

1 SENATE BILL 219

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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5 and Craig W. Brandt and Andrea Romero
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10 AN ACT

11 RELATING TO HEALTH CARE; ENACTING THE MEDICAL PSILOCYBIN ACT;
12 ALLOWING THE USE OF PSILOCYBIN IN AN APPROVED SETTING TO TREAT
13 QUALIFIED MEDICAL CONDITIONS; CREATING AN ADVISORY BOARD;
14 PROVIDING POWERS AND DUTIES; AMENDING THE CONTROLLED SUBSTANCES
15 ACT TO REMOVE PSILOCYBIN AND PSILOCIN FROM THE SCHEDULE FOR
16 PURPOSES OF QUALIFIED MEDICAL TREATMENT; PROVIDING A GROSS
17 RECEIPTS TAX DEDUCTION FOR MEDICAL PSILOCYBIN; PRESCRIBING A
18 PENALTY; MAKING APPROPRIATIONS.
19

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

21 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
22 through 11 of this act may be cited as the "Medical Psilocybin
23 Act".

24 SECTION 2. [NEW MATERIAL] PURPOSE OF ACT.--The purpose of
25 the Medical Psilocybin Act is to allow the beneficial use of

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1 psilocybin in a regulated system for alleviating qualified
2 medical conditions.

3 SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
4 Medical Psilocybin Act:

5 A. "board" means the medical psilocybin advisory
6 board;

7 B. "clinician" means an approved health care
8 provider licensed in New Mexico who holds a permit from the
9 department to provide medical services to qualified patients;

10 C. "department" means the department of health;

11 D. "medical services" means services provided to a
12 patient in an approved setting before, during and after the
13 ingestion of psilocybin and includes a preparation session, an
14 administration session and an integration session;

15 E. "producer" means a person who has a permit from
16 the department to grow and harvest or prepare psilocybin from
17 psilocybin-producing mushrooms, including to compound, convert,
18 process or manufacture psilocybin products directly or
19 indirectly from psilocybin mushrooms and to package or
20 repackage or label or relabel the products;

21 F. "program" means the medical use of psilocybin
22 program;

23 G. "psilocybin" means the naturally occurring
24 psychedelic compound 4-phosphoryloxy-N,N-dimethyltryptamine,
25 also known as 4-PO-DMT, and its pharmacologically active

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1 metabolite psilocin, 4-hydroxy-N,N-dimethyltryptamine, found in
2 certain mushrooms, but does not include synthetic or synthetic
3 analogs of psilocybin;

4 H. "qualified patient" means a patient whose
5 clinician has judged the patient to be a medically appropriate
6 candidate for the use of medical psilocybin based on being
7 diagnosed with a qualifying condition;

8 I. "qualifying condition" includes:

- 9 (1) major treatment-resistant depression;
10 (2) posttraumatic stress disorder;
11 (3) substance use disorders;
12 (4) end-of-life care; and
13 (5) other conditions approved by the
14 department; and

15 J. "secretary" means the secretary of health.

16 SECTION 4. [NEW MATERIAL] APPLICABILITY.--Federal food
17 and drug administration-approved products that contain
18 psilocybin shall be exempt from the Medical Psilocybin Act.
19 Such products may be used in New Mexico:

20 A. in any research conducted by state research
21 universities or health care providers pursuant to grants
22 awarded through the medical psilocybin research fund; and

23 B. by qualified patients whose treatments may be
24 funded through the medical psilocybin treatment equity fund.

25 SECTION 5. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND

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1 CIVIL PENALTIES FOR THE MEDICAL USE OF PSILOCYBIN.--

2 A. A producer, clinician or qualified patient shall
3 not be subject to arrest, prosecution or penalty for
4 participating in the program.

5 B. The following conduct is lawful and shall not
6 constitute grounds for detention, search or arrest of a person
7 or for a violation of probation or parole, and psilocybin that
8 relates to the conduct is not contraband or subject to seizure
9 or forfeiture pursuant to the Controlled Substances Act or the
10 Forfeiture Act:

11 (1) a producer or clinician possessing or
12 transporting not more than an adequate supply of psilocybin for
13 medical purposes as defined by department rule; and

14 (2) a clinician administering or a qualified
15 patient taking psilocybin in an approved setting in accordance
16 with the Medical Psilocybin Act or rules promulgated in
17 accordance with that act.

