyl-propane-carboxylic acid;

2 (p) oxycodone;

3 (q) pethidine;

4 (r) pethidine--intermediate--A, 4-cyano-  
5 1-methyl-4-phenylpiperidine;

6 (s) pethidine--intermediate--B, ethyl-4-  
7 phenyl-piperidine-4-carboxylate;

8 (t) pethidine--intermediate--C, 1-  
9 methyl-4-phenylpiperidine-4-carboxylic acid;

10 (u) phenazocine;

11 (v) piminodine;

12 (w) racemethorphan; and

13 (x) racemorphan;

14 (3) unless listed in another schedule, any  
15 material, compound, mixture or preparation [~~which~~] that  
16 contains any quantity of the following substances having a  
17 potential for abuse associated with a stimulant effect on the  
18 central nervous system:

19 (a) amphetamine, its salts, optical  
20 isomers and salts of its optical isomers;

21 (b) phenmetrazine and its salts;

22 (c) methamphetamine, its salts, isomers  
23 and salts of isomers; and

24 (d) methylphenidate; and

25 (4) controlled substances added to Schedule II

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1 by rule adopted by the board pursuant to Section 30-31-3 NMSA  
2 1978.

3 B. Where methadone is prescribed, administered or  
4 dispensed by a practitioner of a drug abuse rehabilitation  
5 program while acting in the course of [~~his~~] the practitioner's  
6 professional practice, or otherwise lawfully obtained or  
7 possessed by a person, such person shall not possess such  
8 methadone beyond the date stamped or typed on the label of the  
9 container of the methadone, nor shall any person possess  
10 methadone except in the container in which it was originally  
11 administered or dispensed to such person, and such container  
12 shall include a label showing the name of the prescribing  
13 physician or practitioner, the identity of methadone, the name  
14 of the ultimate user, the date when the methadone is to be  
15 administered to or used or consumed by the named ultimate user  
16 shown on the label and a warning on the label of the methadone  
17 container that the ultimate user must use, consume or  
18 administer to [~~himself~~] the ultimate user the methadone in such  
19 container. Any person who violates this subsection is guilty  
20 of a felony and shall be punished by imprisonment for not less  
21 than one year nor more than five years, or by a fine of up to  
22 five thousand dollars (\$5,000), or both."

23 Section 9. TEMPORARY PROVISION.--

24 A. During the period between July 1, 2006 and  
25 thirty days after the effective date of rules promulgated by

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1 the department of health pursuant to Subsection B of Section 6  
2 of the Lynn Pierson Compassionate Use Act, a person who would  
3 be eligible to participate in the medical use of cannabis  
4 program as a qualified patient, but for the lack of effective  
5 rules concerning registry identification cards, licensed  
6 producers, licensed cannabis production facilities,  
7 distribution system and adequate supply, may obtain a written  
8 certification from a practitioner and upon presentation of that  
9 certification to the department of health, the department shall  
10 issue a temporary certification for participation in the  
11 program. The department shall maintain a list of all temporary  
12 certificates issued pursuant to this section.

13 B. A person possessing a temporary certificate and  
14 the person's primary caregiver are not subject to arrest,  
15 prosecution, civil or criminal penalty or denial of any right  
16 or privilege for possessing cannabis if the amount of cannabis  
17 possessed collectively is not more than the amount that is  
18 specified on the temporary certificate issued by the department  
19 of health.

20 C. A practitioner shall not be subject to arrest or  
21 prosecution, penalized in any manner or denied any right or  
22 privilege for recommending the medical use of cannabis or  
23 providing written certification for the medical use of cannabis  
24 to a person holding a temporary certificate pursuant to this  
25 section.

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