AN ACT

RELATING TO MEDICAL CANNABIS; AMENDING A SECTION OF THE LYNN AND ERIN COMPASSIONATE USE ACT TO LIMIT THE DEFINITION OF "QUALIFIED PATIENT" TO RESIDENTS OF NEW MEXICO; DECLARING AN EMERGENCY.

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

B. "cannabis":

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

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

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

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

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

E. "cannabis establishment" means:

   (1) a licensed cannabis courier;
   (2) a licensed cannabis testing facility;
   (3) a licensed cannabis manufacturer;
(4) a licensed cannabis producer; or
(5) such other person that the department
may by rule approve for participation in the medical cannabis
program;

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

(1) manufacture cannabis products;
(2) package, transport or courier cannabis
products;
(3) have cannabis products tested by a
cannabis testing facility;
(4) purchase, obtain, sell and transport
cannabis products to other cannabis establishments; and
(5) prepare products for personal production
license holders;

G. "cannabis producer" means a person that is
licensed by the department to possess, produce, dispense,
distribute and manufacture cannabis and cannabis products and
sell wholesale or by direct sale to qualified patients and
primary caregivers;

H. "cannabis product":

(1) means a product that contains cannabis,
including edible or topical products that may also contain
other ingredients; and
(2) does not include the weight of any other
ingredient combined with cannabis or cannabis extract to prepare topical or oral administrations, food, drink or another product;

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

J. "debilitating medical condition" means:

(1) cancer;

(2) glaucoma;

(3) multiple sclerosis;

(4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;

(5) seizure disorder, including epilepsy;

(6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;

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

(8) amyotrophic lateral sclerosis;

(9) Crohn's disease;

(10) hepatitis C infection;
(11) Huntington's disease;
(12) inclusion body myositis;
(13) inflammatory autoimmune-mediated arthritis;
(14) intractable nausea or vomiting;
(15) obstructive sleep apnea;
(16) painful peripheral neuropathy;
(17) Parkinson's disease;
(18) posttraumatic stress disorder;
(19) severe chronic pain;
(20) severe anorexia or cachexia;
(21) spasmodic torticollis;
(22) ulcerative colitis; or
(23) any other medical condition, medical
treatment or disease as approved by the department;

K. "department" means the department of health;
L. "hemp" means the plant Cannabis sativa L. and
any part of the plant, whether growing or not, containing a
delta-9-tetrahydrocannabinol concentration of no more than
three-tenths percent on a dry weight basis;
M. "license" means a license issued pursuant to
the Lynn and Erin Compassionate Use Act;
N. "licensee" means a person that holds a license;
O. "licensee representative" means an owner,
representative of a licensee, to the extent that person acts in a representative capacity;

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

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

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

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

T. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act;
U. "produce" means to engage in any activity related to the planting or cultivation of cannabis;

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

W. "reciprocal participant" means an individual who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo;

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

(1) to a qualified patient that identifies the bearer as a qualified patient and authorizes the qualified patient to use cannabis for a debilitating medical condition; or
(2) to a primary caregiver that identifies
the bearer as a primary caregiver authorized to engage in the
intrastate possession and administration of cannabis for the
sole use of a qualified patient who is identified on the
document;

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

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

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

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

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.