

2019 Legislative Session Update

May 3, 2019

The 66th Legislative Assembly made several changes to the Medical Marijuana Program. The following information identifies the changes by bill number as well as what actions have been taken to date by the Division of Medical Marijuana (Division).

House Bill 1119

(effective April 23, 2019)

The full version of House Bill 1119 can be viewed at <https://www.legis.nd.gov/assembly/66-2019/documents/19-0571-03000.pdf>.

1. The term “cannabinoid tincture” has been replaced with “cannabinoid solution.” The definition of a cannabinoid solution is “a solution consisting of a mixture created from cannabinoid concentrate and other ingredients.”

Action Taken

The Division is working on updating website materials to reflect the terminology change.

2. The requirement for application fees of qualifying patients, designated caregivers, and agents to be paid by personal check or cashier’s check has been removed.

Action Taken

The Division is working with its information technology vendor to determine the best approach for potentially accepting electronic payments.

3. The requirement for qualifying patients, designated caregivers, and agents to provide their social security number on an application has been removed.

Action Taken – Completed

The Division has removed all areas requesting a social security number from applications.

4. The Division is required to destroy documents containing social security numbers or redact the social security numbers obtained as part of an application.

Action Taken – Completed

Social security numbers have been removed from the registration system.

5. A minor patient was required to provide a certified copy of their birth record as part of the qualifying patient application. A minor patient may now provide either a certified copy of birth record or a copy of their North Dakota identification as part of the application process.

Action Taken – **Completed**

The Division made changes to the application to allow either forms of identification.

6. An individual responsible for making medical decisions of a qualifying patient was required to reside in North Dakota. This requirement was changed to allow the individual to reside outside of North Dakota.

Action Taken – **Completed**

The Division has updated the application forms to allow an individual responsible for making medical decisions to reside outside of the state.

7. The requirements for a designated caregiver applicant to provide a certified copy of a birth record and to provide the name, address, and phone number of health care provider of the qualifying patient has been removed.

Action Taken – **Completed**

The Division removed the applicable sections in the designated caregiver application.

8. The requirement for an entity to re-submit the legal name, articles of incorporation or articles of organization, and bylaws or operating agreement to obtain a registration certificate was removed.

Action Taken – **Completed**

The Division updated the registration checklist document.

9. Additional, clarifying language was added regarding possession for the laboratory performing compliance tests.

Action Taken – **Completed**

The Division needed to make no changes.

10. Additional, clarifying language was added regarding confidentiality of information maintained by the Division.

Action Taken – **Completed**

The Division made necessary changes to internal processes regarding confidential information.

House Bill 1283

(effective April 23, 2019)

The full version of House Bill 1283 can be viewed at <https://www.legis.nd.gov/assembly/66-2019/documents/19-0415-07000.pdf>.

1. Physician assistant was added to the definition of health care provider. Thus, a physician assistant with a bona fide provider-patient relationship is now authorized to complete a written certification.

Action Taken – **Completed**

The Division updated applicable policies.

2. The requirement that a health care provider must state on a written certification that in their professional opinion the patient is likely to receive a therapeutic or palliative benefit from the medical use of marijuana was removed. In addition, other sections of law with benefit language was removed and/or modified.

Action Taken – **Completed**

The Division removed the benefit language from all applications.

3. A reasonable accommodation for veterans receiving treatment from a federal veterans' affairs (VA) entity was added for the qualifying patient application process. In lieu of a written certification, a veteran may be eligible to submit their medical records and a copy of their military discharge papers to the Division.

Action Taken – **Completed**

The Division has updated the qualifying application form for the veteran accommodation. Also, the Division established a new policy for this process.

4. A requirement was added that qualifying patient and designated caregiver applications include a disclosure that possession of a firearm by a person who possesses marijuana may be a violation of federal law.

Action Taken – **Completed**

The Division added the disclosure to applications.

5. A requirement was added that a health care provider who had completed a written certification for a patient may notify the Division if the bona fide provider-patient relationship ceases to exist. Also, a change was made to the law and a health care provider now may notify the Division if a patient no longer has a debilitating medical condition.

Action Taken – **Completed**

The Division established a new policy for rescinding a written certification.

House Bill 1417

(effective April 23, 2019)

The full version of House Bill 1417 can be viewed at <https://www.legis.nd.gov/assembly/66-2019/documents/19-0429-05000.pdf>.