18 C. A clinician shall not be subject to arrest or
19 prosecution, penalized in any manner or denied any right or
20 privilege for recommending the program or providing medical
21 services.

22 D. A person shall not be subject to arrest or
23 prosecution for a psilocybin-related offense for simply being
24 in the presence of the medical use of psilocybin as allowed
25 under the provisions of the Medical Psilocybin Act.

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1 E. The Medical Psilocybin Act does not apply to
2 federal food and drug administration-approved clinical trials.

3 **SECTION 6. [NEW MATERIAL] PROHIBITIONS, RESTRICTIONS AND**
4 **LIMITATIONS ON THE USE OF PSILOCYBIN--CRIMINAL PENALTIES.--**

5 A. Participation in the program by a producer,
6 clinician or qualified patient does not relieve the producer,
7 clinician or qualified patient from:

- 8 (1) criminal prosecution or civil penalties
- 9 for activities not authorized in the Medical Psilocybin Act; or
- 10 (2) liability for damages or criminal
- 11 prosecution arising out of the operation of a motor vehicle if
- 12 driving while under the influence of psilocybin.

13 B. A person who makes a fraudulent representation
14 to a law enforcement officer about the person's participation
15 in the program to avoid arrest or prosecution for a psilocybin-
16 related offense is guilty of a petty misdemeanor and shall be
17 sentenced as provided in Section 31-19-1 NMSA 1978.

18 **SECTION 7. [NEW MATERIAL] DEPARTMENT--PROGRAM.--**

19 A. The "medical use of psilocybin program" is
20 created in the department. In developing the program, the
21 department shall establish:

- 22 (1) appropriate qualifying conditions for
- 23 producers, clinicians and qualified patients;
- 24 (2) necessary initial and ongoing training for
- 25 producers and clinicians;

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1 (3) treatment protocols, including patient
2 selection criteria, medical service standards, dosage standards
3 and approved settings for administration of psilocybin to
4 patients;

5 (4) safety protocols for producing psilocybin
6 from mushrooms, transporting, storing and handling psilocybin
7 and treating patients;

8 (5) other best practices for producers and
9 clinicians;

10 (6) requirements for data collection to
11 evaluate the program and the use of best practices by producers
12 and clinicians; and

13 (7) other requirements, restrictions and
14 limitations promulgated by the department to ensure an
15 efficacious program.

16 B. The department shall monitor producers and
17 clinicians to ensure compliance with the Medical Psilocybin Act
18 and rules promulgated in accordance with that act.

19 C. The department shall collaborate with the board,
20 state higher education institutions and health care providers
21 to collect and analyze data to develop best practices,
22 including best settings for administration of psilocybin, and,
23 by December 31, 2027, implement the program. When developing
24 the program, the department shall engage in tribal consultation
25 as provided in the State-Tribal Collaboration Act.

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1 SECTION 8. [NEW MATERIAL] ADVISORY BOARD CREATED--

2 DUTIES.--

3 A. The secretary shall establish the "medical
4 psilocybin advisory board", consisting of nine members who are
5 knowledgeable about the medical use of psilocybin. At least
6 one member shall be an enrolled member of an Indian nation,
7 tribe or pueblo located wholly or partially in New Mexico; one
8 member shall be a mental or behavioral health equity advocate;
9 and one member shall be a representative of the health care
10 authority. A majority of the members constitutes a quorum, and
11 a quorum of the members present and a majority vote are needed
12 to take any action.

13 B. The board shall:

14 (1) review and recommend to the department for
15 approval medical conditions that may benefit from the medical
16 use of psilocybin;

17 (2) accept and review petitions to add medical
18 conditions to the list of medical conditions that qualify for
19 the medical use of psilocybin;

20 (3) convene at least twice per year to conduct
21 public hearings and to evaluate petitions, which shall be
22 maintained as confidential personal health information, to add
23 additional medical conditions that qualify for the medical use
24 of psilocybin;

25 (4) recommend patient qualifications;

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1 (5) recommend formulation or preparation rules
2 and dosage standards for psilocybin; and

3 (6) assist the department in establishing,
4 monitoring and evaluating best practices for producers and
5 clinicians.

