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SENATE BILL 238

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Gerald P. Ortiz y Pino

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO THE MEDICAL USE OF CANNABIS; ENACTING THE LYNN AND ERIN COMPASSIONATE USE ACT; AMENDING PROVISIONS OF THE CONTROLLED SUBSTANCES ACT; PROVIDING PENALTIES.

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

Section 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Lynn and Erin Compassionate Use Act" in honor of Lynn Pierson and Erin Armstrong.

Section 2. [NEW MATERIAL] PURPOSE OF ACT.--The purpose of the Lynn and Erin Compassionate Use Act is to allow the beneficial use of medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments.

Section 3. [NEW MATERIAL] DEFINITIONS.--As used in the

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1 Lynn and Erin Compassionate Use Act:

2           A. "adequate supply" means an amount of cannabis  
3 possessed by a qualified patient or collectively possessed by a  
4 qualified patient and the qualified patient's primary caregiver  
5 that is determined by rule of the department to be no more than  
6 reasonably necessary to ensure the uninterrupted availability  
7 of cannabis for a period of three months and that is derived  
8 solely from an intrastate source;

9           B. "debilitating medical condition" means:

10                   (1) cancer;  
11                   (2) glaucoma;  
12                   (3) multiple sclerosis;  
13                   (4) damage to the nervous tissue of the spinal  
14 cord, with objective neurological indication of intractable  
15 spasticity;

16                   (5) epilepsy;  
17                   (6) positive status for human immunodeficiency  
18 virus or acquired immune deficiency syndrome; or

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

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

22           D. "licensed producer" means any person or  
23 association of persons within New Mexico that the department  
24 determines to be qualified to produce, possess, distribute and  
25 dispense cannabis pursuant to the Lynn and Erin Compassionate

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1 Use Act and that is licensed by the department;

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

5 F. "primary caregiver" means a resident of New  
6 Mexico who is at least eighteen years of age and who has been  
7 designated by the patient's practitioner as being necessary to  
8 take responsibility for managing the well-being of a qualified  
9 patient with respect to the medical use of cannabis pursuant to  
10 the provisions of the Lynn and Erin Compassionate Use Act;

11 G. "qualified patient" means a resident of New  
12 Mexico who has been diagnosed by a practitioner as having a  
13 debilitating medical condition and has received written  
14 certification and a registry identification card issued  
15 pursuant to the Lynn and Erin Compassionate Use Act; and

16 H. "written certification" means a statement in a  
17 patient's medical records or a statement signed by a patient's  
18 practitioner that, in the practitioner's professional opinion,  
19 the patient has a debilitating medical condition and the  
20 practitioner believes that the potential health benefits of the  
21 medical use of cannabis would likely outweigh the health risks  
22 for the patient. A written certification is not valid for more  
23 than one year from the date of issuance.

24 Section 4. [NEW MATERIAL] EXEMPTION FROM CRIMINAL AND  
25 CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--

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1           A. A qualified patient shall not be subject to  
2 arrest, prosecution or penalty in any manner for the possession  
3 of or the medical use of cannabis if the quantity of cannabis  
4 does not exceed an adequate supply.

5           B. A qualified patient's primary caregiver shall  
6 not be subject to arrest, prosecution or penalty in any manner  
7 for the possession of cannabis for medical use by the qualified  
8 patient if the quantity of cannabis does not exceed an adequate  
9 supply.

10           C. Subsection A of this section shall not apply to  
11 a qualified patient under the age of eighteen years, unless:

12                   (1) the qualified patient's practitioner has  
13 explained the potential risks and benefits of the medical use  
14 of cannabis to the qualified patient and to a parent, guardian  
15 or person having legal custody of the qualified patient; and

16                   (2) a parent, guardian or person having legal  
17 custody consents in writing to:

18                           (a) allow the qualified patient's  
19 medical use of cannabis;

20                           (b) serve as the qualified patient's  
21 primary caregiver; and

22                           (c) control the dosage and the frequency  
23 of the medical use of cannabis by the qualified patient.

24           D. A qualified patient or a primary caregiver shall  
25 be granted the full legal protections provided in this section

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1 if the patient or caregiver is in possession of a registry  
2 identification card. If the qualified patient or primary  
3 caregiver is not in possession of a registry identification  
4 card, the patient or caregiver shall be given an opportunity to  
5 produce the registry identification card before any criminal  
6 charges or other penalties are initiated.

