

1 SENATE BILL 404

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Bill B. O'Neill and Dayan Hochman-Vigil

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10 AN ACT

11 RELATING TO HEALTH; AMENDING THE LYNN AND ERIN COMPASSIONATE
12 USE ACT TO PROVIDE FOR THREE-YEAR CERTIFICATION.

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

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

17 "26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT
18 RULES--DUTIES.--

19 A. No later than October 1, 2007, and after
20 consultation with the advisory board created pursuant to
21 Section 26-2B-6 NMSA 1978, the department shall promulgate
22 rules in accordance with the State Rules Act to implement the
23 purpose of the Lynn and Erin Compassionate Use Act. The rules
24 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) identify requirements for the licensure of
18 producers and cannabis production facilities and set forth
19 procedures to obtain licenses;

20 (6) develop a distribution system for medical
21 cannabis that provides for:

22 (a) cannabis production facilities
23 within New Mexico housed on secured grounds and operated by
24 licensed producers; and

25 (b) distribution of medical cannabis to

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1 qualified patients or their primary caregivers to take place at
2 locations that are designated by the department and that are
3 not within three hundred feet of any school, church or daycare
4 center;

5 (7) determine additional duties and
6 responsibilities of the advisory board; and

7 (8) be revised and updated as necessary.

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

12 (1) a written certification;

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

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

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

19 C. The department shall verify the information
20 contained in an application submitted pursuant to Subsection B
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 B 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 D. The department shall issue a registry
5 identification card within five days of approving an
6 application, and a card shall expire [~~one year~~] three years
7 after the date of issuance. A registry identification card
8 shall contain:

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

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

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

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

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

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

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

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

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

16 **SECTION 2.** A new section of the Lynn and Erin
17 Compassionate Use Act is enacted to read:

18 "[NEW MATERIAL] REGISTRY IDENTIFICATION CARD--
19 REGISTRATION--RENEWAL--WRITTEN CERTIFICATION.--

20 A. The department shall require a qualified patient
21 to reapply for a registry identification card as follows:

22 (1) for a qualified patient who is a veteran
23 or whose certification of a debilitating medical condition
24 indicates that the patient's debilitating medical condition is
25 a chronic condition, no sooner than three years from the date

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1 the patient's current registry identification card is issued;
2 and

3 (2) for a qualified patient whose
4 certification of a debilitating medical condition does not
5 indicate that the patient's debilitating medical condition is a
6 chronic condition, no sooner than three years from the date the
7 patient's current registry identification card is issued;
8 provided that, in order to remain eligible for participation in
9 the medical cannabis program established pursuant to the Lynn
10 and Erin Compassionate Use Act, a qualified patient whose
11 debilitating medical condition is not a chronic condition shall
12 submit annually to the department a statement from the
13 qualified patient's practitioner indicating that:

14 (a) the practitioner has examined the
15 qualified patient during the preceding twelve months;

16 (b) the qualified patient continues to
17 have a debilitating medical condition; and

18 (c) the practitioner believes that the
19 potential health benefits of the medical use of cannabis would
20 likely outweigh the health risks for the qualified patient.

21 B. As used in this section, "chronic condition"
22 means a condition that, in the opinion of a patient's
23 practitioner, lasts or is expected to last three months or
24 longer."