6 SECTION 9. [NEW MATERIAL] ASSESSMENT REPORTING.--The
7 department shall promulgate rules for the collection of data
8 from producers, clinicians and qualified patients as a means to
9 evaluate the efficacy of the medical use of psilocybin and
10 publish an annual assessment of the program. The assessment
11 shall consider the needs of qualified patients who live in
12 rural areas, federal subsidized housing or on reservations of
13 New Mexico Indian nations, tribes or pueblos, as long as the
14 qualified patient's place of residence is wholly within the
15 exterior boundaries of the state. Data shall be reported in
16 such a way that an individual qualified patient cannot be
17 identified.

18 SECTION 10. [NEW MATERIAL] PERSONS UNDER STATE
19 SUPERVISION--PROTECTIONS.--A person who is serving a period of
20 probation or parole or who is in the custody or under the
21 supervision of the state or a local government pending trial as
22 part of a community supervision program shall not be penalized
23 for participation in the program.

24 SECTION 11. [NEW MATERIAL] FUNDS--CREATED.--

25 A. The "medical psilocybin treatment equity fund"

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1 is created as a nonreverting fund in the state treasury. The
2 fund consists of appropriations, gifts, grants and donations.
3 The fund shall be used to fund treatments of qualified patients
4 who meet income requirements determined by rule of the
5 department. The department shall administer the fund, and
6 money in the fund is subject to appropriation by the
7 legislature. Expenditures from the fund shall be by warrants
8 signed by the secretary of finance and administration on
9 vouchers signed by the secretary of health or the secretary's
10 authorized representative.

11 B. The "medical psilocybin research fund" is
12 created as a nonreverting fund in the state treasury. The fund
13 consists of appropriations, gifts, grants and donations. The
14 fund shall be used to provide grants to state research
15 universities and health care providers that are studying any
16 facet of the medical use of psilocybin. The department shall
17 administer the fund, and money in the fund is subject to
18 appropriation by the legislature. Expenditures from the fund
19 shall be by warrants signed by the secretary of finance and
20 administration on vouchers signed by the secretary of health or
21 the secretary's authorized representative.

22 SECTION 12. Section 7-9-73.2 NMSA 1978 (being Laws 1998,
23 Chapter 95, Section 2 and Laws 1998, Chapter 99, Section 4, as
24 amended) is amended to read:

25 "7-9-73.2. DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL
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1 GROSS RECEIPTS TAX--PRESCRIPTION DRUGS--OXYGEN--CANNABIS--
2 PSILOCYBIN.--

3 A. Receipts from the sale of prescription drugs and
4 oxygen and oxygen services provided by a licensed medicare
5 durable medical equipment provider and cannabis products that
6 are sold in accordance with the Lynn and Erin Compassionate Use
7 Act and psilocybin products and medical care that are sold in
8 accordance with the Medical Psilocybin Act may be deducted from
9 gross receipts and governmental gross receipts.

10 B. For the purposes of this section, "prescription
11 drugs" means insulin and substances that are:

12 (1) dispensed by or under the supervision of a
13 licensed pharmacist or by a physician or other person
14 authorized under state law to do so;

15 (2) prescribed for a specified person by a
16 person authorized under state law to prescribe the substance;
17 and

18 (3) subject to the restrictions on sale
19 contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

20 SECTION 13. Section 30-31-6 NMSA 1978 (being Laws 1972,
21 Chapter 84, Section 6, as amended) is amended to read:

22 "30-31-6. SCHEDULE I.--The following controlled
23 substances are included in Schedule I:

24 A. any of the following opiates, including their
25 isomers, esters, ethers, salts and salts of isomers, esters and

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1 ethers, unless specifically exempted, whenever the existence of
2 these isomers, esters, ethers and salts is possible within the
3 specific chemical designation:

- 4 (1) acetylmethadol;
- 5 (2) allylprodine;
- 6 (3) alphacetylmethadol;
- 7 (4) alphameprodine;
- 8 (5) alphamethadol;
- 9 (6) benzethidine;
- 10 (7) betacetylmethadol;
- 11 (8) betameprodine;
- 12 (9) betamethadol;
- 13 (10) betaprodine;
- 14 (11) clonitazene;
- 15 (12) dextromoramide;
- 16 (13) dextrorphan;
- 17 (14) diampromide;
- 18 (15) diethylthiambutene;
- 19 (16) dimenoxadol;
- 20 (17) dimepheptanol;
- 21 (18) dimethylthiambutene;
- 22 (19) dioxaphetyl butyrate;
- 23 (20) dipipanone;
- 24 (21) ethylmethylthiambutene;
- 25 (22) etonitazene;