7 E. A practitioner shall not be subject to arrest or  
8 prosecution, penalized in any manner or denied any right or  
9 privilege for recommending the medical use of cannabis or  
10 providing written certification for the medical use of cannabis  
11 pursuant to the Lynn and Erin Compassionate Use Act.

12 F. A licensed producer shall not be subject to  
13 arrest, prosecution or penalty, in any manner, for the  
14 production, possession, distribution or dispensing of cannabis  
15 pursuant to the Lynn and Erin Compassionate Use Act.

16 G. Any property interest that is possessed, owned  
17 or used in connection with the medical use of cannabis, or acts  
18 incidental to such use, shall not be harmed, neglected, injured  
19 or destroyed while in the possession of state or local law  
20 enforcement officials. Any such property interest shall not be  
21 forfeited under any state or local law providing for the  
22 forfeiture of property except as provided in the Forfeiture  
23 Act. Cannabis, paraphernalia or other property seized from a  
24 qualified patient or primary caregiver in connection with the  
25 claimed medical use of cannabis shall be returned immediately

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1 upon the determination by a court or prosecutor that the  
2 qualified patient or primary caregiver is entitled to the  
3 protections of the provisions of the Lynn and Erin  
4 Compassionate Use Act, as may be evidenced by a failure to  
5 actively investigate the case, a decision not to prosecute, the  
6 dismissal of charges or acquittal.

7 H. A person shall not be subject to arrest or  
8 prosecution for a cannabis-related offense for simply being in  
9 the presence of the medical use of cannabis as permitted under  
10 the provisions of the Lynn and Erin Compassionate Use Act.

11 Section 5. [NEW MATERIAL] PROHIBITIONS, RESTRICTIONS AND  
12 LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL  
13 PENALTIES.--

14 A. Participation in a medical use of cannabis  
15 program by a qualified patient or primary caregiver does not  
16 relieve the qualified patient or primary caregiver from:

17 (1) criminal prosecution or civil penalties  
18 for activities not authorized in the Lynn and Erin  
19 Compassionate Use Act;

20 (2) liability for damages or criminal  
21 prosecution arising out of the operation of a vehicle while  
22 under the influence of cannabis; or

23 (3) criminal prosecution or civil penalty for  
24 possession or use of cannabis:

25 (a) in a school bus or public vehicle;

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- 1 (b) on school grounds or property;  
2 (c) in the workplace of the qualified  
3 patient's or primary caregiver's employment; or  
4 (d) at a public park, recreation center,  
5 youth center or other public place.

6 B. A person who makes a fraudulent representation  
7 to a law enforcement officer about the person's participation  
8 in a medical use of cannabis program to avoid arrest or  
9 prosecution for a cannabis-related offense is guilty of a petty  
10 misdemeanor and shall be sentenced in accordance with the  
11 provisions of Section 31-19-1 NMSA 1978.

12 C. If a licensed producer sells, distributes,  
13 dispenses or transfers cannabis to a person not approved by the  
14 department pursuant to the Lynn and Erin Compassionate Use Act  
15 or obtains or transports cannabis outside New Mexico in  
16 violation of federal law, the licensed producer shall be  
17 subject to arrest, prosecution and civil or criminal penalties  
18 pursuant to state law.

19 Section 6. [NEW MATERIAL] ADVISORY BOARD CREATED--  
20 DUTIES.--The secretary of health shall establish an advisory  
21 board consisting of eight practitioners representing the fields  
22 of neurology, pain management, medical oncology, psychiatry,  
23 infectious disease, family medicine and gynecology. The  
24 practitioners shall be nationally board-certified in their area  
25 of specialty and knowledgeable about the medical use of

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1 cannabis. The members shall be chosen for appointment by the  
2 secretary from a list proposed by the New Mexico medical  
3 society. A quorum of the advisory board shall consist of three  
4 members. The advisory board shall:

5 A. review and recommend to the department for  
6 approval additional debilitating medical conditions that would  
7 benefit from the medical use of cannabis;

8 B. accept and review petitions to add medical  
9 conditions, medical treatments or diseases to the list of  
10 debilitating medical conditions that qualify for the medical  
11 use of cannabis;

12 C. convene at least twice per year to conduct  
13 public hearings and to evaluate petitions, which shall be  
14 maintained as confidential personal health information, to add  
15 medical conditions, medical treatments or diseases to the list  
16 of debilitating medical conditions that qualify for the medical  
17 use of cannabis;

18 D. issue recommendations concerning rules to be  
19 promulgated for the issuance of the registry identification  
20 cards; and

21 E. recommend quantities of cannabis that are  
22 necessary to constitute an adequate supply for qualified  
23 patients and primary caregivers.

