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HOUSE BILL 594

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Bob Wooley

AN ACT

RELATING TO MEDICAL CANNABIS; AMENDING THE LYNN AND ERIN
COMPASSIONATE USE ACT TO REQUIRE PHOTO IDENTIFICATION AND A
CRIMINAL HISTORY RECORD CHECK OF EACH PATIENT, PRIMARY
CAREGIVER, PRACTITIONER OR PRODUCER AS A CONDITION OF
REGISTRATION OR LICENSURE UNDER THE ACT; PROVIDING PENALTIES
FOR DISCLOSURE OF CRIMINAL HISTORY RECORDS OR INFORMATION IN
VIOLATION OF THE ACT.

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

SECTION 1. 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."

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

3 "26-2B-6. ADVISORY BOARD CREATED--DUTIES.--The secretary
4 of health shall establish an advisory board consisting of eight
5 practitioners representing the fields of neurology, pain
6 management, medical oncology, psychiatry, infectious disease,
7 family medicine and gynecology. The practitioners shall be
8 nationally board-certified in their area of specialty and
9 knowledgeable about the medical use of cannabis. The members
10 shall be chosen for appointment by the secretary from a list
11 proposed by the New Mexico medical society. A quorum of the
12 advisory board shall consist of three members. The advisory
13 board shall:

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

17 B. accept and review petitions to add medical
18 conditions, medical treatments or diseases to the list of
19 debilitating medical conditions that qualify for the medical
20 use of cannabis;

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

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1 use of cannabis;

2 D. issue recommendations concerning rules to be
3 promulgated for the issuance of the registry photo
4 identification cards; and

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

8 SECTION 3. Section 26-2B-7 NMSA 1978 (being Laws 2007,
9 Chapter 210, Section 7) is amended to read:

10 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT
11 RULES--DUTIES.--

12 A. No later than October 1, 2007, and after
13 consultation with the advisory board, the department shall
14 promulgate rules in accordance with the State Rules Act to
15 implement the purpose of the Lynn and Erin Compassionate Use
16 Act. The rules shall:

17 (1) govern the manner in which the department
18 will consider applications for registry photo identification
19 cards and for the renewal of photo identification cards for
20 qualified patients and primary caregivers;

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

24 (3) identify criteria and set forth procedures
25 for including additional medical conditions, medical treatments

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1 or diseases to the list of debilitating medical conditions that
2 qualify for the medical use of cannabis. Procedures shall
3 include a petition process and shall allow for public comment
4 and public hearings before the advisory board;

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

9 (5) identify requirements for the licensure of
10 producers and cannabis production facilities and set forth
11 procedures to obtain licenses;

12 (6) develop a distribution system for medical
13 cannabis that provides for:

14 (a) cannabis production facilities
15 within New Mexico housed on secured grounds and operated by
16 licensed producers; and

17 (b) distribution of medical cannabis to
18 qualified patients or their primary caregivers to take place at
19 locations that are designated by the department and that are
20 not within three hundred feet of any school, church or daycare
21 center;

22 (7) regulate the content and manner of
23 advertising related to the prescribing, sale or distribution of
24 medical cannabis;

25 [~~7~~] (8) determine additional duties and

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1 responsibilities of the advisory board; and
2 [~~(8)~~] (9) be revised and updated as necessary.

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

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

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

24 D. The department shall issue a registry photo
25 identification card within five days of approving an

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1 application, and a card shall expire one year after the date of
2 issuance. A registry photo identification card shall contain:

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

5 (2) the date of issuance and expiration date
6 of the registry photo identification card; and

7 (3) other information that the department may
8 require by rule.

9 E. A person who possesses a registry photo
10 identification card shall notify the department of any change
11 in the person's name, address, qualified patient's
12 practitioner, qualified patient's primary caregiver or change
13 in status of the qualified patient's debilitating medical
14 condition within ten days of the change.

15 F. Possession of or application for a registry
16 photo identification card shall not constitute probable cause
17 or give rise to reasonable suspicion for a governmental agency
18 to search the person or property of the person possessing or
19 applying for the card.

20 G. The department shall maintain a confidential
21 file containing the names and addresses of the persons who have
22 either applied for or received a registry photo identification
23 card. Individual names on the list shall be confidential and
24 not subject to disclosure, except:

25 (1) to authorized employees or agents of the

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1 department as necessary to perform the duties of the department
2 pursuant to the provisions of the Lynn and Erin Compassionate
3 Use Act;

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

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

10 SECTION 4. A new section of the Lynn and Erin
11 Compassionate Use Act is enacted to read:

12 "[NEW MATERIAL] CRIMINAL BACKGROUND CHECKS.--

13 A. Nationwide criminal history record checks shall
14 be conducted on applicants for registry photo identification
15 cards and for renewal of registry photo identification cards.

16 B. Nationwide criminal history record checks shall
17 be conducted on:

18 (1) applicants for licensure as producers;

19 (2) all persons with an existing ownership
20 interest in an applicant for licensure as a producer;

21 (3) all persons with an after-acquired
22 ownership interest in a licensed producer;

23 (4) all persons with an existing ownership
24 interest in cannabis production, distribution or dispensing
25 facilities or operations for which licensure is sought, or in

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1 the real property where such facilities or operations are
2 located;

3 (5) all persons with an after-acquired
4 ownership interest in licensed cannabis production,
5 distribution or dispensing facilities or operations, or in the
6 real property where such facilities or operations are located;
7 and

8 (6) all employees of cannabis production,
9 distribution or dispensing facilities or operations licensed by
10 the department.

11 C. The department may use criminal history records
12 obtained from the federal bureau of investigation to conduct
13 background checks on the persons referred to in Subsection B of
14 this section and shall consider such records and information
15 when granting, renewing or revoking registry photo
16 identification cards or licensure to a producer.

17 D. Criminal history records obtained by the
18 department pursuant to the provisions of this section are
19 confidential. Criminal history records obtained pursuant to
20 the provisions of this section shall not be used for any
21 purpose other than conducting background checks. Criminal
22 history records obtained pursuant to the provisions of this
23 section and the information contained in those records shall
24 not be released or disclosed to any other person or agency,
25 except pursuant to a court order or with the written consent of

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1 the person who is the subject of the records.

2 E. A person who releases or discloses criminal
3 history records or information contained in those records in
4 violation of the provisions of this section is guilty of a
5 misdemeanor and shall be sentenced pursuant to the provisions
6 of Section 31-19-1 NMSA 1978."

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