- 1 (23) etoxeridine;
- 2 (24) furethidine;
- 3 (25) hydroxypethidine;
- 4 (26) ketobemidone;
- 5 (27) levomoramide;
- 6 (28) levophenacymorphan;
- 7 (29) morpheridine;
- 8 (30) noracymethadol;
- 9 (31) norlevorphanol;
- 10 (32) normethadone;
- 11 (33) norpipanone;
- 12 (34) phenadoxone;
- 13 (35) phenampromide;
- 14 (36) phenomorphan;
- 15 (37) phenoperidine;
- 16 (38) piritramide;
- 17 (39) proheptazine;
- 18 (40) properidine;
- 19 (41) racemoramide; and
- 20 (42) trimeperidine;

21 B. any of the following opium derivatives, their
22 salts, isomers and salts of isomers, unless specifically
23 exempted, whenever the existence of these salts, isomers and
24 salts of isomers is possible within the specific chemical
25 designation:

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- 1 (1) acetorphine;
- 2 (2) acetyldihydrocodeine;
- 3 (3) benzylmorphine;
- 4 (4) codeine methylbromide;
- 5 (5) codeine-N-oxide;
- 6 (6) cyprenorphine;
- 7 (7) desomorphine;
- 8 (8) dihydromorphine;
- 9 (9) etorphine;
- 10 (10) heroin;
- 11 (11) hydromorphinol;
- 12 (12) methyldesorphine;
- 13 (13) methyldihydromorphine;
- 14 (14) morphine methylbromide;
- 15 (15) morphine methylsulfonate;
- 16 (16) morphine-N-oxide;
- 17 (17) myrophine;
- 18 (18) nicocodeine;
- 19 (19) nicomorphine;
- 20 (20) normorphine;
- 21 (21) pholcodine; and
- 22 (22) thebacon;

23 C. any material, compound, mixture or preparation
24 that contains any quantity of the following hallucinogenic
25 substances, their salts, isomers and salts of isomers, unless

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1 specifically exempted, whenever the existence of these salts,
2 isomers and salts of isomers is possible within the specific
3 chemical designation:

- 4 (1) 3,4-methylenedioxy amphetamine;
- 5 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 6 (3) 3,4,5-trimethoxy amphetamine;
- 7 (4) bufotenine;
- 8 (5) diethyltryptamine;
- 9 (6) dimethyltryptamine;
- 10 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 11 (8) ibogaine;
- 12 (9) lysergic acid diethylamide;
- 13 (10) mescaline;
- 14 (11) peyote, except as otherwise provided in
15 the Controlled Substances Act;
- 16 (12) N-ethyl-3-piperidyl benzilate;
- 17 (13) N-methyl-3-piperidyl benzilate;
- 18 (14) psilocybin, except as provided otherwise
19 in the Controlled Substances Act and the Medical Psilocybin
20 Act;
- 21 (15) [~~psilocyn~~] psilocin, except as provided
22 otherwise in the Controlled Substances Act and the Medical
23 Psilocybin Act;
- 24 (16) synthetic cannabinoids, including:
25 (a) 1-[2-(4-(morpholinyl)ethyl]

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- 1 -3-(1-naphthoyl)indole;
2 (b) 1-butyl-3-(1-naphthoyl)indole;
3 (c) 1-hexyl-3-(1-naphthoyl)indole;
4 (d) 1-pentyl-3-(1-naphthoyl)indole;
5 (e) 1-pentyl-3-(2-methoxyphenylacetyl)
6 indole;
7 (f) cannabicyclohexanol (CP 47, 497 and
8 homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)
9 -3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,
10 1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;
11 (g) 6aR,10aR)-9-(hydroxymethyl)
12 -6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,
13 10a-tetrahydrobenzo[c]chromen-1-ol);
14 (h) dexanabinol, (6aS,10aS)
15 -9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)
16 -6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;
17 (i) 1-pentyl-3-(4-chloro naphthoyl)
18 indole;
19 (j) (2-methyl-1-propyl-1H-indol-3-yl)
20 -1-naphthalenyl-methanone; and
21 (k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy
22 cyclohexyl)-phenol;
23 (17) 3,4-methylenedioxymethcathinone;
24 (18) 3,4-methylenedioxyprovalerone;
25 (19) 4-methylmethcathinone;

