

The bill, within the LECUA provision for exemption from criminal and civil penalty, adds a paragraph providing for immunity for approved entities, Department of Health (DOH) employees, or agents for the possession of cannabis, or for other activities, as may be permitted by department rule. The bill would also permit the department to extend the enrollment period of a patient or caregiver in the program if the department believes the individual's enrollment might lapse as a result of a delay in the processing of the enrollment application. Overall enrollment periods would be increased from one year to two years.

Provisions would be added to LECUA requiring the secretary of health to adopt rules to allow for interstate reciprocity, publish a patient census on the DOH website, and notify licensed producers of the current census. The bill would also require the secretary of DOH to notify localities of the secretary's intent to issue a new producer license to include the name and address of the new licensee.

Also, the bill would not allow children to be removed and placed into state custody based solely on an individual's participation in the medical cannabis program. The bill would also not allow someone to be precluded from receiving an anatomical gift due to that person's participation in the program.

FISCAL IMPLICATIONS

DOH stated that the reciprocity provision of the bill would likely increase the number of persons participating as patients in the Medical Cannabis Program, which will in turn require a greater expenditure of administrative resources by DOH, in the form of processing applications for reciprocity and issuance of enrollment cards. It is difficult to identify the specific fiscal impact that this change would have.

SIGNIFICANT ISSUES

DOH stated that the bill would grant criminal immunity to approved entities, DOH employees, and agents consistent with the current criminal immunity text of the statute, which immunizes producers, patients, and primary caregivers. However, it is unclear from the text that employees of approved entities would be immunized from criminal prosecution. To address this, the definition of "approved entity" could be revised to state, "a courier, laboratory, manufacturer or other person or entity that the department has approved for participation in the medical cannabis program."

WCA provided the following:

New Mexico was the first state to require employers and insurers to reimburse an injured worker's medical cannabis – a distinction that was the result of decisions from New Mexico's Court of Appeals. As a result of the Court of Appeals' decisions, WCA passed regulations governing the process for reimbursement of medical cannabis in a workers' compensation claim. See 11.4.7.9 NMAC (10/01/2015). This regulatory framework seems to be working and currently provides a process to facilitate reimbursement of medical cannabis.