24 Section 7. [NEW MATERIAL] REGISTRY IDENTIFICATION CARDS--  
25 DEPARTMENT RULES--DUTIES.--

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1           A. No later than October 1, 2007, and after  
2 consultation with the advisory board, the department shall  
3 promulgate rules in accordance with the State Rules Act to  
4 implement the purpose of the Lynn and Erin Compassionate Use  
5 Act. The rules 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;

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

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

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

25                   (6) develop a distribution system for medical

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1 cannabis that provides for:

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

5 (b) distribution of medical cannabis to  
6 qualified patients or their primary caregivers to take place at  
7 locations designated by the department;

8 (7) determine additional duties and  
9 responsibilities of the advisory board; and

10 (8) be revised and updated as necessary.

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

15 (1) a written certification;

16 (2) the name, address and date of birth of the  
17 patient;

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

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

22 C. The department shall verify the information  
23 contained in an application submitted pursuant to Subsection B  
24 of this section and shall approve or deny an application within  
25 thirty days of receipt. The department may deny an application

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1 only if the applicant did not provide the information required  
2 pursuant to Subsection B of this section or if the department  
3 determines that the information provided is false. A person  
4 whose application has been denied shall not reapply for six  
5 months from the date of the denial unless otherwise authorized  
6 by the department.

7 D. The department shall issue a registry  
8 identification card within five days of approving an  
9 application, and a card shall expire one year after the date of  
10 issuance. A registry identification card shall contain:

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

13 (2) the date of issuance and expiration date  
14 of the registry identification card; and

15 (3) other information that the department may  
16 require by rule.

17 E. A person who possesses a registry identification  
18 card shall notify the department of any change in the person's  
19 name, address, qualified patient's practitioner, qualified  
20 patient's primary caregiver or change in status of the  
21 qualified patient's debilitating medical condition within ten  
22 days of the change.

23 F. Possession of or application for a registry  
24 identification card shall not constitute probable cause or give  
25 rise to reasonable suspicion for a governmental agency to

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1 search the person or property of the person possessing or  
2 applying for the card.

3 G. The department shall maintain a confidential  
4 file containing the names and addresses of the persons who have  
5 either applied for or received a registry identification card.  
6 Individual names on the list shall be confidential and not  
7 subject to disclosure, except:

8 (1) to authorized employees or agents of the  
9 department as necessary to perform the duties of the department  
10 pursuant to the provisions of the Lynn and Erin Compassionate  
11 Use Act;

12 (2) to authorized employees of state or local  
13 law enforcement agencies, but only for the purpose of verifying  
14 that a person is lawfully in possession of a registry  
15 identification card; or

16 (3) as provided in the federal Health  
17 Insurance Portability and Accountability Act of 1996.

18 Section 8. Section 30-31-6 NMSA 1978 (being Laws 1972,  
19 Chapter 84, Section 6, as amended) is amended to read:

20 "30-31-6. SCHEDULE I.--The following controlled  
21 substances are included in Schedule I:

22 A. any of the following opiates, including their  
23 isomers, esters, ethers, salts, and salts of isomers, esters  
24 and ethers, unless specifically exempted, whenever the  
25 existence of these isomers, esters, ethers and salts is

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1 possible within the specific chemical designation:

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

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

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

- 24 (1) acetorphine;
- 25 (2) acetyldihydrocodeine;

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

21 C. any material, compound, mixture or preparation  
22 ~~[which]~~ that contains any quantity of the following  
23 hallucinogenic substances, their salts, isomers and salts of  
24 isomers, unless specifically exempted, whenever the existence  
25 of these salts, isomers and salts of isomers is possible within

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1 the specific chemical designation:

- 2 (1) 3,4-methylenedioxy amphetamine;
- 3 (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- 4 (3) 3,4,5-trimethoxy amphetamine;
- 5 (4) bufotenine;
- 6 (5) diethyltryptamine;
- 7 (6) dimethyltryptamine;
- 8 (7) 4-methyl-2,5-dimethoxy amphetamine;
- 9 (8) ibogaine;
- 10 (9) lysergic acid diethylamide;
- 11 (10) marijuana;
- 12 (11) mescaline;
- 13 (12) peyote, except as otherwise provided in