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1 (20) 4-methoxymethcathinone;

2 (21) 3-fluoromethcathinone; and

3 (22) 4-fluoromethcathinone;

4 D. the enumeration of peyote as a controlled
5 substance does not apply to the use of peyote in bona fide
6 religious ceremonies by a bona fide religious organization, and
7 members of the organization so using peyote are exempt from
8 registration. Any person who manufactures peyote for or
9 distributes peyote to the organization or its members shall
10 comply with the federal Comprehensive Drug Abuse Prevention and
11 Control Act of 1970 and all other requirements of law;

12 E. the enumeration of psilocybin and psilocin in
13 this schedule does not apply to their medical use as provided
14 in the Medical Psilocybin Act. Any person who is a producer or
15 clinician under that act shall comply with the federal
16 Comprehensive Drug Abuse Prevention and Control Act of 1970 and
17 other requirements of law;

18 ~~[E.]~~ F. the enumeration of Schedule I controlled
19 substances does not apply to:

20 (1) hemp pursuant to rules promulgated by the
21 board of regents of New Mexico state university on behalf of
22 the New Mexico department of agriculture;

23 (2) cultivation of hemp by persons pursuant to
24 rules promulgated by the board of regents of New Mexico state
25 university on behalf of the New Mexico department of

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1 agriculture;

2 (3) tetrahydrocannabinols or chemical
3 derivatives of tetrahydrocannabinols, including
4 tetrahydrocannabinols or chemical derivatives of
5 tetrahydrocannabinols with concentrations of up to five percent
6 as measured using a post-decarboxylation method and based on
7 percentage dry weight, possessed by a person in connection with
8 the cultivation, transportation, testing, researching,
9 manufacturing or other processing of the plant Cannabis sativa
10 L., or any part of the plant whether growing or not, if
11 authorized pursuant to rules promulgated, pursuant to the Hemp
12 Manufacturing Act, by the board of regents of New Mexico state
13 university on behalf of the New Mexico department of
14 agriculture or the department of environment; or

15 (4) tetrahydrocannabinols or chemical
16 derivatives of tetrahydrocannabinols, including
17 tetrahydrocannabinols or chemical derivatives of
18 tetrahydrocannabinols in any concentration possessed by a
19 person in connection with the extraction of
20 tetrahydrocannabinols or chemical derivatives of
21 tetrahydrocannabinols, if authorized pursuant to rules
22 promulgated, pursuant to the Hemp Manufacturing Act, by the
23 board of regents of New Mexico state university on behalf of
24 the New Mexico department of agriculture or the department of
25 environment; and

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1 [F-] G. controlled substances added to Schedule I
2 by rule adopted by the board pursuant to Section 30-31-3 NMSA
3 1978."

4 SECTION 14. APPROPRIATIONS.--

5 A. Two million dollars (\$2,000,000) is appropriated
6 from the general fund to the department of health for
7 expenditure in fiscal years 2026 and 2027 to carry out the
8 provisions of the Medical Psilocybin Act. Any unexpended or
9 unencumbered balance remaining at the end of fiscal year 2026
10 shall revert to the general fund.

11 B. One million dollars (\$1,000,000) is appropriated
12 from the general fund to the medical psilocybin treatment
13 equity fund for expenditure in fiscal year 2026 and subsequent
14 fiscal years to carry out the purposes of the fund. Any
15 unexpended or unencumbered balance remaining at the end of a
16 fiscal year shall not revert to the general fund.

17 C. One million dollars (\$1,000,000) is appropriated
18 from the general fund to the medical psilocybin research fund
19 for expenditure in fiscal year 2026 and subsequent fiscal years
20 to carry out the purposes of the fund. Any unexpended or
21 unencumbered balance remaining at the end of a fiscal year
22 shall not revert to the general fund.

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