1. An enhanced amount of dried leaves and flowers for patients with the medical condition of cancer was added. A health care provider may authorize a patient with the medical condition of cancer to purchase up to 6 ounces of dried leaves and flowers in a 30-day period (an

increase from the standard amount of 2.5 ounces). A qualifying patient with the enhanced amount may possess up to 7.5 ounces.

Action Taken – Completed

The Division updated the qualifying patient application for authorizing an additional amount of dried leaves and flowers. In addition, the information technology system was changed to allow purchases up to 7.5 ounces for those authorized. Finally, the Division changed the registry identification card to identify the amount the qualifying patient may possess.

2. The maximum amount of THC permitted to be purchased in a 30-day period for a cannabinoid concentrate or cannabinoid product (capsules, solutions, transdermal patches, or topicals), or a combination of both, was increased from 2,000 milligrams to 4,000 milligrams.

Action Taken – Completed

The information technology system changed to increase the purchasing amount to 4,000 milligrams.

3. The requirement that a health care provider must authorize the use of dried leaves and flowers was removed. Thus, all patients age 19 and older may now purchase dried leaves and flowers. Minors (those under the age of 19) are still not eligible to be dispensed dried leaves and flowers.

Action Taken – Completed

The Division updated the qualifying patient application to remove the authorization for dried leaves and flowers. In addition, the Division issued new cards to all registered qualifying patients who were previously not authorized to purchase dried leaves and flowers. Finally, the necessary information technology system changes were completed to allow all registered qualifying patients age 19 and older to purchase up to 2.5 ounces of dried leaves and flowers in a 30-day period.

4. The requirement that a health care provider must state on a written certification that in their professional opinion the patient is likely to receive a therapeutic or palliative benefit from the medical use of marijuana was removed. In addition, other sections of law with benefit language was removed and/or modified.

Action Taken – Completed

The Division removed the benefit language from all applications.

6. A requirement was added that a health care provider who had completed a written certification for a patient may notify the Division if the bona fide provider-patient relationship ceases to exist. Also, a change was made to the law and a health care provider now may notify the Division if a patient no longer has a debilitating medical condition.

Action Taken – Completed

The Division established a new policy for rescinding a written certification.

House Bill 1519

(effective April 23, 2019)

The full version of House Bill 1519 can be seen at <https://www.legis.nd.gov/assembly/66-2019/documents/19-0966-05000.pdf>.

1. The definition of debilitating medical condition was modified to add the following 12 conditions (listed in alphabetical order):

- Anorexia nervosa
- Anxiety disorder
- Autism spectrum disorder
- Brain injury
- Bulimia nervosa
- Ehlers-Danlos syndrome
- Endometriosis
- Interstitial cystitis
- Migraine
- Neuropathy
- Rheumatoid arthritis
- Tourette syndrome

Action Taken – Completed

The Division updated qualifying patient applications with the additional medical conditions.

2. A requirement was added that legislative management during the 2019-20 interim shall consider studying the list of debilitating medical conductions to determine the appropriateness of the list, including whether conditions should be added to or removed from the list. Legislative management is to report its findings and recommendations to the 67th Legislative Assembly.

Action Taken

The Division will wait for guidance from legislative management during the interim and will provide information as requested.

Senate Bill 2200

(not effective until August 1, 2019)

The full version of Senate Bill 2200 can be seen at <https://www.legis.nd.gov/assembly/66-2019/documents/19-0902-02000.pdf>.

1. Under the corporate farming chapter of state law (NDCC Chapter 10-06.1), language was added to the definition of farming or ranching that the terms do not include the growing or processing of marijuana under the medical marijuana chapter of state law (NDCC Chapter 19-24.1).

Action Taken – Completed

The change will not require an action to be taken by the Division.

Senate Bill 2210

(effective March 28, 2019)

The full version of Senate Bill 2210 can be seen at <https://www.legis.nd.gov/assembly/66-2019/documents/19-0890-04000.pdf>.

1. The mandate that a manufacturing facility could have no more than 1,000 marijuana plants was removed. A manufacturing facility is now authorized to grow an amount of marijuana sufficient to meet the qualifying patient population demands. For every 500 plants in excess of 1,000 plants, a manufacturing facility must pay an additional certification fee of \$10,000. Any research and development plants are not subject to the additional certification fee.

Action Taken

The necessary information technology system changes have been made. Also, the Division is in the process of modifying North Dakota Administrative Code to reflect the legislative changes.