14 the Controlled Substances Act;

- 15 (13) N-ethyl-3-piperidyl benzilate;
- 16 (14) N-methyl-3-piperidyl benzilate;
- 17 (15) psilocybin;
- 18 (16) psilocyn;
- 19 (17) tetrahydrocannabinols; and
- 20 (18) hashish;

21 D. the enumeration of peyote as a controlled  
22 substance does not apply to the use of peyote in bona fide  
23 religious ceremonies by a bona fide religious organization, and  
24 members of the organization so using peyote are exempt from  
25 registration. Any person who manufactures peyote for or

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1 distributes peyote to the organization or its members shall  
2 comply with the federal Comprehensive Drug Abuse Prevention and  
3 Control Act of 1970 and all other requirements of law;

4 E. the enumeration of marijuana,  
5 tetrahydrocannabinols or chemical derivatives of  
6 tetrahydrocannabinol as Schedule I controlled substances does  
7 not apply to the use of marijuana, tetrahydrocannabinols or  
8 chemical derivatives of tetrahydrocannabinol by certified  
9 patients pursuant to the Controlled Substances Therapeutic  
10 Research Act or by qualified patients pursuant to the  
11 provisions of the Lynn and Erin Compassionate Use Act; and

12 F. controlled substances added to Schedule I by  
13 rule adopted by the board pursuant to Section 30-31-3 NMSA  
14 1978."

15 Section 9. Section 30-31-7 NMSA 1978 (being Laws 1972,  
16 Chapter 84, Section 7, as amended) is amended to read:

17 "30-31-7. SCHEDULE II.--

18 A. The following controlled substances are included  
19 in Schedule II:

20 (1) any of the following substances, except  
21 those narcotic drugs listed in other schedules, whether  
22 produced directly or indirectly by extraction from substances  
23 of vegetable origin, or independently by means of chemical  
24 synthesis, or by combination of extraction and chemical  
25 synthesis:

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1 (a) opium and opiate, and any salt,  
2 compound, derivative or preparation of opium or opiate;

3 (b) any salt, compound, isomer,  
4 derivative or preparation thereof [~~which~~] that is chemically  
5 equivalent or identical with any of the substances referred to  
6 in Subparagraph (a) of this paragraph, but not including the  
7 isoquinoline alkaloids of opium;

8 (c) opium poppy and poppy straw;

9 (d) coca leaves and any salt, compound,  
10 derivative or preparation of coca leaves, and any salt,  
11 compound, derivative or preparation thereof [~~which~~] that is  
12 chemically equivalent or identical with any of these  
13 substances, but not including decocainized coca leaves or  
14 extractions [~~which~~] that do not contain cocaine or ecgonine;

15 (e) marijuana, but only for the use by  
16 certified patients pursuant to the Controlled Substances  
17 Therapeutic Research Act or by qualified patients pursuant to  
18 the provisions of the Lynn and Erin Compassionate Use Act; and

19 (f) tetrahydrocannabinols or chemical  
20 derivatives of tetrahydrocannabinol, but only for the use [~~of~~]  
21 by certified patients pursuant to the Controlled Substances  
22 Therapeutic Research Act or by qualified patients pursuant to  
23 the provisions of the Lynn and Erin Compassionate Use Act.

24 Marijuana, tetrahydrocannabinols or chemical derivatives  
25 of tetrahydrocannabinol shall be considered Schedule II

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1 controlled substances only for the purposes enumerated in the  
2 Controlled Substances Therapeutic Research Act or the Lynn and  
3 Erin Compassionate Use Act;

4 (2) any of the following opiates, including  
5 their isomers, esters, ethers, salts and salts of isomers,  
6 whenever the existence of these isomers, esters, ethers and  
7 salts is possible within the specific chemical designation:

- 8 (a) alphaprodine;
- 9 (b) anileridine;
- 10 (c) bezitramide;
- 11 (d) dihydrocodeine;
- 12 (e) diphenoxylate;
- 13 (f) fentanyl;
- 14 (g) hydromorphone;
- 15 (h) isomethadone;
- 16 (i) levomethorphan;
- 17 (j) levorphanol;
- 18 (k) meperidine;
- 19 (l) metazocine;
- 20 (m) methadone;
- 21 (n) methadone--intermediate, 4-cyano-2-  
22 dimethylamino-4, 4-diphenyl butane;
- 23 (o) moramide--intermediate, 2-methyl-3-  
24 morpholino-1, 1-diphenyl-propane-carboxylic acid;
- 25 (p) oxycodone;

