

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 404

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

AN ACT

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

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."

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

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

A. No later than October 1, 2007, and after

1 consultation with the advisory board created pursuant to
2 Section 26-2B-6 NMSA 1978, the department shall promulgate
3 rules in accordance with the State Rules Act to implement the
4 purpose of the Lynn and Erin Compassionate Use Act. The rules
5 shall:

6 (1) govern the manner in which the department
7 will consider applications for registry identification cards
8 and for the renewal of identification cards for qualified
9 patients and primary caregivers;

10 (2) define the amount of cannabis that is
11 necessary to constitute an adequate supply, including amounts
12 for topical treatments;

13 (3) identify criteria and set forth procedures
14 for including additional medical conditions, medical treatments
15 or diseases to the list of debilitating medical conditions that
16 qualify for the medical use of cannabis. Procedures shall
17 include a petition process and shall allow for public comment
18 and public hearings before the advisory board;

19 (4) set forth additional medical conditions,
20 medical treatments or diseases to the list of debilitating
21 medical conditions that qualify for the medical use of cannabis
22 as recommended by the advisory board;

23 (5) identify requirements for the licensure of
24 producers and cannabis production facilities and set forth
25 procedures to obtain licenses;

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1 (6) develop a distribution system for medical
2 cannabis that provides for:

3 (a) cannabis production facilities
4 within New Mexico housed on secured grounds and operated by
5 licensed producers; and

6 (b) distribution of medical cannabis to
7 qualified patients or their primary caregivers to take place at
8 locations that are designated by the department and that are
9 not within three hundred feet of any school, church or daycare
10 center;

11 (7) determine additional duties and
12 responsibilities of the advisory board; and

13 (8) be revised and updated as necessary.

14 B. The department shall issue registry
15 identification cards to a patient and to the primary caregiver
16 for that patient, if any, who submit the following, in
17 accordance with the department's rules:

18 (1) a written certification;

19 (2) the name, address and date of birth of the
20 patient;

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

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

25 C. The department shall verify the information

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1 contained in an application submitted pursuant to Subsection B
2 of this section and shall approve or deny an application within
3 thirty days of receipt. The department may deny an application
4 only if the applicant did not provide the information required
5 pursuant to Subsection B of this section or if the department
6 determines that the information provided is false. A person
7 whose application has been denied shall not reapply for six
8 months from the date of the denial unless otherwise authorized
9 by the department.

10 D. The department shall issue a registry
11 identification card within five days of approving an
12 application, and a card shall expire [~~one year~~] three years
13 after the date of issuance; provided that a registry
14 identification card issued to a person under the age of
15 eighteen shall be valid for one year. A registry
16 identification card shall contain:

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

19 (2) the date of issuance and expiration date
20 of the registry identification card; and

21 (3) other information that the department may
22 require by rule.

23 E. A person who possesses a registry identification
24 card shall:

25 (1) notify the department of any change in the

1 person's name, address, qualified patient's practitioner,
2 qualified patient's primary caregiver or change in status of
3 the qualified patient's debilitating medical condition within
4 ten days of the change; and

5 (2) visit the qualified patient's practitioner
6 annually regarding the status of the qualified patient's
7 debilitating medical condition, regardless of the length of
8 time for which the qualified patient's registration
9 identification card is valid.

10 F. Subsequent to the visit required pursuant to
11 Paragraph (2) of Subsection E of this section, the qualified
12 patient's practitioner shall submit a notice to the department,
13 in a form and manner required by department rules, that shall
14 allow for submission in writing or by secure electronic means.
15 The notice shall affirm that the qualified patient's
16 practitioner has examined the patient and that the patient
17 still qualifies for the medical use of cannabis program
18 according to the provisions of the Lynn and Erin Compassionate
19 Use Act.

20 [~~F.~~] 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 [~~G.~~] H. The department shall maintain a

1 confidential file containing the names and addresses of the
2 persons who have either applied for or received a registry
3 identification card. Individual names on the list shall be
4 confidential and not 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 and Erin 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."