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SENATE BILL 340

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO MEDICAL CANNABIS; AMENDING A SECTION OF THE LYNN
AND ERIN COMPASSIONATE USE ACT TO CLARIFY THE DEFINITION OF
"RECIPROCAL PARTICIPANT".

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

SECTION 1. Section 26-2B-3 NMSA 1978 (being Laws 2007,
Chapter 210, Section 3, as amended) 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

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1 of cannabis for a period of three months and that is derived
2 solely from an intrastate source;

3 B. "cannabis":

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

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

19 C. "cannabis consumption area" means an area within
20 a licensed premises approved by the department where cannabis
21 may be consumed that complies with rule as established by the
22 department;

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

1 establishment to:

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

5 E. "cannabis establishment" means:

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

11 by rule approve for participation in the medical cannabis
12 program;

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

- 15 (1) manufacture cannabis products;
- 16 (2) package, transport or courier cannabis
17 products;
- 18 (3) have cannabis products tested by a
19 cannabis testing facility;
- 20 (4) purchase, obtain, sell and transport
21 cannabis products to other cannabis establishments; and
- 22 (5) prepare products for personal production
23 license holders;

24 G. "cannabis producer" means a person that is
25 licensed by the department to possess, produce, dispense,

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1 distribute and manufacture cannabis and cannabis products and
2 sell wholesale or by direct sale to qualified patients and
3 primary caregivers;

4 H. "cannabis product":

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

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

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

17 J. "debilitating medical condition" means:

- 18 (1) cancer;
- 19 (2) glaucoma;
- 20 (3) multiple sclerosis;
- 21 (4) damage to the nervous tissue of the spinal
22 cord, with objective neurological indication of intractable
23 spasticity;
- 24 (5) seizure disorder, including epilepsy;
- 25 (6) positive status for human immunodeficiency

1 virus or acquired immune deficiency syndrome;

2 (7) admitted into hospice care in accordance
3 with rules promulgated by the department;

4 (8) amyotrophic lateral sclerosis;

5 (9) Crohn's disease;

6 (10) hepatitis C infection;

7 (11) Huntington's disease;

8 (12) inclusion body myositis;

9 (13) inflammatory autoimmune-mediated
10 arthritis;

11 (14) intractable nausea or vomiting;

12 (15) obstructive sleep apnea;

13 (16) painful peripheral neuropathy;

14 (17) Parkinson's disease;

15 (18) posttraumatic stress disorder;

16 (19) severe chronic pain;

17 (20) severe anorexia or cachexia;

18 (21) spasmodic torticollis;

19 (22) ulcerative colitis; or

20 (23) any other medical condition, medical
21 treatment or disease as approved by the department;

22 K. "department" means the department of health;

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

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1 three-tenths percent on a dry weight basis;

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

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

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

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

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

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

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

24 T. "primary caregiver" means a resident of New
25 Mexico who is at least eighteen years of age and who has been

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1 designated by the patient's practitioner as being necessary to
2 take responsibility for managing the well-being of a qualified
3 patient with respect to the medical use of cannabis pursuant to
4 the provisions of the Lynn and Erin Compassionate Use Act;

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

7 V. "qualified patient" means a resident of New
8 Mexico who has been diagnosed by a practitioner as having a
9 debilitating medical condition and has received written
10 certification and a registry identification card pursuant to
11 the Lynn and Erin Compassionate Use Act on the basis of having
12 been diagnosed, in person or via telemedicine, by a
13 practitioner as having a debilitating medical condition;
14 provided that a practitioner may only issue a written
15 certification on the basis of an evaluation conducted via
16 telemedicine if the practitioner has previously examined the
17 patient in person;

18 W. "reciprocal participant" means an individual who
19 is not a resident of New Mexico, who holds proof of
20 ~~[authorization to participate in the]~~ enrollment by a
21 governmental regulatory authority to participate in the medical
22 cannabis program of another state of the United States, the
23 District of Columbia, a territory or commonwealth of the United
24 States in which the individual resides; or an individual who
25 holds proof of enrollment by a governmental regulatory

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1 authority of a New Mexico Indian nation, tribe or pueblo to
2 participate in its medical cannabis program;

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

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

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

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

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

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

3 BB. "written certification" means a statement made
4 on a department-approved form and signed by a patient's
5 practitioner that indicates, in the practitioner's professional
6 opinion, that the patient has a debilitating medical condition
7 and the practitioner believes that the potential health
8 benefits of the medical use of cannabis would likely outweigh
9 the health risks for the patient."