



## Summary of North Dakota's Compassionate Care Act

When 64% of North Dakota voters approved a medical marijuana initiative — Measure 5 — in November 2016, patients in the state were thrilled that they would finally be able to access their medicine. However, there were some problems with the measure that lawmakers sought to correct with legislation. Unfortunately, they also restricted some of the voter-enacted protections, such as the option of home cultivation for those living 40 miles or more from a dispensary.

On April 17, 2017, Gov. Doug Bergum signed the revised program into law. It may take up to a year before patients are able to enroll in the program and start accessing their treatment. See below for a summary of key aspects of North Dakota's revised medical marijuana program.

- **Qualifying conditions:** To qualify, a patient must have one or more of the following medical conditions: any terminal illness, cancer, HIV/AIDS, hepatitis C, ALS, PTSD under certain circumstances, agitation of Alzheimer's disease, dementia, Crohn's disease, fibromyalgia, spinal stenosis, chronic back pain (including neuropathy or damage to the nervous tissues of the spinal cord with objective neurological indication of intractable spasticity), glaucoma, epilepsy, a medical condition that produces cachexia or wasting, severe and debilitating pain that has not responded to previously prescribed medication or surgical measures for more than three months or for which other treatment options produced serious side effects, intractable nausea, seizures, or severe and persistent muscle spasms.
- **Only certain forms of cannabis are permissible.** Whole plant (flower) is permitted, but doctors must specifically certify patients to use this form of cannabis. Also allowed are patches, tinctures, topicals, and capsules. Edibles and concentrates are not permitted.
- **No home cultivation.** While Measure 5 would have allowed patients living 40 or more miles from a dispensary to grow cannabis in an enclosed and locked facility at their homes, the legislation passed in 2017 eliminated this possibility. Thus, seriously ill patients or their caregivers will have to travel to dispensaries to get their medicine. In addition, only eight dispensaries in the entire state will be allowed, further forcing patients to travel long distances.
- **Petition process to add new qualifying conditions has been eliminated.** Due to the federal government's designation of marijuana as a Schedule I substance, along with unique hurdles to cannabis research, research into cannabis' benefits is very difficult to conduct. Nonetheless, our understanding of marijuana's medical benefits is continuing to accumulate. It is unfortunate that lawmakers eliminated the ability of patients to petition so that more conditions can be covered.
- **Anyone under 19 years of age is considered a minor.** This means that 18 year olds, who may have served our country overseas and returned with PTSD (a covered condition), cannot enroll in the program without their parents' permission. Further, "minors" are only allowed to consume a special pediatric marijuana oil.
- **Extends clear legal protections to patients, caregivers, medical marijuana businesses, and their staff.** Measure 5 lacked these protections.
- **Patient ID cards will cost \$50.**
- **Written certifications by medical professionals may be a problem.** Concerning language regarding certifying patients to use whole plant cannabis may put doctors' DEA licenses at risk,

jeopardizing the program in its entirety.

- **Qualifying patients:** To participate in the program, patients will apply to the Department of Health for a registry identification card. They must submit an application, a fee, and a written certification from a doctor that confirms the patient has a qualifying condition and that they are likely to receive therapeutic or palliative benefit from the medical use of marijuana. The patient and doctor must have a bona fide relationship.
- **Access to medical cannabis via compassion centers:** The department will license two compassionate care centers to cultivate a limited amount of medical cannabis and eight compassionate care centers to dispense it to registered patients. Compassion centers are required to maintain appropriate security, including well-lit entrances, an alarm system that contacts law enforcement, and video surveillance. They may not be located within 1,000 feet of a school, and they will be subject to inspections and other rules.
  - Applicants will pay a \$5,000 non-refundable application fee and, if they are approved, a \$90,000 licensing fee for dispensaries, and \$110,000 for manufacturing facilities. Compassion center licenses will be granted based on a merit-based application process, which will consider: the suitability of the proposed location; the applicants' character and expertise in related fields; the proposed centers' plans, including for record keeping, safety and security, staffing and training, preventing diversion, and for pesticide-free cultivation; whether the applicant has sufficient capital; and its ability to make medication affordable for all patients.
  - Each staffer of a compassion center must apply for and be granted a registry photo identification card. They must be 21 years of age or older and must not have been convicted of an excluded felony offense or a recent drug misdemeanor.
- **Packaging and labeling:** Marijuana may only be dispensed in sealed, tamper-proof containers clearly identified as medical marijuana having been issued by a specific compassion center. The label would also include the strain, batch, quantity, and active ingredients. Patients and caregivers must keep marijuana in its original packaging.
- **Caregivers:** Patients may designate a caregiver to assist with their medical use of marijuana, such as by picking it up from a dispensary for them. To serve as a caregiver, an individual must be 21 years of age or older, have no felony convictions, and must register with the state. They may assist no more than five patients.
- **Limitations:** Patients and caregivers are allowed to possess no more than a 30-day supply of useable marijuana as determined by the Department of Health. The law does not allow marijuana to be used in a public place or a workplace.