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- 1 (q) pethidine;
- 2 (r) pethidine--intermediate--A, 4-cyano-
- 3 1-methyl-4-phenylpiperidine;
- 4 (s) pethidine--intermediate--B, ethyl-4-
- 5 phenyl-piperidine-4-carboxylate;
- 6 (t) pethidine--intermediate--C, 1-
- 7 methyl-4-phenylpiperidine-4-carboxylic acid;
- 8 (u) phenazocine;
- 9 (v) piminodine;
- 10 (w) racemethorphan; and
- 11 (x) racemorphan;

12 (3) unless listed in another schedule, any

13 material, compound, mixture or preparation [~~which~~] that

14 contains any quantity of the following substances having a

15 potential for abuse associated with a stimulant effect on the

16 central nervous system:

- 17 (a) amphetamine, its salts, optical
- 18 isomers and salts of its optical isomers;
- 19 (b) phenmetrazine and its salts;
- 20 (c) methamphetamine, its salts, isomers
- 21 and salts of isomers; and
- 22 (d) methylphenidate; and

23 (4) controlled substances added to Schedule II

24 by rule adopted by the board pursuant to Section 30-31-3 NMSA

25 1978.

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1           B. Where methadone is prescribed, administered or  
2 dispensed by a practitioner of a drug abuse rehabilitation  
3 program while acting in the course of [~~his~~] the practitioner's  
4 professional practice, or otherwise lawfully obtained or  
5 possessed by a person, such person shall not possess such  
6 methadone beyond the date stamped or typed on the label of the  
7 container of the methadone, nor shall any person possess  
8 methadone except in the container in which it was originally  
9 administered or dispensed to such person, and such container  
10 shall include a label showing the name of the prescribing  
11 physician or practitioner, the identity of methadone, the name  
12 of the ultimate user, the date when the methadone is to be  
13 administered to or used or consumed by the named ultimate user  
14 shown on the label and a warning on the label of the methadone  
15 container that the ultimate user must use, consume or  
16 administer to [~~himself~~] the ultimate user the methadone in such  
17 container. Any person who violates this subsection is guilty  
18 of a felony and shall be punished by imprisonment for not less  
19 than one year nor more than five years, or by a fine of up to  
20 five thousand dollars (\$5,000), or both."

21           Section 10. TEMPORARY PROVISION.--

22           A. During the period between July 1, 2007 and  
23 thirty days after the effective date of rules promulgated by  
24 the department of health pursuant to Subsection A of Section 7  
25 of the Lynn and Erin Compassionate Use Act, a person who would

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1 be eligible to participate in the medical use of cannabis  
2 program as a qualified patient, but for the lack of effective  
3 rules concerning registry identification cards, licensed  
4 producers, cannabis production facilities, distribution system  
5 and adequate supply, may obtain a written certification from a  
6 practitioner and upon presentation of that certification to the  
7 department of health, the department shall issue a temporary  
8 certification for participation in the program. The department  
9 of health shall maintain a list of all temporary certificates  
10 issued pursuant to this section.

11 B. A person possessing a temporary certificate and  
12 the person's primary caregiver are not subject to arrest,  
13 prosecution, civil or criminal penalty or denial of any right  
14 or privilege for possessing cannabis if the amount of cannabis  
15 possessed collectively is not more than the amount that is  
16 specified on the temporary certificate issued by the department  
17 of health.

18 C. A practitioner shall not be subject to arrest or  
19 prosecution, penalized in any manner or denied any right or  
20 privilege for recommending the medical use of cannabis or  
21 providing written certification for the medical use of cannabis  
22 to a person holding a temporary certificate pursuant to this  
23 section.

24 Section 11. SEVERABILITY.--If any part or application of  
25 the Lynn and Erin Compassionate Use Act is held invalid, the

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1 remainder or its application to other situations or persons  
2 shall not be affected. Failure to promulgate rules or  
3 implement any provision of the Lynn and Erin Compassionate Use  
4 Act shall not interfere with the remaining protections provided  
5 by that act.

6 Section 12. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2007.

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