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AN ACT

RELATING TO HEALTH; ENACTING A SECTION OF THE PUBLIC SCHOOL
CODE AND AMENDING A SECTION OF THE LYNN AND ERIN
COMPASSIONATE USE ACT TO ALLOW THE POSSESSION, STORAGE AND
ADMINISTRATION OF MEDICAL CANNABIS IN CERTAIN SCHOOL
SETTINGS.

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

SECTION 1. A new section of the Public School Code is
enacted to read:

"MEDICAL CANNABIS--POSSESSION--STORAGE--ADMINISTRATION--
RESTRICTION--EXEMPTIONS.--

A. Except as provided pursuant to Subsection C of
this section, local school boards and the governing bodies of
charter schools shall adopt policies and procedures to
authorize the possession, storage and administration of
medical cannabis by parents and legal guardians, or by
designated school personnel, to qualified students for use in
school settings; provided that:

(1) a student shall not possess, store or
self-administer medical cannabis in a school setting;

(2) a parent, legal guardian or designated
school personnel shall not administer medical cannabis in a
manner that creates disruption to the educational environment
or causes other students to be exposed to medical cannabis;

1 (3) a written treatment plan for the
2 administration of the medical cannabis is agreed to and
3 signed by the principal or the principal's designee of the
4 qualified student's school and the qualified student's parent
5 or legal guardian; and

6 (4) before the first administration of
7 medical cannabis in a school setting, the qualified student's
8 parent or legal guardian completes and submits documentation
9 as required by local school board or charter school rules
10 that includes a:

11 (a) copy of the qualified student's
12 written certification for use of medical cannabis pursuant to
13 the Lynn and Erin Compassionate Use Act; and

14 (b) written statement from the
15 qualified student's parent or legal guardian releasing the
16 school and school personnel from liability, except in cases
17 of willful or wanton misconduct or disregard of the qualified
18 student's treatment plan.

19 B. A school board or the governing body of a
20 charter school may adopt policies that:

21 (1) restrict the types of designated school
22 personnel who may administer medical cannabis to qualified
23 students;

24 (2) establish reasonable parameters
25 regarding the administration and use of medical cannabis and

1 the school settings in which administration and use are
2 authorized; and

3 (3) ban student possession, use,
4 distribution, sale or being under the influence of a cannabis
5 product in a manner that is inconsistent with the provisions
6 of this subsection.

7 C. The provisions of Subsection A of this section
8 shall not apply to a charter school or school district if:

9 (1) the charter school or school district
10 reasonably determines that it would lose, or has lost,
11 federal funding as a result of implementing the provisions of
12 Subsection A of this section; and

13 (2) the determination is appealable by any
14 parent to the secretary, based on rules established by the
15 department.

16 D. A public school, charter school or school
17 district shall not:

18 (1) discipline a student who is a qualified
19 student on the basis that the student requires medical
20 cannabis as a reasonable accommodation necessary for the
21 student to attend school;

22 (2) deny eligibility to attend school to a
23 qualified student on the basis that the qualified student
24 requires medical cannabis as a reasonable accommodation
25 necessary for the student to attend school or a

1 school-sponsored activity; or

2 (3) discipline a school employee who refuses
3 to administer medical cannabis.

4 E. As used in this section:

5 (1) "certifying practitioner" means a health
6 care practitioner who issues a written certification to a
7 qualified student;

8 (2) "designated school personnel" means a
9 school employee whom a public school, charter school or
10 school district authorizes to possess, store and administer
11 medical cannabis to a qualified student in accordance with
12 the provisions of this section;

13 (3) "medical cannabis" means cannabis that
14 is:

15 (a) authorized for use by qualified
16 patients in accordance with the provisions of the Lynn and
17 Erin Compassionate Use Act; and

18 (b) in a form that is not an aerosol
19 and cannot be smoked or inhaled in particulate form as a
20 vapor or by burning;

21 (4) "qualified student" means a student who
22 demonstrates evidence to the school district that the student
23 is authorized as a qualified patient pursuant to the Lynn and
24 Erin Compassionate Use Act to carry and use medical cannabis
25 in accordance with the provisions of that act;

1 (5) "school" means a public school or a
2 charter school;

3 (6) "school setting" means any of the
4 following locations during a school day:

5 (a) a school building;

6 (b) a school bus used within the state
7 during, in transit to or in transit from a school-sponsored
8 activity;

9 (c) a public vehicle used within the
10 state during, in transit to or in transit from a
11 school-sponsored activity in the state; or

12 (d) a public site in the state where a
13 school-sponsored activity takes place; and

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

24 SECTION 2. Section 26-2B-5 NMSA 1978 (being Laws 2007,
25 Chapter 210, Section 5) is amended to read:

1 "26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON
2 THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

3 A. Participation in a medical use of cannabis
4 program by a qualified patient or primary caregiver does not
5 relieve the qualified patient or primary caregiver from:

6 (1) criminal prosecution or civil penalties
7 for activities not authorized in the Lynn and Erin
8 Compassionate Use Act;

9 (2) liability for damages or criminal
10 prosecution arising out of the operation of a vehicle while
11 under the influence of cannabis; or

12 (3) criminal prosecution or civil penalty
13 for possession or use of cannabis:

14 (a) in the workplace of the qualified
15 patient's or primary caregiver's employment; or

16 (b) at a public park, recreation
17 center, youth center or other public place.

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

24 C. If a licensed producer sells, distributes,
25 dispenses or transfers cannabis to a person not approved by

1 the department pursuant to the Lynn and Erin Compassionate Use
2 Act or obtains or transports cannabis outside New Mexico in
3 violation of federal law, the licensed producer shall be
4 subject to arrest, prosecution and civil or criminal penalties
5 pursuant to state law." _____

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